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FEATURED Q&A

Can Ecuador Reap Oil Benefits While Protecting its Land?



Nemonte Nenquimo, the president of the Waorani Pastaza Organization (Conconawep) and a plaintiff in the lawsuit, has said the legal case is not just about oil, but also about different ways of living, Reuters reported. // File Photo: Amazon Frontlines.

Q An Ecuadorean court on April 26 ruled in favor of the Waorani indigenous community, which sought to halt an oil auction process in Pastaza Province. The government had opened up parts of the Amazonian land for exploration, but the court said the indigenous tribe had not been adequately consulted, as the law mandates. The government has said that the Waorani community was indeed consulted on the plans and that it will appeal the ruling. What are the most significant implications of the court's decision, and does it set an important precedent for future lawsuits? What does the ruling mean for the Ecuadorean government's plans for auctions and exploration and development activities in the area? How can Ecuador find the right balance between reaping the benefits of its natural resources and guaranteeing the protection of indigenous lands?

A Enrique Ortiz, program director of the Andes Amazon Fund: "The recent ruling by the Pastaza provincial court in favor of the Waorani is a significant but temporary victory for Amazonian indigenous peoples in Ecuador. It is also a setback for the nation's attempt to increase its revenues. This ruling sets an important precedent for future cases and signals the need for the national government to pay more attention to the compliance of national and international laws regarding indigenous peoples' rights. Although the government plans to appeal the ruling—insisting that the 2012 consultation process under the previous administration was in fact legitimate—the story is suspicious, as former President Rafael Correa, current President Lenín Moreno's political rival, was not particularly friendly toward the

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TOP NEWS

OIL & GAS

Rosneft Says its Ties to Venezuela Don't Violate U.S. Sanctions

Russian state oil company Rosneft's ties with Venezuela do not violate U.S. sanctions against the South American country, said the firm's vice president.

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RENEWABLES

Engie Brasil's Q1 Profits Up By 15%

Brazilian power utility Engie Brasil's net profits rose 15.6 percent year-on-year to 565.5 million reais, or \$143.3 million, in the first quarter of this year. The company's production totaled 11,399 gigawatt-hours, 14 percent higher than the same quarter last year.

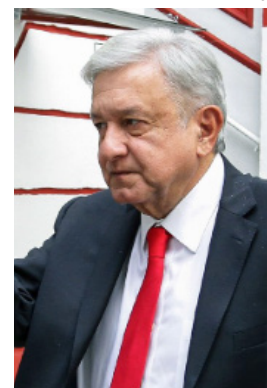
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OIL & GAS

Mexican Gov't to Take Steps to Ease Pemex's Debt

Mexico will use debt refinancing, the renewal of credit lines and a tax cut to ease the state oil company's debt, the government of President Andrés Manuel López Obrador announced.

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López Obrador // File Photo: Mexican Government.

OIL AND GAS NEWS

Mexican Government to Take Steps to Ease Pemex's Debt

The Mexican government is taking more steps to ease state oil firm Pemex's debt troubles, including \$2.5 billion in debt refinancing, the renewal of credit lines with three banks and a gradual tax cut, the government announced on Monday, Animal Político reported. The two extended lines of credit with banks is worth as much as \$5.5 billion, according to a Pemex statement. "This is a fund that will be used if necessary, depending on the circumstances,"

“This is a fund that will be used if necessary, depending on the circumstances.”

— Andrés Manuel López Obrador

said Mexican President Andrés Manuel López Obrador, who signed the agreement with bank officials. "We are determined to back up Pemex, to support Pemex," he added. The interest rate on the credit line is Libor plus 235 basis points. The broader government package includes a gradual tax reduction, which López Obrador estimates surpasses 30 billion pesos, or \$1.5 billion. The president has pledged to strengthen the state company, which holds roughly \$106 billion in debt, the largest amount of any oil firm in the world. Last week, he announced that Pemex would be tasked with building a new refinery in the port of Dos Bocas in Tabasco State, which he said would cost \$8 billion. The government in March had invited four private companies, including a joint venture between Bechtel Group and industrial manufacturer Techint, to submit bids to manage the project. Energy Minister Rocío Nahle said that one firm, France's Technip, had declined to participate and that the proposals had not met the government's requirements, The Wall Street Journal reported. López Obrador said May 9

