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FEATURED Q&A

Will Brazil's New Natural Gas Law Stimulate Investment?

Q Earlier this year, Brazilian President Luiz Inacio Lula da Silva signed a new natural gas law that aims to better regulate the industry, stimulate domestic production and spur investment in natural gas infrastructure. What will be the biggest changes in the new regulatory regime and is the law likely to have its intended effect? Will Brazil be able to reduce its dependence on natural gas imports from Bolivia? What role will liquefied natural gas, a relatively new phenomenon in Brazil, play in the country's natural gas market?

A Larry Pascal, member of the Energy Advisor board and partner at Haynes and Boone in Dallas: "In March, Brazil adopted the Brazilian gas law (No. 11,909/09), which regulates the transportation of natural gas, as well as its treatment, processing, storage, liquefaction, re-gasification and marketing, although the Brazilian petroleum law (No. 9,478) will continue to regulate the upstream segment. The new gas law is expected to bring more legal certainty and security to private investors, although the regulations have not been released and constitutional issues as to jurisdiction between the federal government and the states remain. The new law has several important aspects. First, it establishes a 30-year concession regime (with the possibility of one renewal for the

same period) for gas pipelines and natural gas storage facilities. Second, it allows commercial purchasers to build their own pipelines to import gas directly from foreign producers, transporting the product to a pipeline network or paying for the use of the government's pipeline network. Third, it authorizes the Ministry of Mines and Energy to use public-private partnerships to develop new pipeline projects or increase capacity of existing ones. Finally, it authorizes state-owned companies and joint ventures to agree to binding arbitra-

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Ecuador: Terms of New Service Contracts Available in Sept.

Ecuadorian Oil Minister Germanico Pinto said the government will release the terms of new oil service contracts by mid-September, and plans to have all contracts signed by oil companies by the end of 2010. See story on page 2.

File Photo: Ecuadorian Government.

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Subscriber Notice

Larry Pascal Joins the *Energy Advisor* Board

The *Latin America Energy Advisor* is pleased to announce that Larry Pascal has joined the Board of Advisors. Pascal is chairman of the Americas Practice Group at **Haynes and Boone** in Dallas, where he advises multinational companies on investments and controversies throughout Latin America and the Caribbean.

In the energy sector specifically, he has been involved with projects in Mexico, Peru, Colombia, El Salvador and the United States. He has published numerous articles about legal matters in the oil and gas sector in Venezuela, Colombia and elsewhere in South America.

Pascal has also served as adjunct professor at SMU Dedman School of Law and the University of Texas at Dallas Graduate School of Business. He was also chair of the International Law Section of the State Bar of Texas, where he headed a campaign to adopt the ABA Model Rule for Foreign Legal Consultants.

Pascal was recognized in *Chambers USA 2007* as one of the leading practitioners in the country for Latin American foreign investment, and as one of "The Best Lawyers in America" in *International Trade and Finance Law, 2009*.

He holds a JD from the University of Texas and BA from the University of Kansas.



"We were thinking about creating a new joint venture to develop this area, but instead we opted for an already established one for economic feasibility and to take advantage of existing synergies." In related news, PDVSA said Tuesday it is continuing talks with a consortium of Russian companies to develop the Junin 6 block in the Orinoco Belt. PDVSA Vice President Eulogio del Pino, who is heading negotiations, said the goal of talks is to "define the parameters from the point of view of production, refining, economic models and legal matters" for creating a joint venture that would invest more than \$20 billion in the area. The Junin 6 block has the potential to produce 400,000 bpd of heavy crude, according to PDVSA. Russian companies involved in the deal include **Lukoil, Gazprom, Rosneft, TNK-BP** and **Surgutneftegaz**.

Argentine Oil Workers End Strike After 19 Days

Oil workers in Argentina's Santa Cruz province have ended a 19-day strike after the government ordered oil companies to

pay workers for time spent striking, a spokesman for oil company **YPF** told Reuters Wednesday. The oil workers, who had initially demanded a 25 percent pay increase, later accepted a 20 percent wage hike, but continued to demand payment for days on strike. "This wasn't a deal, it was a Labor Ministry resolution," the YPF spokesman told Reuters. The strike hurt provincial government revenues through the loss of royalties totaling millions of dollars. Other companies affected by the work stoppage include Argentina's **Pan American Energy** and Brazil's **Petrobras**.

Power Sector News

Brazil Electricity Consumption Recovering, Still Below 2008 Levels

Electricity consumption in Brazil rose in July, but still remains below 2008 levels due to the economic downturn, which has curbed industrial consumption, a Brazilian government agency said Tuesday. Nationwide power consumption totaled 31,632 gigawatt hours, down 2.8

percent from last year. "Industry remains the sector responsible for the downturn in consumption in the country," Brazil's Energy Research Agency said in a monthly report. Industrial consumption was down 10.4 percent over the same period a year ago but showed a 3 percent increase in comparison to June. "It is expected that this dynamic of recovery will continue in the second semester," the agency said. Residential and commercial consumption both rose during July, which was partly attributable to an expansion of the consumer base. Last month, the agency predicted electricity consumption in Brazil would decline between 0.5 and 1 percent this year from 2008 levels.

