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FEATURED Q&A

Is the Threat of Nationalizations Real in Peru?



Then-Peruvian Prime Minister Guido Bellido, who was ousted on Wednesday, last month warned companies producing natural gas in the country that they could face nationalizations if they did not agree to pay higher taxes. // File Photo: TV Perú.

Q A week before Peruvian President Pedro Castillo on Wednesday dismissed Prime Minister Guido Bellido as part of a cabinet shuffle, Bellido said firms that produce natural gas in Peru will be required to pay higher taxes or else face nationalizations. Shortly after, Castillo softened the rhetoric, saying any renegotiation will take place “with unrestricted respect for the rule of law and to ensure national interests,” with “the state and the private sector working together.” Castillo and more moderate members of his cabinet have previously said no nationalizations or expropriations will occur during his term in office. What can natural gas companies operating in Peru expect from the Castillo administration, including with regard to tax increases? Is the private sector’s role in Peru’s natural gas industry likely to change in the period ahead? Are nationalizations or expropriations likely in Peru’s oil and gas sector, as some of the more radical members of the cabinet and the ruling party have suggested, or will the more moderate factions be able to keep its promises?

A Eleodoro Mayorga, oil and gas consultant and former minister of energy and mines in Peru: “If anything characterizes the current government, it is the lack of clarity in communicating its objectives. Both in economic and energy policy, it is impossible to understand what Castillo wants to do. In recent days, the president reaffirmed respect for the law and categorically rejected expropriations. But Bellido proposed the contract renegotiation to the concessionaire of the Camisea fields, demanding a greater part

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TOP NEWS

OIL & GAS

Petrobras Will Not Artificially Control Prices: Chief Exec

Petrobras CEO Joaquim Silva e Luna said there is no chance that the company will artificially control fuel prices despite pressure.

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OIL & GAS

Lawyer Involved With Chevron Case in Ecuador Sentenced

Steven Donziger, a U.S. lawyer who launched a landmark case against oil giant Chevron over accusations of pollution in Ecuador’s Amazonian region, has been sentenced to six months in jail.

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OIL & GAS

AMLO Submits Power-Sector Bill to Congress

The government of Mexican President Andrés Manuel López Obrador submitted legislation that would give power utility CFE more than half of the electricity market, effectively reversing the 2013-2014 energy reforms.

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López Obrador // File Photo: Mexican Government.

OIL AND GAS NEWS

Petrobras Will Not Keep Prices Artificially Low: CEO

Petrobras CEO Joaquim Silva e Luna said there was “zero” chance that the state-run oil company will artificially control fuel prices even amid public pressure as the country’s inflation rate nears double digits, Reuters reported Saturday. Petrobras will have to raise gasoline and diesel prices in line with its international price parity policy despite general pressure to keep them artificially low, Silva e Luna said. Last week, the company hiked diesel prices by about 9 percent, its first such increase in nearly three months. “There is no chance of [price controls] happening,” Luna told Reuters in a phone interview late last Friday. “I consider it zero. Petrobras is a very well regulated company, with compliance rules. No board is going to approve such a thing,” he added. Earlier last week, the company’s logistics and sales director, Cláudio Mastella, said Petrobras was evaluating hiking fuel prices as the cost of some products is out of line with the global market, the wire service reported. Sources told Reuters that Silva e Luna had been in Brasília to discuss the measure with government officials. The issue of price increases has been somewhat controversial, as the former CEO of Petrobras was ousted earlier this year for carrying out a series of price hikes that President Jair Bolsonaro had opposed. Critics accused Bolsonaro of political meddling in company policy. Bolsonaro and some legislators have pushed for an alternative solution to price increases, as the government seeks to ease inflation rates, which reached 9.68 percent in August, the highest reading since February 2016, according to Trading Economics. Transportation registered the largest increase in consumer prices in August, with fuel prices rising 41.33 percent, Trading Economics reported, citing data from Brazilian statistics agency IBGE. Bolsonaro last week floated the idea of using Petrobras profits to alleviate rising fuel prices. The president said a fund could be created using government pro-

