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FEATURED Q&A

Will AMLO Keep Pursuing Control of the Power Sector?

Mexican President Andrés Manuel López Obrador was unable to get enough legislative support on Sunday for his effort to re-establish state control of the country's power sector. // File Photo: Mexican Government.

Q **President Andrés Manuel López Obrador's proposed overhaul of Mexico's power sector was dealt a defeat on Sunday in the lower chamber of Congress when it failed to garner support from the two-thirds majority that would have been needed for it to proceed. The proposed reform would have guaranteed state-owned electricity provider CFE 54 percent of the power market and limited the participation of private firms, aspects that caused concern, including from U.S. officials. Are López Obrador's efforts to increase state control of the power sector now dead, or will he pursue that objective in other ways? What could the Mexican Supreme Court's April 7 ruling that fell short of the supermajority needed to declare the law unconstitutional lead to in terms of the president's future efforts? What impact will the latest developments have on consumers and potential investors in Mexico's power sector?**

A **Juan Pomés, senior associate, and Pedro Ramírez, associate, both at Freshfields Bruckhaus Deringer:** "President López Obrador's energy reform efforts can be divided into two buckets. The first is the reforms to the Electricity Law, which the Supreme Court recently refused to overturn, but which nevertheless remains on hold while various challenges are resolved. The second is AMLO's proposed constitutional amendment, which, among other things, would have handed CFE 54 percent of the market. Congress rejected the latter on Sunday. The government has made its key objectives clear—to reduce private sector involvement in the energy market and hand back control to state-owned companies—and there is no indication that the

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TODAY'S NEWS

ECONOMIC

Mexico's Congress Approves Lithium Nationalization

Mexico's Senate on Tuesday approved the nationalization of the country's lithium sector, following similar action by the lower house. President Andrés Manuel López Obrador had pushed for the move.

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ECONOMIC

Guyana Eying Creation of State Oil Company

Guyana is considering the creation of a state oil company, Vice President Bharrat Jagdeo said Tuesday at a conference in New York.

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POLITICAL

Guaidó Blasts Argentina's Fernández Over Comments

Venezuelan opposition leader Juan Guaidó criticized Argentine President Alberto Fernández for saying that he wants closer ties to the government of Venezuelan President Nicolás Maduro.

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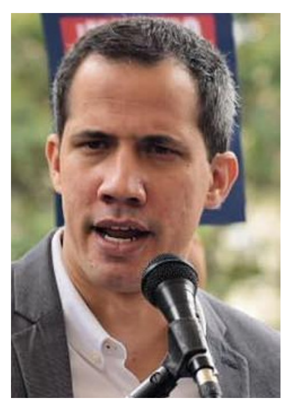

Guaidó // File Photo: Facebook Page of Juan Guaidó.

POLITICAL NEWS

Guaidó Blasts Fernández Over Venezuela Comments

Venezuelan opposition leader Juan Guaidó on Tuesday blasted Argentine President Alberto Fernández for saying that he wants to restore full diplomatic ties with the government of Venezuelan President Nicolás Maduro. "If you want to help Venezuela, demand free and fair elections with us," Guaidó, who has international recognition from several countries as Venezuela's legitimate interim president, said in a tweet. "Denying the dictatorship does not help Venezuelans," he added. A day earlier, during a news conference in Buenos Aires with Ecuadorean President Guillermo Lasso, Fernández said countries across Latin America should improve relations with Maduro's government. "As a first step, Argentina wants to recover its full diplomatic ties. It is a step that we are taking, and I really call on all Latin American countries to review it, because Venezuela has gone through a difficult time," Fernández told reporters, the Buenos Aires Times reported. Diplomatic efforts including isolating Maduro's government have not improved conditions for Venezuelans, said Fernández, who added that human rights problems in Venezuela "have been dissipating." Argentina and Venezuela currently have chargés d'affaires in each other's country, but Fernández indicated he would favor again exchanging ambassadors, the newspaper reported.

ECONOMIC NEWS

Mexico's Congress Approves Lithium Nationalization

Mexico's Senate passed an amendment to a mining bill on Tuesday afternoon, confirming full state control over the country's lithium reserves, Bloomberg News reported. Senators approved the reform 87 to 20, with 16 abstentions, according to the report. "I make a respectful call to the legislators so that we protect lithium and lay out the structure for a company ... that will handle everything related to lithium," López Obrador said at a press conference on Monday, just hours after Mexico's Chamber of Deputies passed the bill, sending it to the Senate, Mining.com reported Tuesday. The bill will now be sent to the president to be signed into law. Passages of the legislation state that "the exploration, exploitation and use of lithium will be exclusively the responsibility of the state," and are "reserved for the exclusive benefit of the people of Mexico," according to Mining.com. But the fate of foreign mining companies currently engaged in lithium extraction remains unclear. López Obrador has said previously that his government will not allow foreign firms to continue with extracting the precious metal used in batteries, even if they have prior concessions, BBC Mundo reported on Monday. In his daily morning press conference on Tuesday, López Obrador said Mexico will review existing contracts, Bloomberg News reported. The leftist president's predecessors have granted lithium extraction permits to the Canadian company Bacanora Lithium, which was later bought out by China's Ganfeng Lithium Co., Bloomberg News reported.

