LATIN AMERICA ADVISOR

ENERGY ADVISOR

A WEEKLY PUBLICATION OF THE DIALOGUE

www.thedialogue.org

August 5, 2022

FEATURED Q&A

Are Mexico's Energy Policies Breaking USMCA Rules?

The United States and Canada have requested dispute settlement consultations with Mexico, arguing its energy policies favor state power utility Comisión Federal de Electricidad. The company's director, Manuel Bartlett, is pictured. // File Photo: Comisión Federal de Electricidad.

Q **The U.S. Trade Representative's Office, or USTR, on July 20 requested dispute settlement consultations with Mexico under the U.S.-Mexico-Canada Agreement, or USMCA, over Mexico's energy policies, arguing that they put U.S. firms at a disadvantage by favoring Mexico's state-owned power utility, Comisión Federal de Electricidad, or CFE. The consultation request, which Canada signed on to as well, is among the most serious disputes ever lodged under the USMCA since it took effect two years ago. What do the United States and Canada seek to gain through the consultation request? What are the most important steps in the consultation process, and how long will it take for the case to play out? How has Mexico responded to the USTR and Canadian trade ministry's accusations?**

A **Arturo Sarukhan, board member of the Inter-American Dialogue and former Mexican ambassador to the United States:** "Washington and Ottawa are rightly concerned about López Obrador's energy policies and his backward-looking paradigm on fossil fuels, renewables and, ultimately, climate change and the global commons. Yes, they do indeed—despite his protestations to the contrary—run counter to Mexico's commitments under USMCA, to which he signed on to as president-elect during the renegotiation of NAFTA, and which his government subsequently enacted after congressional ratification with a majority by Morena, the president's party. But they also seriously affect and undermine the United States' strategic recalibration vis-à-vis China. North America's energy security, efficiency, resilience

Continued on page 3

TOP NEWS

OIL & GAS

Petroecuador CEO Fired for Alleged Improper Influencing

Ecuadorean President Guillermo Lasso on Monday ordered the board of Petroecuador to fire CEO Ítalo Cedeño amid improper influencing allegations.

Page 2

OIL & GAS

Ecopetrol Finds Natural Gas in Offshore Block

Colombian state oil company Ecopetrol discovered a natural gas accumulation in the Tayrona Block, drilled in deep waters off the country's coast.

Page 2

POWER SECTOR

Havana to Begin Power Blackouts This Month

Havana is set to begin electricity blackouts this month in an effort to mitigate Cuba's energy crisis. The blackouts are a way to "show solidarity" to areas that have had blackouts, said Luis Antonio Torres, a Communist Party leader.

Page 3

Torres // File Photo: Partido Comunista de Cuba Facebook Page.

OIL & GAS NEWS

Petroecuador CEO Fired for Alleged Improper Influencing

Ecuadorean President Guillermo Lasso on Monday ordered the board of state oil company Petroecuador to fire its CEO, Ítalo Cedeño, amid allegations of improper influencing at the oil company, Bloomberg News reported. Cedeño on Monday had acknowledged in an interview with local media that his wife had given him informal advice on hiring at Petroecuador, and Lasso announced his decision to remove him from his position through a Twitter posting that night. "I have ordered Petroecuador's board of directors to dismiss the company's general manager and in the next few hours to appoint his replacement," Lasso said in the tweet, Reuters reported. Cedeño had filed a complaint to the Ecuadorean Prosecutor General's Office to push it to investigate allegations of influence trafficking and bribery connected to a series of searches and arrests prosecutors conducted last month, Petroecuador said on Sunday, Bloomberg News reported. Gonzalo Maldonado, a former Petroecuador CEO, said the company's next chief executive will need to push toward transforming Petroecuador "into an efficient and modern company." Cedeño was working to promote the restoration of Petroecuador's production levels, which had been significantly affected by a two-week protest led by Indigenous groups against the Ecuadorean government's economic policies, Reuters reported.