that the bidding process was voided because proposals were in the range of \$10 billion to \$12 billion, exceeding his administration's budget, and because the earliest offer had an end date scheduled for 2023, and another in 2025. "We're not going to start any work we can't finish in my term," said López Obrador, whose six-year term started last December. He added that Pemex will begin the job on June 2 and that the refinery is expected to be ready in May 2022. Parts of the project would still be put out for bids, he said. Some energy analysts have said the government's objective of building the refinery at its targeted cost and time is likely unrealistic. On Monday, credit rating agency Moody's said the refining unit will likely cost at least \$2 billion to \$4 billion more than the government estimates due to its "limited know-how," Reuters reported. "[López Obrador's] government pledge to maintain fiscal responsibility appears increasingly in tension with its ambitious social and infrastructure spending agenda," Moody's said in a statement. Adding, "Given the government's (and Pemex's) lack of experience in building refineries, the project is likely to end up costing more and taking longer than the government anticipates, placing further strains on fiscal resources." The refining unit is to be built in the southern state of Tabasco with an expected capacity to process more than 300,000 barrels of crude per day. [Editor's note: See related [Q&A](#) in the April 12 issue of the Energy Advisor.]

Rosneft Says its Ties to Venezuela Don't Violate U.S. Sanctions

Russian state oil firm Rosneft's relations with Venezuela do not violate U.S. sanctions against the South American country, a company official said Monday, Reuters reported. "The use of Venezuelan oil, which we are supplying to refineries in India, is authorized, since it's coming from prepaid contracts," said Didier Casimiro, Rosneft's vice president. He added that Venezuela has been paying its debt without delays, through oil supply, adding that the country's debt with Rosneft had been reduced

NEWS BRIEFS

Colombia's EPM Resumes Sale of its Shares in ISA

Colombia's Empresas Públicas de Medellín, or EPM, which is controlled by the city's local government, has resumed the sale of its shares in electric utility company Interconexión Eléctrica, or ISA, for roughly \$540 million, EPM said Monday, Reuters reported. The process of selling its nearly 112 million shares, at a price of 15,700 pesos each, will be finalized on May 31, Colombia's stock exchange said in a statement. EPM owns 10.7 percent of ISA.

Engie Brasil Registers Nearly 16 Percent Rise in First-Quarter Profits

Brazilian power utility Engie Brasil's net profit rose 15.6 percent year-on-year to 565.5 million reais, or \$143.3 million, in the first quarter of this year, Renewables Now reported Monday. Earnings before interest, tax, depreciation and amortization, or EBITDA, increased 15.9 percent to 1.21 billion reais. During the January-March period, Engie Brasil's plants generated a total of 11,399 gigawatt-hours, or 5,277 average megawatts, 14 percent higher than its production in the same quarter a year earlier.

Tecpetrol Sues Argentina Over Interpretation of Gas Subsidies in Vaca Muerta

Oil company Tecpetrol, a subsidiary of Techint, on Monday filed a lawsuit against Argentina's Energy Ministry for alleged discrepancies in its subsidy program for Vaca Muerta, one of the world's largest shale oil and gas deposits, Tecpetrol said in a statement, La Nación reported. Tecpetrol is contesting the government's interpretation of one of the program's resolutions regarding compensation for the August-October period last year. The company is asking the resolutions be nullified. The government in April had rejected an administrative complaint filed by the company, Reuters reported.

to \$1.8 billion by the end of the first quarter of this year, down from \$2.3 billion the previous quarter, Reuters reported. Last week, the administration of U.S. President Donald Trump imposed sanctions on two additional shipping companies and two oil tankers sending Venezuelan crude to Cuba. The Treasury Department in a statement identified the companies as Monsoon Navigation Corporation, based in the Marshall Islands, and Liberia's Serenity Navigation. Two of the firms' oil tankers transported crude from Venezuela to Cuba from the end of last year until March, the Treasury said. Both tankers are Panamanian-flagged, Reuters reported. The United States' sanctions, among other measures, block companies from shipping oil to the Communist island nation, an ally of Venezuelan President Nicolás Maduro, in an effort to increase pressure on him to step down. More than 50 countries including the United States recognize opposition leader and National Assembly Juan Guaidó as Venezuela's legitimate acting president.

