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FEATURED Q&A

Is Colombia Likely to Allow Fracking in the Near Future?



Colombian Mines and Energy Minister María Fernanda Suárez has said that fracking could nearly triple the country's reserves of crude and gas. // File Photo: Colombian Government.

Q Colombia's top administrative court last month maintained a temporary suspension on the use of fracking techniques to extract oil and gas. The moratorium on the regulation for the development of unconventional deposits has been in place since November as part of an ongoing lawsuit that an environmental lawyer filed against the energy ministry. What does the decision mean for the case and for companies hoping to start using fracking techniques in Colombia? What's next in the legal process, and can regulation for fracking be expected anytime soon? Where does public opinion on the fracking debate stand, and what steps should Colombia take to ensure responsible use of the technique?

A R. Kirk Sherr, member of the Energy Advisor board and president of Clearview Strategy Group: "On Sept. 17, the Council of State revisited the fracking decision by stating that the moratorium did not include early stage 'pilot' projects, and a few such pilot projects will likely proceed. Meanwhile, as domestic crude projection has declined to around 900,000 barrels per day (bpd), the Colombian government has made the fracking issue mainly one of dire economic necessity. Colombian officials point out the significant impact to the Colombian economy that would result if fracking did not advance (thus limiting new reserves and production). Oil is the country's number-one export, and Colombia on average has exported well over 500,000 barrels of crude oil per day since 2011, earning over \$10 billion per year recently. Fracking development would take place far from Bogotá, but all of the key regulatory, environmental and other administrative

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TOP NEWS

OIL & GAS

Ecuador to Leave OPEC in 2020: Energy Ministry

The Energy Ministry announced the Andean nation would leave the 14-member group in January.

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OIL & GAS

Pemex Seeking to Take Over Drilling at Talos Energy Find: Sources

The Mexican state oil firm is pushing to control drilling operations in the area off the southern Gulf coast where Talos Energy discovered nearly one billion barrels of crude, amid President Andrés Manuel López Obrador's bid to strengthen the state firm, sources said.

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OIL & GAS

Guaidó Needs U.S. Support to Retain Citgo: Palacios

Venezuelan opposition leader Juan Guaidó and his allies need continued U.S. support to prevent Citgo's seizure, said Citgo Chairwoman Luisa Palacios.

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Palacios // File Photo: Citgo.

OIL AND GAS NEWS

Venezuela's Guaidó Needs U.S. Support to Retain Citgo: Palacios

Venezuelan opposition leader Juan Guaidó needs more support from the administration of U.S. President Donald Trump in order to retain control of state oil company PDVSA's U.S.-based refiner Citgo, Citgo Chairwoman Luisa Palacios said Wednesday at a conference at the Inter-American Dialogue in Washington. Guaidó, whom dozens of countries recognize as Venezuela's legitimate interim president, earlier this year named a board of directors of Citgo, effectively wresting control of the company from Venezuelan President Nicolás Maduro's government. Since then, Guaidó and his allies have been fighting to avoid the

A payment on PDVSA's 2020 bond is due Oct. 27.

refiner's seizure. Most of Citgo's shares are pledged to holders of PDVSA's 2020 bond, for which the company had put up half of Citgo shares as collateral. The remaining shares are pledged to Russian state oil company Rosneft as collateral. In May, the Venezuelan opposition made a \$71 million interest payment on the 2020 PDVSA bond to prevent creditors from seizing Citgo, one of the Andean nation's most important assets abroad. However, another \$913 million payment on the 2020 bond is due Oct. 27. If the opposition fails to make the payment, creditors could attempt to seize the U.S.-based company. Palacios said Wednesday that the Trump administration's backing had been key for the opposition to retain control of Citgo. However, she called on continued support from the U.S. government, saying it would be "contradictory" to not try to "save Citgo from shareholders" after all that was done to save it from Maduro's control. Her remarks echoed a statement Guaidó made earlier this week. "We're going to need help, and the first thing

is to seek a [U.S. executive] order to protect Venezuela's assets abroad," he said, Reuters reported. Meanwhile, in a ruling on Monday, a U.S. appeals court lifted an impediment that had frozen efforts by defunct Canadian gold miner Crystallex to take control of Citgo, The Wall Street Journal reported. The U.S. Court of Appeals for the Third Circuit's decision allows Crystallex to resume attempts to seize Venezuela's 100 percent ownership stake in Citgo as compensation for a \$1.4 billion government debt. [Editor's note: See related [Q&A](#) in the Aug. 30 issue of the Energy Advisor.]