"I have ordered Petroecuador's board of directors to dismiss the company's general manager and in the next hours to appoint his replacement."

— Guillermo Lasso

Pemex Reports Ninefold Increase in Net Profit to $6.5 Bn

Mexican state oil company Pemex on July 28 reported that its second quarter net profit jumped to $6.5 billion, more than nine times greater than the same quarter last year, Reuters reported. During this year's second quarter, revenue at the company, led by CEO Octavio Romero, increased to about $32.8 billion, an 89 percent increase from last year. High oil prices and a significant reduction in Pemex's tax bill aided the company's profits, the wire service reported. Pemex's debt, one of the highest in the world for an oil company, during the second quarter held steady at $108.1 billion. "In the context of high oil prices and elevated refining margins, Pemex is reporting positive results that it should analyze with caution," said Akza Advisors energy project manager Arturo Carranza, Reuters reported. "The company was unable to increase oil production or improve in cash flow. Its financial debt is also overwhelming," he added. Prices for Mexican crude during the April-to-June period increased by more than 60 percent year-on-year, the wire service reported. "Increases in short-term profitability may ... provide Pemex with capital reserves," Dino Barajas, chair of global project finance practice group at Baker Botts, told the weekly Energy Advisor in a June 17 **Q&A**.

Colombia's Ecopetrol Discovers Natural Gas in Offshore Block

Colombian state oil company Ecopetrol discovered a natural gas accumulation in the Tayrona Block, drilled in deep waters off the country's coast, the company said July 29. Brazil's Petrobras has a 44.4 percent stake in the block and acts as the exploratory well's operator, while Ecopetrol has a 55.6 percent stake. Ecopetrol said the discovery is in line with its 2040 energy transition plan, increasing new exploration and production prospects.

NEWS BRIEFS

Power Outages Lead to 27% Fall in Oil Exports at Venezuela's PDVSA

Venezuelan state oil company PDVSA saw a 27 percent fall in its July oil exports as compared to the previous month, partially due to outages that disrupted the country's power and gas supplies to the company, Reuters reported, citing Refinitiv Eikon data and PDVSA documents. In July, 29 vessels departed the Andean country, carrying 460,323 barrels per day of crude and refined products, as well as 252,000 metric tons of methanol and petroleum coke.

Petrobras Starts Giving Portugal's Petrogal Access to Processing Units

Brazilian state oil company Petrobras started an operation giving Petrogal Brasil access to its Rio de Janeiro- and São Paulo-based natural gas processing units, Petrobras said Monday in a securities filing, Reuters reported. "The contract provides for Petrogal's access to the gas processing units, owned by Petrobras located in the states of Rio de Janeiro and São Paulo, linked to the Integrated Drainage System," Petrobras said.

John Laing Group to Acquire Electric Bus Concessions in Bogotá

London-based John Laing Group on Monday announced its agreement to acquire two electric bus concessions in Colombia's capital city, the investment group said in a statement. John Laing will be acquiring the Electribus Bogotá Fontibón II and Electribus Bogotá USME I S.A.S. concessions, and the transaction is set to be completed during the third quarter of this year. "The investment builds on our track record of working successfully with local government authorities on transport projects with international partners," Ben Loomes, John Laing's chief executive, said in the statement.

Ecuador to Pay Perenco $374 Mn After Asset Freeze

The Ecuadorean economy ministry said Monday that it would pay the $374 million that the World Bank's International Center for Settlement of Investment Disputes, or ICSID, had ordered it to pay Anglo-French oil company Perenco, Agence France-Presse reported. Perenco filed a $1.42 billion suit against Ecuador more than 10 years ago following the country's increase of its profit share from 50 percent to 99 percent after a rise in oil prices. Ecuador's economy ministry said work was underway to determine payment terms after Perenco said it was able to freeze all of the Luxembourg bank accounts that the Andean country uses to make bond coupon payments, AFP reported. "Unless and until Ecuador fulfills its obligations under the Washington Convention and its express undertaking to pay Perenco in full, Perenco has been left with no choice but to take steps to enforce its payments rights against Ecuador in Luxembourg and other jurisdictions," Perenco said in a statement, AFP reported. The Ecuadorean economy ministry said on Monday that it had not formally been informed of the asset freeze, Reuters reported. The ministry said in a statement that it is not "aware of any effect on the assets of the country abroad."