Petrobras Not Eyeing More Sales of Refineries: Official

Brazilian state oil company Petrobras is not planning to sell any additional refining assets, an executive wrote in a letter to employees, Reuters reported Monday. In the letter dated last week, the company's head of downstream operations, Anelise Lara, said Petrobras is not looking to sell any refining assets in addition to the eight refineries that have already been publicly put up for sale. She added that the sale of these refineries is expected to conclude in 2021. "I would like to stress that refining activities remain strategic at Petrobras, and we are not planning any new divestment moves in this area in addition to what has been announced," Lara wrote. Petrobras' board of directors last month approved the sale of the refineries with a total refining capacity of 1.1 million barrels per day, as well as part of its distributing unit, BR Distribuidora, Valor Econômico reported. Combined, the refineries amount to nearly half of Petrobras' current refining capacity. Among

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indigenous Amazonian peoples in terms of his policies. If Moreno is to be more respectful of indigenous rights, as he has tried to appear, more transparency and dialogue are critical when it comes to extractive industries. The rights of indigenous peoples should not be ignored or underestimated. Oil exports are a large part of Ecuador's GDP, and without them, the country's economy would experience a strong shock. But proper consultation with indigenous populations is critical. It is the law and the right thing to do. President Moreno should act with caution, particularly now as he is considering international funding sources. The world is watching this case. Extractive activities are culturally and environmentally sensitive and require proper consultation, transparency and the use of latest technologies to avoid negative environmental impacts."

A **Mario Flor, partner at Flor & Hurtado in Quito:** "First, it is important to point out that the judgment hasn't yet been made public, and only some press releases from interested parties are available. Furthermore, it is also relevant to point out that the ruling is not definitive and may be subject to an appeal before higher courts. Consequently, its findings can be overturned. I would say that it is too early to say that it sets a precedent for future lawsuits. Nonetheless, such a decision—if confirmed—may set an unfortunate precedent in Ecuador whereby, although a prior consultation was conducted in accordance with the relevant regulations in force, a community or an organization may challenge such a process alleging that it was not conducted in an appropriate fashion. It seems that the decision carves out additional requirements that are not clear for current and future investors. The ruling may open a 'Pandora's box,' in which anyone may challenge any consultation process by arguing that the standards in the relevant regulations are not enough for protecting the right of prior consultation's general principles.

Such an approach may affect future, ongoing and established projects. Consequently, it is important for the state to provide more clarity and certainty for possible investors with regard to the standards and threshold that

“Discrepancies and conflicts arising from the development of natural resources projects will never cease to exist...”

— Mario Flor

must be met in prior consultation processes. Discrepancies and conflicts arising from the development of natural resources projects will never cease to exist, but the key element to avoid and to overcome them is information. When indigenous communities realize that such projects will boost their development, as well as that of the country as a whole, and that their rights will be respected and their opinion taken into consideration, they will be more receptive to participate in and to benefit from such projects."

A **Carlos Mazabanda, Ecuador field coordinator for Amazon Watch:** "The recent court ruling recognizes that the informational workshops carried out by the Ecuadorean state in 2012 in relation to the 21 oil blocks of the 'Ronda Surorienté' systematically breached the indigenous right to free, prior and informed consultation and consent. Undoubtedly, this is a favorable precedent for all indigenous peoples who have been and continue to be affected by oil and mining projects. The ruling further implies that the blocks granted to Andes Petroleum (Blocks 79 and 83) and awarded to the state company PetroAmazonas (blocks 28, 74 and 75) were illegally executed because they similarly violated these rights. The Ecuadorean state must respect indigenous rights in accordance with the Constitution, interna-

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the refineries to be sold are the recently built Abreu e Lima unit in the municipality of Ipojuca in Pernambuco State and the Landulpho Alves unit in northern Bahia State, one of the largest refineries in Brazil with capacity to process 323,000 barrels of crude per day. Petrobras expects to raise roughly \$15 billion, Petrobras CEO Roberto Castello Branco said in April, Reuters reported.

POLITICAL NEWS

Special Colombian Court Orders Release of Ex-Rebel Leader

A special court set up to handle cases of former Colombian rebels on Wednesday ordered the release of former guerrilla leader Seuxis Hernández, better known as Jesús Santrich, and rejected a U.S. request to extradite him, El Tiempo reported. In a 3-2 vote, magistrates of the Special Jurisdiction for Peace ordered Hernández's release, citing a lack of evidence against him. Hernández, a former leader of the Revolutionary Armed Forces of Colombia, or FARC, rebels, had been imprisoned since April 2018, and prosecutors in the United States and Colombia have accused him of involvement in the shipping of 10 metric tons of cocaine to the United States, The Wall Street Journal reported. The magistrates' decision led to the resignation of Colombia's two top prosecutors. Attorney General Néstor Martínez resigned in protest, saying he would not carry out the order to release Hernández and calling the decision "an affront to judicial order." An hour later, Martínez's deputy, María Riveros, who would have stepped in as attorney general, also quit. Colombian President Iván Duque and the prosecutor's office said the government would appeal the magistrates' order. Political allies of Duque, who campaigned on vows to crack down on alleged war criminals, on Wednesday said the country needs judicial reform. "None of this brings us closer to peace," said conservative Sen. Fernando Araújo. "The court is acting like the FARC's accomplice, rather than its judge." However, one of the special