Ecuador to Leave OPEC in 2020 in Bid to Boost Oil Revenue

Ecuador will leave the Organization of the Petroleum Exporting Countries, or OPEC, in January in a bid to increase its revenue from crude oil sales, the country's Energy Ministry said on Tuesday. The Andean nation has not been complying with OPEC quotas as it looks to boost crude oil production, which has been around 530,000 barrels per day (bpd) for the past year, Bloomberg News reported. In September, Ecuador's output was ahead of only the Republic of Congo, Gabon and Equatorial Guinea in the 14-member group. Since January, OPEC, Russia and other producers have implemented an agreement to reduce output by 1.2 million bpd, a pact that OPEC+ renewed in July until March 2020. "The decision is based on the issues and internal challenges that the country must take on related to fiscal sustainability," the ministry said in a statement, without providing further details, Reuters reported. "This measure is in line with the national government's plan to reduce public spending and generate new income," the statement added. The government of President Lenín Moreno is struggling with tight liquidity due to a large fiscal deficit and foreign debt load, according to the report. Ecuador joined OPEC in 1973, suspended its membership in 1992 and rejoined in 2007, El Comercio reported. The country will "continue to support all efforts that seek to stabilize the world oil market," the ministry said.

NEWS BRIEFS

Oil Spill Contaminates Beaches Along Coasts of Eight Brazilian States

A mysterious oil spill has contaminated beaches across the coastline of eight Brazilian states, the country's environment agency said last Friday, Reuters reported. The spill has affected 3,000 kilometers of coastline on Brazil's northeast region, with oil-coated birds and sea turtles washing up, according to environmental agency Ibama. The origin of the spill is still unknown, although authorities have ruled out Brazil's offshore oil exploration activity as the source of the spill, the agency said.

Costa Rica to Run on 98% Renewable Energy for Fifth Straight Year: Gov't

Costa Rica is to generate more than 99 percent of its energy from renewable sources this year, marking the fifth consecutive year that the Central American country runs on more than 98 percent clean energy, according to data from the National Center for Energy Control, or CENCE, The Tico Times reported last week. So far this year, 67.5 percent of Costa Rica's electricity came from hydropower, 17 percent from wind, 13.5 percent from geothermal sources, 0.84 percent from biomass and solar panels, and 1.16 percent from backup plants.

Int'l Arbitration Tribunal Rules Ecuador Must Pay \$471.8 Million to Perenco

An international arbitration tribunal has ruled that Ecuador must pay \$471.8 million to French oil firm Perenco for violating a bilateral investment deal, the local attorney general's office said, Reuters reported. In the same ruling, the International Centre for Settlement of Investment Disputes' tribunal asked Perenco to pay to Ecuador some \$60.7 million for environmental damages in the oil blocks it operated in the Andean nation, according to the report.

Pemex Seeking to Take Over Drilling at Talos Energy Find

Mexican state oil company Pemex is seeking to take over drilling operations in the area off Mexico's southern Gulf coast where U.S. company Talos Energy discovered nearly one billion barrels of crude two years ago, Reuters reported Monday, citing two former Mexican energy officials and two company executives with knowledge of internal Pemex discussions. The discovery in 2017 marked the first find by a foreign firm since Mexico's oil industry was nationalized nearly 80 years earlier. Now, Pemex is reportedly looking to run the drilling operations amid President Andrés López Obrador's push to strengthen the state company. His predecessor, Enrique Peña Nieto, oversaw an energy reform that ended Pemex's monopoly and opened the country's energy sector to private companies' participation, Reuters reported. Talos found oil in a shallow-water field, which it dubbed Zama. Pemex could have a potential claim to control over Zama because it has drilling rights to an adjacent field, and the oil deposits most probably extend into Pemex territory, though the firm has not yet proved that, according to the report. "If Pemex does end up operating it, that would not send a good signal to private investors," one executive from an oil major with several offshore projects in Mexico told the wire service. Neither Pemex nor the Energy Ministry responded to Reuters' requests for comment. Last month, Talos received a two-year contract term extension and regulatory approvals for additional exploration activities on Block 7, which is located in the offshore part of Mexico's Sureste basin, under its production-sharing contract, World Oil reported. Talos operates Block 7, which includes Zama, in a consortium with partners Sierra Oil & Gas and Premier Oil. It was the first such extension granted to a private company for offshore exploration in Mexico, according to the report. [Editor's note: See related [Q&A](#) on López Obrador's plans for the oil and gas sector in last week's issue of the Energy Advisor.]