Guyana Considering Creation of State Oil Company: VP

Guyana is considering the creation of a state oil company to manage its oil resources, Vice President Bharrat Jagdeo said Tuesday at a conference in New York, Bloomberg News reported. Since 2015, ExxonMobil's oil discoveries off the coast of Guyana have put it on the path of potentially topping Kuwait as the world's largest crude oil producer per capita by 2025. In one option under consideration, Guyana would give licenses for exploration to a new state-owned oil company that would work with a "strategic partner," possibly from

NEWS BRIEFS

Puerto Rico Electronic Toll System Targeted in Cyberattack

AutoExpreso, an electronic toll collection system in Puerto Rico, was targeted in a cyberattack last weekend, authorities said Tuesday, the Associated Press reported. A preliminary investigation by the FBI shows that it does not appear that any confidential information was stolen in the security breach, the AP reported. The cyberattack happened three months after a similar attack brought down the Puerto Rican Senate's Internet provider, official webpage and phone system.

DXT, Prisma Capital Planning to Consolidate Energy Assets in Brazil

Duferco Group subsidiary DXT International and Brazilian asset manager Prisma Capital reached an agreement to consolidate their energy-related assets in Brazil with the objective of creating an integrated renewable generation and digital energy distribution platform, the companies announced Tuesday, Reuters reported. The joint venture would be formed through holding company Matrix Energia.

Macquarie Capital Gets Contract to Operate Chile's Ruta Minera Road

Macquarie Capital announced Tuesday that a consortium it leads has been awarded a contract to improve and operate the private Ruta Minera industrial road in Chile. The corporate advisory, capital markets and principal investment arm of Macquarie Group was joined in the investment by local contractors Besalco and Arrigoni. "Macquarie Capital has built a strong network of relationships in Latin America over the course of the last several years," Hector Morales, chairman of Macquarie Capital in Latin America, said in a statement.

the Middle East, in order to allow Guyana's government to play "a very passive role" in the country's oil development, Bloomberg News reported. "There's been a public issue about concentration," Jagdeo said, referring to Exxon-Mobil's foothold and influence in the country's crude market, Bloomberg News reported. The Guyanese government is also seeking to diversify the South American country's economy, Oilprice.com reported. Riyad Insanally, a former ambassador of Guyana to the United States, told the Dialogue's weekly Energy Advisor in **Q&A** published Feb. 4 that economic diversification helps to "avoid the resource curse." He added that the country is "already advancing plans for gas-to-energy and hydroelectricity."

BUSINESS NEWS

Yamana Gold Seeking Better Terms From Lenders: CFO

Canada-based Yamana Gold Inc. is trying to obtain better terms from lenders following an S&P Global Ratings upgrade, Bloomberg News reported Tuesday. The company, which operates mines in Canada, Chile, Brazil and Argentina, has "ongoing discussions" with lenders including Bank of Nova Scotia and Citigroup, said Chief Financial Officer Jason Leblanc. S&P upgraded Yamana on the expectation that the mining company will maintain resilience to future price drops for gold, as well as maintain low debt leverage ratios in the near future, Bloomberg News reported. Leblanc said the company expects to "go net cash positive over the next couple of years." He added, "We don't have crystal balls, but we can manage our business, make sure we have scale, make sure that we generate profitability at the bottom of the cycle." S&P said in an April 11 statement that it expects a "gradual and meaningful decline through 2024" of gold prices. For its planning this year, Yamana is using $1,800 an ounce as its expectation for the price of gold, Leblanc told Bloomberg News.

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government intends to change course. The court injunctions against the reforms to the Electricity Law and the failed constitutional amendment attempt are likely seen by the administration as impediments to overcome in the future. Foreign energy sector investments therefore remain at risk. AMLO's intended reforms undo key elements of the reforms undertaken in 2013-2014, which encouraged a wave of foreign investment (estimated at $22 billion, including $10 billion from U.S. companies). If the reforms are implemented, foreign investors may have strong grounds to challenge them as being in breach of Mexico's international obligations under international investment protection treaties. Most foreign investors in the sector appear to have access to these protections, as most are from Europe, the United States and Canada. Treaties typically require the state to seek negotiated solutions with protected foreign investors. If negotiation fails, investors can commence international arbitration for breach of applicable investment treaties and claim compensation."