POWER SECTOR NEWS

Havana to Begin Power Blackouts This Month: State Media

Havana is set to begin electricity blackouts this month, in addition to other measures to mitigate Cuba's energy crisis, including the cancellation of the city's carnival, Reuters reported, citing a state media announcement on July 30. Most of the rest of the island has

FEATURED Q&A / Continued from page 1

and independence—key components of the region's well-being and future competitiveness in the 21st century, and of the ultimate success of that security and trade reset with China—are undermined because of the Mexican president's regressive and tone-deaf energy policies. I have always argued that one of the few guardrails to most of López Obrador's policies has been the USMCA itself and his resolve to ensure the success and viability of the trade agreement. In fact, some of the few U-turns he has pulled off regarding policy decision-making are when he's been alerted by a few in his cabinet that it could run afoul of USMCA. However, the one exception to that general rule of thumb has been energy policy, either because he's played dumb, feigning that it's exempt from the trade pact, or he truly believes what his then-liaison to the USMCA negotiating team (Mexico's current ambassador to China) sold him—mistakenly or wittingly—when he informed him that there was a 'national sovereignty carve-out' for energy. In the meantime, López Obrador has publicly scoffed at the dispute by playing a cumbia. But when the music stops, Mexico risks being hit with as much as $30 billion in punitive tariffs if the consultations lead to a panel and it loses the ruling."

A **Shannon O'Neil, vice president, deputy director of studies and Nelson and David Rockefeller Senior Fellow for Latin America Studies at the Council on Foreign Relations:** "AMLO is already playing the anti-American card in response to the request, invoking Lázaro Cárdenas, the former president who 'stood up' to U.S. oil companies when he nationalized the industry in the 1930s, multiple times and mocking the legal complaint and process by playing a pop music ditty about not being afraid at his morning press conference. AMLO and his political allies conveniently forget it is their government that negotiated and signed the USMCA, and the Senate that they control that ratified the agreement. So these rules are not a vestige of the previous government or ones without proper vetting by AMLO's team. Unlike the series of labor disputes the U.S. government has raised, which Mexico has been amenable to swiftly addressing, control over the energy sector gets at the heart of AMLO's economic vision and domestic political project. It will not be an area for compromise. Instead, expect the legal process to drag on for the next year and more. As elections approach in 2023 and 2024, expect him to continue down a defiant and anti-U.S. rhetorical path to rally his voting base at the expense of Mexico's export sectors and the north of the country. Mexico's next president is likely to be the one facing the challenge of bringing the country in line with its USMCA obligations."

A **Earl Anthony Wayne, former U.S. ambassador to Mexico and co-chair of the Mexico Institute Advisory Board at the Wilson Center:** "The U.S. and Canadian requests for consultations over Mexican practices related to energy are a major test for the USMCA's dispute settlement procedures. The outcomes will send strong signals about how the three countries can manage sensitive problems and about Mexico's investment environment. When the USMCA turned two years old on July 1, U.S.-Mexico-Canada trade had surpassed pre-pandemic levels and provided most of Mexico's economic growth. It is positive that the U.S. and Canada are seeking to use the USMCA's provisions for consultations and, if not successful, for a dispute resolution panel of independent experts to draw conclusions as to whether Mexico is violating the agreement. Cases like this are why the USMCA has stronger dispute resolution processes than NAFTA. Mexico and Canada already have an active complaint against the United States, disagreeing over rules of origin for vehicles. The United States has filed a second complaint against Canada over dairy practices.