ceeds from Petrobras in order to avoid passing on the cost of higher fuel prices to consumers. “Seeing Petrobras’ profits, those that come to the federal government ... this billion-dollar profit—I’m asking, I’m not confirming it—can’t we convert this and put it in a regulatory fund?” Bolsonaro said during a weekly online live broadcast on social media, Reuters reported. Brazil’s lower house speaker, Arthur Lira, said earlier last week that Congress was evaluating such a “stabilization fund,” which he said could shield consumers from fuel price volatility while allowing Petrobras to maintain its market-based pricing policy.

U.S. Lawyer in Ecuador, Chevron Case Sentenced

A disbarred U.S. lawyer who launched a landmark case against oil giant Chevron over accusations of pollution in Ecuador’s Amazonian region has been sentenced to six months in jail, the latest event in a years-long legal saga, the Financial Times reported. U.S. District Judge Loretta Preska found human rights lawyer Steven Donziger guilty of willfully and deliberately disobeying court orders. In July, Preska ruled he was guilty of contempt of court for refusing to provide information to Chevron about the case. “Mr. Donziger has spent the last seven-plus years thumbing his nose at the U.S. judicial system,” Preska said. “It’s now time to pay the piper.” Donziger has served more than two years on house arrest, is forced to wear an electronic monitoring bracelet and has been barred from the legal profession, and his passport has been confiscated. “I think by any objective measure I’ve already been punished quite severely,” Donziger said, on the verge of tears, during the hearing, the newspaper reported. His lawyer called the sentence “outrageous,” and Chevron and private lawyers serving as prosecutors for the United States did not immediately respond to Reuters’ request for comment. Donziger, who is planning to appeal the ruling, has been involved in a years-long legal battle with Chevron. He represented villagers in Ecuador’s Lago Agrio

NEWS BRIEFS

Petrobras Makes Final Payment to U.S. Agencies

Brazilian state oil company Petrobras said Monday that it had paid \$853.2 million to the U.S. Department of Justice and the Securities Exchange Commission as part of a 2018 deal with U.S. authorities, Reuters reported. With this payment, the Justice Department’s monitoring of the company will end. The monitoring had begun following a corruption probe in connection to Petrobras as part of the massive Car Wash graft investigation in Brazil, which implicated high-level politicians as well as several former Petrobras executives.

Venezuela Oil Exports Decline to Lowest Level in Almost One Year

Venezuelan oil exports dropped to their lowest level in almost a year in September due to a shortage of diluents that has hit production in the country’s Orinoco Belt, Reuters reported Monday, citing documents and tanker tracking data. Exports reached 414,000 barrels per day last month, a 34 percent decrease from August and the lowest level since October 2020. Venezuela’s extra-heavy crude needs to be mixed with diluents to reach exportable grades. The country has struggled to produce and import light crudes amid sanctions and years of mismanagement.

Uruguay Exports 43% of Power Generated in Sept.

Uruguay exported 43 percent of the electricity it generated in September, the equivalent of 680 gigawatt-hours, a record monthly high, SEG Ingeniería reported Monday, citing official data from state utility UTE. Uruguay’s exports could reach \$300 million this year given strong demand from Brazil, whose power generation is suffering amid a severe drought, said Silvia Emaldi, the president of UTE, Bloomberg News reported.

region who sued Chevron for water and soil contamination by oil company Texaco between 1964 and 1992. Chevron acquired Texaco in 2000. Donziger won a \$9.5 billion judgment against Chevron in an Ecuadorean court in 2011. However, three years later, U.S. District Judge Lewis Kaplan refused to enforce it, saying it had been secured through bribery, fraud and extortion. The oil company then sought to retrieve money Donziger personally reaped in the case, and Kaplan ordered Donziger to hand over electronic devices to Chevron's forensic experts. Donziger refused, prompting Kaplan to charge him with criminal contempt.