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controls take place in the capital—compare the United States, where a complex web of both state and federal regulations applies, and many states were ahead of the federal government on various regulatory fronts. The Colombian fracking standoff also has strong echoes of the U.S. situation circa 2010 with the release of the anti-fracking documentary 'Gasland,' followed in 2013 by the pro-fracking documentary 'FrackNation.' Misstatements by both the pro-fracking and anti-fracking sides often obfuscate a sensible middle ground. Further complicating matters, the fracking debate continues to evolve and now includes a robust focus on the methane impact on climate change. In the end, Colombia's fracking debate will not disappear and may even complicate Colombia's desire to be a perceived as an environmental leader."

A Roger Tissot, independent energy economist: "The Council of State has clarified its Sept. 10 decision: the moratorium on fracking continues, but Ecopetrol's proposed pilot projects can still go ahead. The government and the industry have highlighted the urgency of going ahead with the use of the technique because of the decline in reserves. Without fracking, they warn of significant negative economic impacts: a loss of export and fiscal revenues, and Colombia becoming a net importer of oil. Oil represents an important share of the country's export and fiscal revenues. Moreover, industry experts have mentioned the insignificant level of risk of water contamination or earthquakes, citing many studies. There is a general consensus that if proper regulations are adopted and best practices are followed, there should be no reason for concern. The challenge is whether the country has the institutional capabilities not only to adopt proper regulations, but also to ensure that they are properly implemented, and best practices are followed. Observing the scientific approach that Ecopetrol proposed

with its pilot projects, one can be optimistic that indeed this seems to be the case. The challenge is whether other stakeholders are willing to follow a similar approach. This is not to dismiss legitimate concerns from communities and environmental organizations; however, to opt for a complete ban without providing realistic economic alternatives to the challenges of oil dependency is not a viable strategy. Additionally, Colombia has had past oil bonanzas, and, unfortunately, we have not used them properly. In many cases, the communities have paid a heavy price. We are a country addicted to oil revenues but with modest oil reserves. We must find a way to reduce our fiscal dependency on oil. So, if we are going to accept the risks associated with the use of this technique, we must ensure that the benefits to society are there, too. I hope we can learn from our past mistakes."

A Enrique Ortiz, program director at the Andes Amazon Fund: "Colombia is at a crossroads. The country's dwindling oil reserves are projected to end by 2021, concluding more than 30 years of self-sufficiency. As a result, the government has started an aggressive plan to attract investments, auctioning 59 blocks for exploration. President Duque's pro-business government has brought optimism to the energy sector. However, its most promising hope relies on unconventional sources of shale oil and gas. It is estimated that fracking would more than triple Colombia's reserves, assuring energy security for the next 30 years. However, a high court decision withholds these plans by extending a moratorium on fracking. The government sponsored an independent multidisciplinary high-level commission report that clearly states the many risks that fracking brings. But the report also gave a green light to experimental operations—a quasi-scientific development of shale oil and gas extraction aiming to provide with informed decisions to the government for

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POWER SECTOR NEWS

Sempra Energy to Sell Interests in Peru Units to Yangtze

Sempra Energy on Monday announced a deal to sell its equity interests in its Peruvian operations for \$3.59 billion in cash to China Yangtze Power International, subject to closing adjustments for working capital and net indebtedness. The agreement includes Sempra's sale of its 83.6 percent stake in Peruvian utility company Luz del Sur and its interest in energy service firm Tecsur and Inland Energy, Luz del Sur's generation business. The deal is expected to close in the first quarter of next year, and it is subject for approval by Peru's anti-trust authority and the Bermuda Monetary Authority, the U.S.-based company said. "It directly supports our mission of building North America's premier energy infrastructure company," Jeffrey W. Martin, Sempra's chairman and CEO, said in the statement. "Proceeds from this transaction will be used to strengthen our balance sheet and meet the growing capital needs of our core utilities in California and Texas," he added. Meanwhile, an active sales process continues for Sempra's electric business in Chile, which includes the company's 100 percent stake in Chilquinta Energía and Tecnoled, MarketWatch reported. Sempra expects to announce a deal in the fourth quarter of this year.

POLITICAL NEWS

Peruvian VP Aráoz Resigns Amid Constitutional Crisis

Peruvian Vice President Mercedes Aráoz, whom lawmakers had sworn in as the country's disputed acting president a day earlier, resigned Tuesday. "The fundamental reason for my resignation is that the constitutional order has been broken in Peru," Aráoz wrote in her

ADVISOR Q&A

Will Colombia's Controversial Tax Reform Be Voided?