Continued on page 6

experienced daily power outages of four or more hours a day for months, though Havana had been spared, the wire service reported. “This is the moment to show solidarity and contribute so that the rest of Cuba suffers less from the undesirable blackouts,” said Luis Antonio Torres, a Communist Party leader in Havana, the Communist Party daily, Tribuna de la Habana, reported. The Cuban government on July 18 said that electricity blackouts in the Caribbean country are likely to continue indefinitely, Reuters reported in July. “The operating reserves that we have in the electrical system are insufficient to cover the demand, making effects on service inevitable,” Liván Arronte Cruz, the country’s energy and mining minister, said last month. “When you keep running the equipment past its capital maintenance schedule, it falls into a downward spiral with no short-term solution,” said Jorge Piñon, the director of the University of Texas at Austin’s Latin America and Caribbean Energy and Environment Program, the wire service reported. The current schedule of power outages will cut electricity of each of Havana’s six municipalities every three days during peak mid-day hours, Reuters reported.

POLITICAL NEWS

Fourth Peruvian Prime Minister Under Castillo Quits

Peruvian Prime Minister Aníbal Torres, the fourth person in that position since President Pedro Castillo took office just over a year ago, abruptly resigned on Wednesday citing “personal reasons” for his departure, CNN reported. “I retire from this position after having served alongside you, our homeland [and] particularly the put-off and forgotten people,” Torres wrote in his resignation letter, which he posted on Twitter. Torres was sworn in as prime minister in February, succeeding Héctor Valer, who spent just eight days in the post and resigned amid domestic violence allegations. Torres’ resignation adds to the instability that has beset Castillo’s government since shortly after he was sworn in as president in July of last year. “Pedro Castillo has been a failure as president, and he is not likely to reach his second year in office. He has had four different prime ministers and has changed ministers at least 50 times,” Julio Carrión, associate professor of political science and international relations at the University of Delaware, told the Advisor

ADVISOR Q&A

Will the U.S. Government Extend Protections for Nicaraguans?

Q **A bipartisan group of U.S. lawmakers from Florida on July 15 urged the administration of President Joe Biden to “redesignate and extend” Temporary Protected Status, or TPS, for Nicaraguans living in the United States, a designation that would protect them from deportation. The United States first granted Nicaraguans the designation in 1998 after Hurricane Mitch struck Central America, and a court injunction is currently in effect, allowing Nicaraguans to maintain the status after beneficiaries sued the federal government following former President Donald Trump’s efforts to do away with it. How likely is the Biden administration to solidify the TPS designation for Nicaraguans? What criteria will go into the decision? What factors are in play concerning a TPS designation for other Latin Americans, such as Venezuelans, for whom the Biden administration already extended it for those who were already eligible, and what is the state of extending TPS to migrants from other countries in the region?**

A **Sheila Cherfilus-McCormick, member of the U.S. House of Representatives (D-Fla.):** “As stated in the letter, which I cosigned to the Biden administration along with my congressional colleagues, Florida is home to a vibrant community of Nicaraguans, many of whom are undocumented and have resided in the United States for years while unrest in Nicaragua continues. The recent expiration of Nicaragua’s TPS designation places more than 4,500 Nicaraguans who fled the destruction of Hurricane Mitch in 1998 and the more than 60,000 Nicaraguans fleeing the repression of the Daniel Ortega regime at grave risk if they are forcibly repatriated. Generally, the secretary of homeland security may designate a foreign country for Temporary Protected Status (TPS) due to conditions in the country that temporarily prevent its nationals from returning safely or in certain circumstances where the country is unable to handle the return of its nationals adequately. In the case of Nicaragua, Guatemala, El Salvador, Venezuela and the Republic of Haiti, those countries and their nationals are eligible for TPS designation and extension due to ongoing insecurity. It is in the national security and strategic interest of the United States to provide refuge to those seeking safety. Otherwise, we will continue to see the rise of migrants taking dangerous and deadly routes to our shores. However, we must be mindful that TPS is merely a temporary solution, especially for those already living in the United States. House Democrats passed legislation that would create a pathway to permanent residency and citizenship for TPS and DACA recipients. I urge my colleagues in the Senate to pass the law immediately to ensure a permanent solution for hard-working immigrants and migrants.”