Brazil's Petrobras Leaves Talks on REFAP Refinery Sale

Brazilian state oil company Petrobras has left talks with local energy conglomerate Ultrapar for the sale of the Alberto Pasqualini refinery, known as REFAP, the third refinery sales process to fall through, Argus Media reported last week. "Despite efforts made by both companies in this process, certain critical conditions were not successful for an agreement," Petrobras said in a securities filing, adding that the firms reached an agreement to end negotiations without penalty. Petrobras said it plans to relaunch the sales process of REFAP, which has the capacity to process 208,000 barrels per day (bpd) of oil, in a timely manner. Petrobras' talks to sell the Presidente Getúlio Vargas refinery (RNEST) and the Abreu e Lima refinery (REPAR) also collapsed after failing to attract enough bids, Argus Media reported. These two facilities, in addition to REFAP, make up about half of the 1.1 million bpd of domestic refining capacity that Petrobras has been trying to sell since 2019. Petrobras said that the next steps in the sales processes of RNEST and REPAR are still under review. The company has reached deals to sell two of its refineries. In August, it signed a \$189.5 million agreement with Brazilian fuel distributor Atem for the Isaac Sabbá refinery, and it had agreed on a \$1.65 billion sale with Abu Dhabi's state-owned investment fund, Mubadala, for

FEATURED Q&A / Continued from page 1

of the profits and threatening to nationalize the consortium. In accordance with the polarization that Peru is experiencing, the press built all kinds of scenarios. The word that accurately qualifies the government's performance is 'uncertainty,' which we know is the best way to paralyze private investment. During his campaign, Castillo focused on the Gasoducto del Sur. A recent decree confirms the priority accorded to the massification of gas in the Southern Macro Region, an initiative that will become a reality only if the transmission and distribution pipelines are financed. Exploration and production are a separate business, based on contracts that can always be renegotiated. What is unknown is what the government wants to modify. Without a socioenvironmental conflict or a breach of technical or economic regulations, the proposed renegotiation lacks a starting point. What is evident is a good dose of populism. Faced with the devaluation of the sol and economic paralysis, repeating that 'gas must be for the people' does not make technical sense, but it is a good slogan. Without an energy plan or a medium- to long-term vision, acting out of instinct in the face of opposition, the government thus threatens nationalization. One wonders if it is a test of strength or weakness. More than in any other sector, the use of gas requires investments that will only materialize if populism is put aside. Its financing must be facilitated with clear messages. The cost of mistakes is great. Energy needs will force more imports and, without pipelines, gas resources run the risk of remaining underground."

A **Jannine Delgado Silva, manager of the hydrocarbons sector at the National Society of Mining, Petroleum and Energy (SN-MPE) in Peru:** "The current government has expressed its intention to sit down with companies that make up the Camisea consortium to renegotiate the license contracts that allow it to exploit the fields of Blocks

88 and 56. It has also created a commission in order to expand natural gas reserves and promote the expansion of its use. Does this mean that Camisea will be nationalized or expropriated? The current legal framework does not allow for this. For this to happen, the constitution and organic hydrocarbons law would have to be changed in order to allow the state to carry out business activity. A majority of Congress would be needed for these changes to pass. Additionally, to renegotiate the aforementioned license contracts, an agreement between the parties is first necessary, as they are law contracts that can only be modified with consensus, and in no way can they be modified unilaterally. An arbitrary unilateral termination of these contracts, with the consequent seizure of Camisea fields and without prompt, adequate and effective compensation, could be the subject of a claim of illegitimate direct expropriation before arbitration tribunals. The Camisea-led consortium could resort to the investment protection treaties or the arbitration clause stipulated in the contracts, which empower the contractor companies to resort, via arbitration, to the International Centre for Settlement of Disputes (ICSID) of the World Bank."

