Mexico Introduces Much Anticipated Secondary Legislation for Energy Reform

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The secondary legislation introduces or reforms 21 laws. These reforms are grouped into nine categories:

1. Draft decree on the Hydrocarbons Law, with amendments to the Foreign Investment Law, Mining Law and Public Private Partnerships.
2. Draft decree on the Electricity Industry Act.
3. Draft decree on Coordinated Regulatory Bodies in energy and amendments to Federal Public Administration Laws.
4. Draft decree on the PEMEX Law and CFE Law, and amendments to the Public Entities Law, Acquisitions Law, Public Sector Leases and Services Law, and Public Works Act.
5. Draft decree on the Geothermal Energy Act, with amendments to the National Water Law.
6. Draft decree on the Law on Hydrocarbons Revenue.
7. Draft decree on the Mexican Petroleum Fund for Stabilization and Development.
8. Draft decree amending various provisions of the federal budget and tax laws.

Some highlights of the legislation for the Upstream Sector include:

- Exploration and extraction contracts that can be entered into with PEMEX or others that can be issued by an auction process. Such agreements can be terminated for material breach, but will be governed by arbitration under Mexican law.
- PEMEX is allowed to be given direct assignment of oil and gas blocks for 'strategic projects'. Further, laws require PEMEX to receive least a 20 percent participating interest in trans-boundary oil and gas projects. Unlike the Brazilian pre-salt model,

however, PEMEX will not have to be the operator and will merely participate. Further, such trans-boundary fields will be operated in accordance with international treaties.

- Powers, rights and responsibilities are set forth for SENER, SHCP and the CNH.

Some highlights of the legislation for the midstream sector include the following:

- Open access for the natural gas market, with open seasons to be held for transportation, subject to certification and regulations issued by the CRE. Pipeline owners are not allowed to participate in marketing hydrocarbons, however. Rules are introduced to reduce market concentration of pipeline and marketing capacity over five and ten-year periods.
- A new entity CENAGAS will receive PEMEX pipeline infrastructure and initiate capacity reservation contracts with PEMEX.

Some highlights for the downstream sector include:

- Gradual opening of the diesel and gasoline sector, with maximum price controls in place until 2019 and market pricing beginning in 2020.
- PEMEX will be the exclusive importer of gasoline until 2018.

Some highlights for the power sector include:

- Barriers of entry reduced for new investment in clean energy and accelerating the decommissioning of older power plants.
- Generators can enter into bilateral contracts and sell power to the wholesale electricity market.
- Nuclear power generation is reserved for the state.
- CFE is to compete with the market on equal terms.

While there are some of us that firmly believed Mexico would open up its energy sector eventually, and that the current administration had the will to push reforms into economic reality, the general consensus has been to the contrary. Certainly, there will be growing pains as regulatory bodies within Mexico assume their responsibilities over this new regime. However, with the magnitude of these reforms and the potential revolutionary impact it will have on the Mexican economy, we expect the government to continue to press forward, learning from not only their mistakes, but also lessons learned in other parts of the world where energy reforms have been implemented.

As people in Mexico prepare to commemorate the Battle of Puebla, May 5 (Cinco de Mayo for those not familiar with the holiday) can also mark the beginning of a new era of freedom and prosperity founded on open energy markets and competition.

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