EDITOR’S NOTE: More commentary on this topic appears in the Q&A of Tuesday’s issue of the Latin America Advisor.

NEWS BRIEFS

Judge Suspends Hearing of Arrested Journalist as Lawyers Also Targeted

The initial hearing of Guatemalan journalist José Rubén Zamora was suspended on Wednesday following the judge's announcement that Zamora's lawyers are also targets of an investigation by President Alejandro Giammattei's government, the Associated Press reported. Zamora was arrested on July 29 on a charge of money laundering, and his lawyers were accused of extortion. Zamora, the president of newspaper El Periódico, said the case "is a set-up effectively designed and mounted by the president, attorney general and other people," the wire service reported.

Chile's Codelco Reports 35 Percent Drop in Profit for Year's First Half

Chilean state-owned copper producer Codelco on July 29 reported a 35 percent decline in its pretax profit for the first half of this year to \$2.4 billion, Reuters reported. Lower production levels and higher costs have taken a toll on the company's profits. Codelco said it produced 736,000 metric tons of copper in the period, a 7.5 percent decline, year-on-year.

Cuba Seeks to Purchase Dollars at Five Times Current Exchange Rate

Cuban Central Bank President Marta Wilson González on Wednesday said that the country is set to purchase dollars and other convertible currencies Thursday at the state-run banking system's new rate of 120 pesos to the dollar, five times the current rate of 24 pesos, Reuters reported. Cuba's government said the measure is an effort to disrupt the informal money market. Economy Minister Alejandro Gil said the government hopes to resume currency exchanges in the near future.

in a **Q&A** published July 19. Castillo faces five investigations, including corruption claims and one alleging plagiarism in his master's thesis, the Associated Press reported. Torres has strongly defended Castillo. The president made no public comment on Wednesday about the departure.

ECONOMIC NEWS

Massa Sworn in as Argentina's Economy Minister

Argentina's new economy minister, Sergio Massa, was sworn in to the position on Wednesday, and during a news conference he said that he would not be announcing extensive economic measures that would immediately change the course of Argentina's economy, the Associated Press reported. The Argentine economy has in recent months been suffering from a sharp depreciation of the peso, soaring inflation and a shortage of central bank foreign currency reserves. "I'm not super anything, nor a magician nor a savior," Massa said, the wire service reported. "This team has the obligation to give answers that will not come in a day nor too ... Magic doesn't exist," he added. Massa, the third person to head Argentina's economy ministry in just over a month, vowed to bring fiscal order to the country, the Financial Times reported. He also said he would end the money printing that has funded the government's budget, saying that he would instead seek deficit reduction or borrowing from the private sector, the newspaper reported. Massa also said he would work to build the country's dollar reserves and promised a "reworking" of state subsidies to meet budget targets. Economists expect Argentine inflation to exceed 90 percent this year, and a central bank survey shows that the country is expected to see a contraction in the third quarter of 2022, the Financial Times reported. "[The economy] needs a strong economic plan that involves bruising measures like a devaluation, higher interest rates ... even though Massa has the political support, we're still a way off from signs that there is a solid economic plan in place," said economist Fernando Marull. Argentine President Alberto Fernández tapped Massa for the post last week after he fired economist Silvina Batakis less than a month after he named her to the position. Batakis had replaced Martín Guzmán, who resigned amid infighting in the ruling Peronist coalition over the direction of the country's economic policy. Guzmán had sought government spending reductions in order to lower the budget deficit and adhere to the country's debt restructuring deal with the International Monetary Fund. Massa had been the speaker of the lower house of Argentina's Congress since late 2019 but stepped down from that position on Tuesday to become economy minister.