Q A tax reform that took effect in Colombia at the beginning of this year is facing a challenge in the country's Constitutional Court. Former Vice President Germán Vargas is challenging the reform, saying procedural errors in the law's passage last year violate the constitution. The reform raises taxes on some individuals and reduces them for companies, beginning next year. How likely is the reform to be struck down? What would be the consequences for the government, individuals and companies if the Constitutional Court invalidates it? What effects is the tax reform already having on Colombia's economy?

A David Ross, global fund manager at La Financière de L'Échiquier in Paris: "A number of changes went into effect this year that optimists called a tax reform. It wasn't. It was a modest shift lower in the high corporate income tax rates, offset by a shift upwards in individual tax rates. The effective corporate tax rate of 37 percent went to 33 percent for 2019 and will gradually drop to a permanent rate of 30 percent in 2022. Meanwhile, the top bracket for individuals rose from 33 percent (labor income) or 35 percent (capital) to 39 percent, which has made it unpopular as the electorate sees their taxes increase. While in theory the lower corporate rates should help to structurally reform Colombia's economy, allowing its companies to be more globally competitive,

resignation letter, which she posted to Twitter. On Monday, President Martín Vizcarra invoked a provision in the Constitution to dissolve Congress, a move that he said was necessary to break a political impasse. Questions remain, however, as to whether the conditions

inducing more domestic and foreign investment, and shifting the economy's potential GDP growth permanently higher with higher productivity over time, the corporate tax cut is too timid to make much of a difference. Even at the eventual 30 percent, it will be well above the worldwide average of 23 percent, or even the emerging market BRICS

“It does appear that there is a strong case for the court repealing the law...”

— David Ross

average of 27 percent. Capital goes where it is most welcome, and that is still not Colombia. As an example, non-oil/non-mining foreign direct investment in Colombia fell 38 percent over the last two years, and nothing in these tax rates will change that trend. Furthermore, it does appear that there is a strong case for the court repealing the law, and if it is repealed, given its unpopularity, it seems unlikely that the law would be reconsidered, leaving Colombia's economy in a permanently uncompetitive position.”

EDITOR'S NOTE: More commentary on this topic appears in Tuesday's *issue* of the Latin America Advisor.

were met for the president to take that action. Vizcarra has tried to push through reforms including anti-corruption measures, only to see them stall in Congress. Lawmakers responded by suspending Vizcarra's powers and swearing in Aráoz as acting president. However, it was

NEWS BRIEFS

Mexico Will Unveil Infrastructure Projects to Boost Economy: AMLO

The Mexican government will soon unveil a series of major infrastructure projects designed to lift the economy, President Andrés Manuel López Obrador said on Wednesday, Reuters reported. The president said some 1,600 projects were under consideration to “reactive” Mexico’s economy, which did not grow from the first quarter to the second. The investment package includes projects worth more than \$400 billion over the course of López Obrador’s 2018-2024 term, two sources told Reuters.

Chinese Companies Finish Construction of Argentina Solar Plant

Chinese companies have completed construction of a 300-megawatt (MW) solar plant in northern Argentina, the largest such project in the South American nation, Chinese state news agency Xinhua reported Wednesday. The solar farm has a total installed capacity of 315 MW and a contract value of \$390 million. Chinese firms PowerChina and Shanghai Electric Power Construction had jointly won a tender to build it, Xinhua reported. State-run Import-Export Bank of China financed 85 percent of the project.

Former Salvadoran Justice Minister Arrested

Former Salvadoran Justice Minister René Mario Figueroa has been detained in connection with a money and asset laundering investigation, prosecutors said Wednesday, the Associated Press reported. Authorities searched Figueroa’s home but could not find him. He later turned himself in, telling reporters he was innocent. Figueroa was justice minister during the government of President Tony Saca, who was sentenced to 10 years in jail for diverting \$301 millions in government funds.

unclear whether that action had any effect as it happened after Vizcarra dissolved Congress. In stepping down on Tuesday, Aráoz cited a statement by the Organization of American States earlier in the day that said only Peru’s Constitutional Tribunal should decide on the legality of Vizcarra’s dissolution of Congress. Aráoz said there were not “the minimum conditions to exercise the charge given to me by the Congress of the Republic.” She added, “For my entire life and political career, I have always preferred the defense of my principles and legality before by personal interests or my popularity as a politician. I am convinced that in Peru we have millions of citizens who want to construct solid and independent institutions, and the manner to do so is by defending them.” Aráoz added that she hoped her resignation would lead to a general election as soon as possible. Shortly after ordering the dissolution of Congress, Vizcarra received the support of the leaders of Peru’s armed forces and police, BBC News reported. Some 2,000 Peruvians took to the streets in Lima and other cities in a show of support for Vizcarra. The standoff may last for several more days. Congress plans to meet again on Friday to consider a motion to dismiss Vizcarra altogether. Meantime, Vizcarra issued a decree, setting Jan. 26 as the date for fresh legislative elections. Lawmakers elected on that date would serve out the five-year term of the dissolved Congress, which lasts until 2021. Until then a congressional commission comprised of 27 lawmakers is to handle legislative duties