IN FOCUS

Colombia Seeks Expansion of Oil, Gas Reserves as Supply Dwindles: Mesa

By Anastasia Chacón González

WASHINGTON—Colombia's government has developed a roadmap for expanding the country's oil and natural gas reserves in the medium and long term, focused on offshore exploration and the development of unconventional resources, Deputy Energy Minister Diego Mesa said May 10 at an event at the Inter-American Dialogue. Colombia's reserves, at approximately 1.8 billion barrels of oil and 3.9 trillion cubic feet of gas, are expected to last only around six and 11 years, respectively, with demand for gas expected to overtake domestic supply by early 2022.



Mesa spoke at an event at the Inter-American Dialogue on May 10. // Photo: Inter-American Dialogue.

"When we look at reserves, we have a critical situation," Mesa said. "We need to have a planning pace that is very quick, that has results, soon." The government has mainly focused on four angles, Mesa added, which are promoting onshore exploration, establishing incentives for enhanced production of mature fields, aggressively promoting Colombia's offshore areas and developing unconventional resources.

The administration has been moving forward in each of these aspects since President Iván Duque took office last August, Mesa said. For example, the tax reform passed last December established incentives for capital-intensive industries, including oil and gas, which, among other provisions, made the value-added tax for capital equipment in the sector entirely creditable toward corporate income tax, and all levies on financial

transactions will be 50-percent creditable for the next two years and 100-percent creditable after 2021.

The government has also modified the offshore contracting model. "We made some important changes, and we were able to sign five [exploration and production] contracts in the last couple of months," Mesa said. The contracts have been signed with major oil companies, and the administration is working on finalizing four additional contracts. Mesa expects to have a total of nine offshore contracts in the coming months, with exploration campaigns set to start as soon as next year.

However, it is the development of unconventional resources through the hydraulic fracturing technique, or fracking, that could be "a game changer for the Colombian oil and gas sector," Mesa said.

Though a sensitive political issue due to concerns with the technique's potentially negative environmental impact, developing unconventional resources could multiply Colombia's reserves of both oil and gas by four, according to state oil company Ecopetrol and other firms in the country, Mesa said. It would also boost production by nearly 50 percent and bring significant increases in foreign direct investment and fiscal revenues. Importantly, given the state of country's reserves, it would make Colombia self-sustainable for the next 30 to 40 years, he added.

NEWS BRIEFS

Venezuelan Government, Opposition Send Envoys to Talks in Norway

Venezuela's government and the opposition have sent envoys to launch talks in Norway to discuss ways to end the country's political crisis, the Associated Press reported Wednesday. The power struggle between the two sides has left the country paralyzed. The opposition has accused President Nicolás Maduro of using previous talks to buy time.

U.S. 'Close' to Deal With Mexico, Canada on Tariffs: Treasury Secretary

The United States is "close" to a deal with Mexico and Canada regarding steel and aluminum tariffs it imposed on them nearly a year ago, U.S. Treasury Secretary Steven Mnuchin said Wednesday during a Senate subcommittee hearing, Politico reported. Canada and Mexico, along with some U.S. legislators, have called for the complete removal of tariffs without the imposition of new restrictions, such as quotas. Mexico's undersecretary for North America, Jesús Seade, on Wednesday told reporters the deal could include a tracking system that prevents other countries from bypassing tariffs by shipping the metals through Mexico.

Brazilian Students, Teachers Protest Education Budget Cuts

Tens of thousands of students and teachers marched in cities across Brazil on Wednesday in nationwide protests against President Jair Bolsonaro and his administration's plans to slash the budget for education, the Financial Times reported. The government has announced a 30 percent cut to the funding of federal universities and a plan to shift financial support away from the humanities and toward areas such as medicine, veterinary care and engineering.

court's judges, Jesús Bobadilla, said the order to release Hernández must be followed. "This court's independence must not be perturbed and therefore these orders must be carried out," Bobadilla told reporters. Hernández's supporters have denied the charges against the former rebel leader and say the charges against him were orchestrated by opponents of the country's 2016 peace accord with the FARC. A spokesman for the U.S. attorney's office in the Southern District of New York, which filed the extradition request, declined to comment to The Wall Street Journal. Upon his release, Hernández would be eligible to fill one of the seats in Congress that was guaranteed to the FARC as part of the peace accord, the newspaper reported.