Bank of America Expects Zero Growth for Mexico Next Year

Bank of America on Wednesday lowered its growth forecast for the Mexican economy next year from one percent to zero percent, Reuters reported. The forecast is among the most pessimistic on the 2023 outlook for Mexico, the wire service reported. Amid a potential U.S. economic downturn, the Mexican economy has struggled during the Covid-19 pandemic, and its future growth prospects have been affected by high inflation and increasing interest rates. "We expect the Mexican economy to decelerate sharply in the following quarters," the Bank of America analysts said, Reuters reported. "We think the main driver will be the U.S. deceleration, in part driven by higher interest rates, which we expect to impact Mexico with a lag," Carlos Capistrán, the bank's chief economist for Mexico and Canada, said in the note, Bloomberg News reported. "The internal factors that will slow down activity in Mexico are higher interest rates, a still strict fiscal policy and renewed uncertainty given the T-MEC energy dispute," he added, referring to Canada and the United States' dispute filing under the U.S.-Mexico-Canada free trade agreement. Bank of America expects Mexico's economic growth for this year to reach 1.9 percent, 0.2 percentage points up from its previous 1.7 percent estimate, Reuters reported.

FEATURED Q&A / Continued from page 3

This energy case touches an estimated $20 billion plus in investments. U.S. officials have raised concerns seeking solutions for many months. How Mexico responds will be key. The Economy Ministry says it looks forward to pursuing consultations, but the Mexican president has responded with nationalist rhetoric, reflecting his priority on a strong state role in energy. Negotiated solutions are possible, but as the process proceeds, the United States, Canada and others will watch carefully to see if Mexico is willing to adjust to meet the commitments to which it agreed in the USMCA. That will send strong signals to potential investors, the U.S. Congress and other key players."

A **Daniela Stevens, member of the Energy Advisor board and director of the Inter-American Dialogue's Energy, Climate Change & Extractive Industries Program:** "In yet another erroneous assessment of threats to Mexico's sovereignty, López Obrador claims to believe that the USMCA's chapter 8, which establishes Mexico's ownership of hydrocarbons, shields and justifies his electricity policy and the regulatory hurdles that he has established to discretionarily protect the CFE. In fact, chapter 8 says nothing about creating conditions that favor national companies in the power sector, and AMLO's commitment to this flawed premise does not bode well for consultations with the United States and Canada. If the 75-day consultation period that the United States requested ends without a satisfactory agreement for all parties, the next step is establishing a dispute resolution panel that would have up to 180 days to deliberate. We can expect such a panel to conclude that Mexico's statutory changes favoring the CFE and its practices of delaying and denying power generation permit applications and revoking existing permits are discriminatory and inconsistent with its obligations under the USMCA. This conclusion would very likely lead to tariff-based penalties, which the U.S. government could use to satisfy a powerful constituency: agricultural producers, which claim that Mexican products are harming their competitiveness. For López Obrador, such consequences, especially for the country's sensitive agricultural sector, would mean an attack on Mexican sovereignty, even though his government signed, and Mexico's Senate ratified, the USMCA. Although Economy Minister Tatiana Clouthier has committed to reaching a solution during the consultation stage, ministries rarely differ from the line that López Obrador dictates. For his part, Foreign Affairs Minister Marcelo Ebrard has claimed to be ready to defend Mexico in the consultation process. Canada has filed a separate but parallel complaint, which could result in a second process altogether, and perhaps in additional sanctions."

[Editor's Note: The Advisor requested a commentary for this issue from Mexico's Secretariat of Economy but received no response.]

LATIN AMERICA ENERGY ADVISOR
is published weekly by the
Inter-American Dialogue ISSN 2163-7962

Erik Brand
Publisher
ebrand@thedialogue.org

Gene Kuleta
Editor
gkuleta@thedialogue.org

Leticia Chacón
Reporter
lchacon@thedialogue.org

Latin America Energy Advisor is published weekly, with the exception of some major U.S. holidays, by the Inter-American Dialogue
1155 15th Street NW, Suite 800
Washington, DC 20005

www.thedialogue.org

Subscription inquiries are welcomed at
ebrand@thedialogue.org