A **Nicolás Saldías, analyst for Latin America and the Caribbean at The Economist Intelligence Unit:** "Bellido's announcement that the government would nationalize the Camisea natural gas project (run by a multinational consortium) if the firm did not renegotiate terms of its contract to increase the state's share of profits underscores the challenge the Castillo administration faces as it tries to build trust with investors. Mr. Bellido made these comments following President Pedro Castillo's trip to the United States, where he said that his government would not expropriate firms and invited foreign investors to invest in Peru. Mr. Bellido's threat echoed Perú Libre's original radical party manifesto drafted by his close ally and

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the Landulpho Alves refinery earlier this year. However, both transactions are still subject to regulatory approval. Petrobras' attempts to sell its refineries have been continuously delayed, in part because there has been some controversy over the legality of the sales and bureaucracy in relation to regulatory agency Cade. "The reliance on Cade rather than Congress to decide the strategic future of Petrobras runs the risk of a policy reversal," Mark Langevin, senior advisor to Horizon Client Access, told the Energy Advisor in a [Q&A](#) published July 16. "It is this risk that partially contributes to the delayed sales of RLAM to Mubadala and REFAP to Ultrapar Participações, and may also explain the failed REPAR tender," Langevin added.

POWER SECTOR NEWS

AMLO Submits Power-Sector Reform to Congress

The government of Mexican President Andrés Manuel López Obrador last week submitted a proposal to reform the constitution in order to strengthen state control of the electricity market, Reuters reported. The move would reverse the 2013-2014 constitutional overhaul that opened up the country's energy sector to private and foreign investment. López Obrador's proposed reform seeks to give state power utility CFE more than half of the electricity market as well as put the company in charge of setting terms for private generators. The bill would also reserve future lithium extraction for the state and eliminate energy regulators, transferring their functions to the Energy Ministry and the CFE, the wire service reported. Though López Obrador had previously touted much of the content included in his proposal, the elimination of independent regulators prompted strong criticism even from some of his allies. "The disappearance of the National Hydrocarbons Commission is a step back for the regulation of the energy sector," said Martha Bárcena, who served as López Obrador's former ambassador to the United

ADVISOR Q&A

Who Has the Edge Ahead of Honduras' Presidential Vote?

Q National Party candidate Nasry "Tito" Asfura, the mayor of Tegucigalpa, is leading in the polls ahead of the Honduran presidential election in November, with 21 percent support, according to a CID-Gallup poll released Sept. 10. Former First Lady and Libre candidate Xiomara Castro, as well as television presenter Salvador Nasralla, were both three points behind Asfura in the poll. How is the race shaping up? What issues will be the most important to voters in November, and how significant will allegations of corruption and fraud against candidates and their close allies be? What is at stake for Honduras, given who wins the election?

A Luis Fernando Suazo, Honduras' ambassador to the United States: "Polls, including CID-Gallup, favor Nasry 'Tito' Asfura of the National Party in what looks like a three-way winner possibility among 15 candidates. In the end, the support must be translated to votes, so turnout and the excitement of voters going to the polls will be decisive. In our country, the party structure is also important because many voters need help getting to the polls. In terms of voter turnout and excitement, the three front-runners may have similar conditions, but the National Party appears to have a better and more well-organized structure.

States until earlier this year, referring to the oil industry regulator. López Obrador said giving CFE 54 percent of the electricity market would keep prices low for consumers and end what he says is preferential treatment for private generators. "We are trying to compensate for the damage caused by the so-called energy reform," he said during a news conference

For example, Salvador Nasralla of the Savior Party of Honduras registered no local candidates in nearly 25 percent of the country's municipalities. The 90-day open campaign season recently began, and messaging has played a big role in how the race is shaping up. For example, former First Lady Xiomara Castro presented a plan that included the legalization of abortion. With 80 percent or more of the population being Christian or Catholic, this may affect her support. As in every election, we are looking at a war of narratives and accusations to generate political advantage. Previous allegations of corruption and similar accusations against candidates are already considered in the polls and may not have further impact. The fact that the opposition has a majority in the electoral authority should avoid allegations of electoral fraud by the official sector. Geopolitics and regional security are at stake. A change in the Honduran political system would generate an imbalance in SICA votes and in international political and economic organizations. Those who are undecided to this day remain the ones that could define the outcome, and anything could happen."