Biofuels News

Kessel: Mexico to Ramp Up Ethanol Mixing Program

Mexico is looking to increase ethanol blending in major cities across the nation, Mexican Secretary of Energy Georgina Kessel said Tuesday. Speaking before the national CNC rural federation, Kessel said starting in September, **Pemex** will seek to acquire 176 million liters of ethanol annually to be mixed into gasoline sold in the Guadalajara metropolitan area, according to a press release. "I am convinced that biofuels are a real opportunity for the energy diversification of our country, which is why I invite you to be part of this process of transforming Mexico's energy sector," Kessel said. The decision was taken following the completion of a pilot program, which mixed 151,600 liters of anhydric ethanol into the gasoline supply in Monterrey. Once the program in Guadalajara gets under way, the expansion of ethanol use to Monterrey and Mexico City would represent an additional ethanol demand of 626 million liters annually, according to government estimates. Kessel added that ethanol produc-



Kessel

File Photo: Energy Secretariat.

Featured Q&A*Continued from page 1*

tion. The new gas law, as well as the development of the pre-salt areas, may contribute to lessening Brazil's dependence on Bolivian gas, although the possibility of changing the existing and successful concession regime for E&P projects under the Brazilian petroleum law may delay new drilling projects in the pre-salt area. LNG could play a larger role in Brazil's gas market as an alternative way to import or transport gas. Currently, Petrobras operates two re-gasification terminals (Port of Pecem and Guanabara Bay), while a Petrobras-Praxair joint venture operates a liquefaction plant in Sao Paulo state. In addition, Gas Energy New Ventures has announced plans to build a re-gasification terminal in the state of Rio Grande do Sul."

A Felipe A. Dias, economist at the Brazilian Petroleum Institute in Rio de Janeiro: "The Brazilian natural gas regulatory framework had been questioned by almost all important players in the industry, including some government bodies, for quite some time. Since the early 2000s there was a general perception that the current petroleum law, from 1997, was mainly designed for the opening of upstream activities and was not adequate to face regulatory challenges of downstream segments, especially natural gas pipeline transportation and distribution. During 2007-2008, Brazil faced increasing threats of shortage of natural gas supply. In addition, political turmoil in Bolivia and the Argentine energy crisis reduced the possibilities of imported supply for Brazil and drove the Congress to intensify discussion of the new legislation. Even in this situation, it took three years for Congress to approve the new natural gas law. The new law has introduced a few important new concepts, in particular the bidding process and the concession model for new long-distance transportation pipelines. The current authorization process implies an enormous commer-

cial risk to investors in new pipelines, which is a central barrier to entry, and only reinforces the vertical structure and highly concentrated market. However, the new gas law is widely seen as not having progressed much on the construction of a solid regulatory framework that would enable the development of a more competitive market, especially by removing some of the obstacles to new investors. A main reason for this is the complex and unbalanced negotiation process. The contradictory position and the power of the main players to influence or stop the political process make it nearly impossible to advance any regulatory framework that would imply a structural change from the current situation."

A Carlos Miranda, energy consultant in La Paz and former hydrocarbons superintendent of Bolivia: "Due to the global economic crisis, demand for gas in Brazil is depressed. When the situation returns to normal, Bolivian gas will again be indispensable to Brazil. The vast pre-salt reserves won't enter the market until 2014 or 2015. Even then, they won't displace Bolivian gas, but rather complement it to meet Brazilian demand. In the medium term, after 2020, Bolivian gas will continue to be strategically and economically more convenient for Brazil. Gas production costs in Bolivia are lower than in Brazil and Bolivian gas can be transported at a lower cost, which means lower prices for the consumer. Geopolitically, it doesn't make sense for Brazil not to buy gas from a neighbor with abundant gas reserves and transportation infrastructure to supply Brazilian markets. For this reason, Petrobras has paid YPFB transportation rates for 40 years."

The Energy Advisor welcomes responses to this Q&A. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org with comments.

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Erik Brand

General Manager, Publishing
ebrand@thedialogue.org

Gene Kuleta

Editor
gkuleta@thedialogue.org

Matthew Schewel

Reporter, Assistant Editor
mschewel@thedialogue.org

Inter-American Dialogue:**Peter Hakim**

President

Michael Shifter

Vice President, Policy

Joan Caivano

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Senior Associate, Education

Marifeli Perez-Stable

Vice President, Democratic Governance

Jeffrey M. Puryear

Vice President, Social Policy

Viron Vaky

Senior Fellow

Subscription inquiries are welcomed at freetrial@thedialogue.org

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