Guatemalan Court Blocks Aldana's Presidential Bid

Guatemala's Constitutional Court on Wednesday blocked the candidacy of former Attorney General Thelma Aldana in the upcoming June 16 presidential election, Prensa Libre reported. Judges voted 6-1 to uphold a previous decision by the Supreme Court and the electoral tribunal, which Aldana had appealed, and which ruled Aldana was ineligible for office for not having a required certification confirming that all of her public accounts were settled. "It has become clear that the fight against corruption and criminal structures in our country has a very high cost for those who, like me, decide to do so," Aldana wrote on Twitter, adding that with the court's announcement, Guatemala was being "pushed toward the edge of the precipice." Aldana served as the country's attorney general from 2014 to 2018, leading investigations of high-level officials including now-jailed former President Otto Pérez Molina and his vice president. Aldana has said the case against her is retaliation by current President Jimmy Morales and others for her work to combat corruption, The Wall Street Journal reported. A spokesman for Morales has denied the president sought to block Aldana's candidacy. Aldana fled to El Salvador in March after Supreme Court Judge Víctor Manuel Cruz issued a warrant for her

arrest on accusations of embezzlement and tax fraud. She denied wrongdoing, saying the charges were politically motivated to prevent her from running. Cruz is currently under investigation for allegedly accepting bribes to issue the detention order, prosecutors said last week, the Associated Press reported.

ECONOMIC NEWS

Brazil Cuts Forecast for Economic Growth

Brazil's government is cutting its 2019 growth forecast to 1.5 percent from the current 2.2 percent, Economy Minister Paulo Guedes said Tuesday, as one of the central bank's indicators suggested the country's economy may have shrunk in the first quarter of this year, Folha de S.Paulo reported. "You will see that growth, which was 2 percent when they made the first simulations, has already dropped to 1.5

The government lowered its 2019 economic growth forecast from 2.2 percent to 1.5 percent

percent," Guedes said, adding that the Brazilian economy is in "the bottom of the pit." Data on Tuesday showed that Brazil's services sector, which makes up approximately 70 percent of economic activity, contracted by 0.7 percent in March from February and by 2.3 percent compared to the same month a year earlier, Reuters reported. The drop was far larger than expected. The government's new figures are more in line with private sector estimates, which have been more pessimistic in recent months, especially on growth. A central bank survey last week showed analysts from nearly 100 financial institutions giving an average forecast of 1.45 percent growth, Reuters reported. Guedes said congressional approval of the government's proposed fiscal reforms, including a landmark pension overhaul, could lead to annual growth of 2 percent to 3 percent.

FEATURED Q&A / Continued from page 3

tional human rights treaties and rulings of the Inter-American Court of Human Rights, applying them prior to continuing with their plans around new auctions for oil and mining projects within indigenous territories. Currently, 27 percent of the Ecuadorean Amazon is covered by oil blocks that affect indigenous territories and even priority conservation areas, such as the Yasuní National Park. The 'Ronda Surorienté' oil blocks would cover an additional 30 percent of the Amazon, overlapping territories of seven indigenous nationalities that are—by no coincidence—the best-preserved tropical forests in the country. So, the decision to extend the extractive frontier into this area extends beyond a discussion of the possible economic benefits—we must factor in the importance in terms of biodiversity, climate change and as the home of ancestral indigenous cultures, with collective rights as guaranteed by the Ecuadorean Constitution."

A **Mario Melo, legal advisor at Fundación Pachamama in Quito:** "The case of the Waorani communities and the 'Ronda Petrolera Surorienté' is one of the most serious cases in which the Ecuadorean state has failed to fulfill its duty to consult communities affected by extractive and infrastructure activities carried out in their territory. In

2012, the Inter-American Court of Human Rights sentenced Ecuador for violating the right of previous consultation of the Kichwa people in Sarayaku in the face of an oil project. The court ordered the state to regulate the consultations in accordance with the standards established by the inter-American jurisprudence and with the participation of the peoples who are going to be consulted. So far, this mandate of international justice remains unfulfilled. The lack of consultation does not only violate international law, but it also harms social peace in the areas where projects are carried out—socioenvironmental conflicts are multiplied, as are legal actions in which different actors seek justice. The cases of the Mirador, San Carlos Pananza and Río Blanco mining projects, the mining activity in the Sinangoe River, of the Piatua hydroelectric development and of the 'Ronda Petrolera Surorienté' are just a few examples of a loss of investments due to judicial decisions founded in the violation of communities' rights of consultation. Even when national judges deny tutelage to the violated rights of communities, these cases—far from being solved—escalate to international spaces."

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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An Inter-American Dialogue Discussion on the outlook for Colombia's oil sector and above-ground challenges for the region, including local communities, environmental impacts and revenue management.

View a webcast of the May 10 discussion.

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