EDITOR'S NOTE: More commentary on this topic appears in the [Q&A of Wednesday's issue of the Latin America Advisor](#).

last week, Reuters reported. The president's proposal to favor CFE over private firms, which tend to generate cheaper and cleaner electricity, has also drawn strong criticism. "While other hydrocarbon-rich nations are looking to a future beyond fossil fuels, it seems that Mexico is now seeking to return the country to an energy model that prospered 50 years

NEWS BRIEFS

Just 37% of People in Latin America, Caribbean Are Vaccinated: PAHO

Only 37 percent of people in Latin America and the Caribbean have been vaccinated against Covid-19, the director of the Pan American Health Organization said Wednesday, CNBC reported. Chile and Uruguay have vaccinated more than 70 percent of their populations, while countries including Argentina, Ecuador and Panama have vaccinated 50 percent or more. At least 10 countries in the region, including Guatemala, Honduras and Venezuela, have vaccinated less than 25 percent, and Haiti has immunized less than 1 percent, according to Our World in Data.

Colombia Deploys 14,000 Troops to Border to Fight Drug Trafficking

Colombia on Wednesday deployed a new unit of 14,000 military personnel to the northeastern province of Norte de Santander, at the Venezuelan border, a conflict hotspot where several armed groups fight each other for control of cocaine production, Reuters reported. The new unit, called CENOR, is the largest in Colombia's recent history.

Brazil's Lower House Calls on Guedes to Testify Over 'Pandora Papers'

Brazil's lower house of Congress on Wednesday agreed to call on Economy Minister Paulo Guedes to testify regarding his offshore investments after the so-called Pandora Papers mentioned his name, Reuters reported. The journalistic investigation, based on a major leak of confidential documents from 14 offshore service providers in tax havens such as Panama, the British Virgin Islands and the Bahamas, alleged Guedes has used tax havens over the years. The minister has denied any wrongdoing, ethical or legal.

ago, without seeking creative private-sector solutions to the looming environmental and energy-grid crises," Greg Ahlgren, partner at Diaz, Reus & Targ, told the Energy Advisor in a [Q&A](#) published April 16. However, in Mexico's midterm elections in June, the ruling Morena party lost its two-thirds majority, the benchmark needed to make changes to the constitution. It is unclear whether López Obrador's bill will have enough support to pass. [Editor's note: See related [Q&A](#) in the June 25 issue of the Energy Advisor.]

POLITICAL NEWS

Peru's Castillo Ousts Prime Minister in Cabinet Shuffle

Leftist Peruvian President Pedro Castillo on Wednesday ousted his divisive prime minister, Guido Bellido, replacing him with Mirtha Vásquez, a former interim president of Congress and moderate leftist who is not a member of Castillo's Free Peru party, the Financial Times reported. Castillo made six other changes to his cabinet, naming businessman Eduardo González to head the mining ministry and removing Iván Merino from that post. Castillo also dismissed Labor Minister Iber Maraví, replacing him with Congresswoman Betssy Chávez, El Comercio reported. Among the officials remaining in their position is Finance Minister Pedro Francke. Bellido said he did not know why he was dismissed, but he said that he assumed the president was acting "according to his convictions and political criteria," the Financial Times reported. "We don't know what the causes are. What we know is that today the president has asked us to submit our letters of resignation, and immediately we complied with that request," Bellido told reporters. Castillo's dismissal of Bellido was seen as a move to moderate the cabinet. A Marxist, Bellido had expressed sympathy for the Maoist Shining Path guerrilla group whose insurgency left 70,000 people dead in the 1980s and 1990s, the Financial Times reported. Castillo's naming of Bellido as his prime minister in July "sent