A **Pamela Starr, senior advisor at Monarch Global Strategies and professor at the University of Southern California:** "Regardless of the sound defeat that his attempt to enshrine an energy counter-reform in the Mexican constitution suffered on Sunday, AMLO will press forward. He will exploit the Supreme Court's mixed April 7 ruling and his influence over the Energy Regulatory Commission (CRE) to continue expanding state control in the electricity sector despite the avalanche of legal challenges and worsening conditions for electricity consumers this path will produce. AMLO is convinced of the need to re-establish state dominance of the electricity sector through the Federal Electricity Commission (CFE) as the only way to ensure access to sufficient supplies of low-cost electricity for all Mexicans. His aim is to make it so uncomfortable for private actors to operate in the sector that they willingly agree to sell their assets to the state. He will not alter course even if the courts order the government to pay compensation to private actors for costs associated

> **"AMLO is convinced of the need to re-establish state dominance of the electricity sector..."**
> **— Pamela Starr**

with the implementation of the Electricity Industry Law. Unfortunately, this approach to electricity generation and dispatch will not lead to inexpensive, clean electricity in sufficient supply to fuel a growing economy. It will do precisely the opposite. The CFE lacks the capital and know-how to make this a reality. At the same time, AMLO's energy policy is raising concerns about the government's willingness to honor contracts and protect property rights. This will deter foreign and domestic private investment, not just in the energy sector but throughout the economy."

A **Gerónimo Gutiérrez Fernández, senior advisor at Covington & Burling and former Mexican ambassador to the United States:** "In his December 2018 inauguration speech, President López Obrador called for 'rescuing' Mexico's national electric utility (CFE). Under misguided nationalism and a backward-looking energy policy, this has meant an attempt to roll back the landmark 2013-2014 energy reform as much as possible and reinstate a public monopoly in the power industry. Over the past few weeks, the president has received two important blows. The Supreme Court fell short of the supermajority needed to declare his electricity reform unconstitutional—something that was portrayed as an irrefutable victory. However, individual

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'amparos' will continue. And last Sunday, the president was unable to secure the supermajority needed to pass a constitutional reform through Congress. This, is in my view, is even more relevant. To be sure, private investment will most likely stall for the remainder of his term. The administration can do much damage at the regulatory and operational level. Yet, what is really at stake is the future of the sector beyond AMLO's administration. A constitutional reform as the one that the president proposed would have seriously limited the chances of redirecting energy policy toward a competitive market, independent regulators, renewables and a CFE focused on transmission and distribution—where it is profitable—rather than generation. The real strategic question for potential private sector investors is no longer AMLO's policy, but rather what comes after 2024. Finally, what worries me about the aftermath of these two events is a narrative, stemming from the president and his party, against foreign companies while describing opposition legislators as 'traitors to the homeland.' These notions are irresponsible and contrary to the sort of democracy he alleges to defend, and soon will prove self-defeating."

A **Jeremy Martin, vice president for energy and sustainability at the Institute of the Americas:** "Elections matter. In Mexico's June 2021 midterms, the ruling Morena party lost its supermajority. The seats that Morena lost were crucial. Their loss, together with a unified opposition, proved too much for President Andrés Manuel López Obrador to overcome to meet the two-thirds threshold required to amend the Mexican constitution and the country's electric sector. By almost every estimation, the rejection was merited; the bill was seen as a major step backward for the electric sector, the Mexican public and the nation's competitiveness. It brought a halt to the most extreme effort by the president—and the director general of state power firm CFE—to translate their anachronistic and resource nationalist ideology to the Mexican power market. The bill's defeat brought relief and satisfaction. That enough legislators sought to make informed decisions on the proposed reform in the face of intense jingoistic posturing from the president and his allies in Congress was important. The last week placed in stark relief the desperation of the president and those most fervently pushing for an overreaching and deleterious reform. After Easter Sunday, there are without question reasons to be reassured about democracy, the rule of law and the role of civil society. But, at the same time, this is not a president that will respect the merits of democracy in action when it counters his objectives and desire. Make no mistake: The president and his energy team will continue to politicize the country's regulators and independent power market system operator to the detriment of investment. They will almost certainly pursue actions to further intervene in the sector to assert the primacy of the state. Look no further than 'nationalizing' the country's heretofore undeveloped lithium reserves through a new law passed only hours after the defeat of the electricity reform. Nevertheless, Sunday's vote does ensure that the overall framework for the power sector and its key fundamentals remain unchanged and will allow for a more feasible reboot when that day arrives."

> **"The bill was seen as a major step backward for the electric sector, the Mexican public and the nation's competitiveness."**
> **— Jeremy Martin**

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

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