Prosecutor Alleges ‘El Chapo’ Gave \$1 Mn to Hernández’s Brother

Mexican drug lord Joaquín “El Chapo” Guzmán gave \$1 million to the brother of Honduran President Juan Orlando Hernández, a bribe that was intended to go to the president to buy protection for shipments of illegal drugs transiting the country, a U.S. prosecutor alleged Wednesday in a New York courtroom, The Wall Street Journal reported. Prosecutor Jason Richman made the claim during opening statements in the trial of the Honduran leader’s younger

brother, Juan Antonio “Tony” Hernández, who stands charged with drug trafficking. Richman did not provide more details about the alleged bribe. The Honduran president is named in court documents as a co-conspirator in the case, but he has not been charged with any crime. The president’s office strongly denied Richman’s allegation in a statement posted on Twitter. “Any claim the President received or agreed to receive money from El Chapo or had anybody receive money for him, is 100% false, absurd, ridiculous, Alice in Wonderland crazy,” the office said. Last week in a speech at the United Nations General Assembly, President Hernández said criminals were responsible for the allegations against him. “Because of my struggle against organized crime, I am the victim of a smear campaign led by drug traffickers, gang members, corrupt and purged police, confessed killers, colluding businessmen who finance these criminals, and politicians,” he said.

ECONOMIC NEWS

House Democrats ‘Making Progress’ on USMCA: Pelosi

Democrats are “making progress” on the trilateral trade deal between the United States, Mexico and Canada, known as USMCA, U.S. House Speaker Nancy Pelosi (D-Calif.) said Wednesday, CNBC reported. However, she said Democrats needed more assurance before ratifying the deal. “We want to be sure that as we go forward, we are strengthening America’s working families and our farmers, who are very affected by this,” Pelosi said at a news conference alongside House Intelligence Committee Chairman Adam Schiff (D-Calif.). “We’re on a path to yes,” she said. While Pelosi talked to reporters, U.S. President Donald Trump blasted the House speaker, saying her interest in working on the USMCA is “just camouflage for trying to win an election through impeachment.” Pelosi has denied that Democrats are unwilling to approve USMCA for political reasons, instead insisting the deal needs enforceability.

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commercial production (PPII is the acronym in Spanish). This report highlights the many problems Colombians have with fracking: mistrust in the government and its consultation procedures, insufficient understanding and information on the technique and its potential health and environmental effects. The government has stated that, in spite of the moratorium extension, the experimental pilot projects can go forward. Even with these, it remains to be seen if the government will be able to gain the 'social license' in a country with abundant experiences of related wrongdoing. President Duque will need to fix previous mistakes, develop an appropriate regulatory framework and carry on a public discussion on what fracking would mean for Colombia's future."

A **Inés Elvira Vesga, senior counsel at Holland & Knight:** "The Council of the State decided to maintain the suspension of the demanded norms that contain the technical regulation for fracking. As a consequence, the projects that imply the use of this technique cannot be advanced while the suspension is maintained. The moratorium does not include pilot projects, but for these, the Mines and Energy Ministry will need to issue new regulations. Pilot projects also need to comply with several additional conditions that are not easy to achieve in the short

term, such as regulatory adjustments, working with local communities, citizen participation mechanisms, risk identification and the development of baselines in various aspects, among others. In Colombia, as in many other

“ Pilot projects also need to comply with several additional conditions that are not easy to achieve...”

– Inés Elvira Vesga

countries, there is strong opposition to the use of the technique because opponents believe that its impact on the environment is catastrophic and irreversible. Opponents of fracking have campaigned strongly in that regard. Colombia is acting prudently by having formed a Committee of Experts that has already given its opinion and by promoting the pilot projects, but the requirements to carry out the projects are demanding and require a lot of interaction with communities as well as a clarification of the regulatory framework. Environmental education is also needed so that communities do not oppose the development of projects without foundation, as well as providing environmental authorities with enough resources so that they can exercise the required controls."

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Pressures Building on China-Latin America Relations

A Latin America Advisor video production with Margaret Myers, Director of the Asia & Latin America Program Inter-American Dialogue

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