shockwaves through markets, toppling Peruvian stocks and pushing the sol to near-record lows," Mariana Zepeda, Latin America analyst at FrontierView, told the daily Latin America Advisor in a [Q&A](#) published Aug. 12. Last month, Castillo was in the United States, trying to convince potential investors to put money into Peru, while at the same time Bellido was telling the foreign owners of the country's largest natural gas project that they needed to hand over more of their profits to the government or else risk nationalization of their assets.

ECONOMIC NEWS

Chip Shortage Leads to Plunge in Brazil, Mexico Auto Output

Automotive production in Latin America's two largest economies plunged in September amid an industrywide shortage in semiconductor chips as well as railroad blockades in Mexico, Reuters reported, citing data released Wednesday. Brazilian auto output was down 21.3 percent to 173,287 vehicles in September as compared to the same month last year, when the industry was struggling to revamp production after the coronavirus-related shutdown, Brazilian automakers association Anfavea said. Meanwhile Mexico's auto production declined 33.3 percent in the same period to 208,092 units. Mexico's auto exports also fell by 24.18 percent to 195,294 vehicles, according to data from national statistics agency INEGI. "All of this is due to the shortage of semiconductors, which at this point is affecting all levels of production for all participants in the domestic market," said Fausto Cuevas, the head of the Mexican Automotive Industry Association, Reuters reported. Cuevas estimates that Mexico's auto exports will fall between 3.8 percent and 4.2 percent this year as compared to 2020 and production will decline between 4.7 percent and 5 percent. Cuevas also forecasts that the Mexican auto industry will not return to pre-pandemic levels until 2024. Auto industry officials have warned that the semiconductor shortage could worsen.

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the founder of the party, Vladimir Cerrón. Mr. Castillo quickly denied that the government would seek to nationalize the firm and would instead renegotiate the contract respecting the law. Negotiations with Pluspetrol (one of the firms in the consortium) are scheduled to begin on Oct. 6, but details about what will be negotiated remain unclear. It is likely that any renegotiation will be a prolonged process as all the firms in the consortium must agree to the new terms of the contract. Although the threat of nationalization appears to be off the table, the decision to renegotiate contracts, especially under duress and without clear objectives, harms Peru's business environment. Looking ahead, the government intends to increase taxes on firms in extractive industries and has said it will seek to increase the role of state-owned Petroperú in the exploration and production of hydrocarbons."

A **Beatriz de la Vega, energy and natural Resources lead partner at KPMG Peru:** "Announcements to raise royalties and taxes for natural resources industries such as mining and oil and gas have happened since the Castillo administration took office. However, the content or road map about such plans are still unclear, which keeps investors uncertain. Recent contradictions between

Castillo and Bellido, as well as comments by Bellido on social media regarding the potential nationalization of the Camisea natural gas project have created a negative political landscape and a big concern for operators and potential investors, who are closely monitoring the outcome. However, the current Constitution of 1993 states that license agreements are law between the parties. Forced alterations of their terms under duress or threats could lead to cases in international courts, where there is a big chance that the Peruvian government could lose and pay huge amounts of indemnities. Camisea's operators have been very clear regarding this matter and instead have put on the table some opportunities for Peru. For example, the government could push demand and more infrastructure to massify the use of natural gas (currently only 25 percent from Block 88 is extracted, and the difference is reinjected to the well due to a lack of demand). Natural gas reserves could provide better life conditions for around 20 million families. Contract negotiations will start soon."

[Editor's note: The commentaries above were submitted before Peruvian President Pedro Castillo ousted Bellido and other members of his cabinet on Wednesday.]

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