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FEATURED Q&A

How Significant is Ecuador's Planned ICSID Withdrawal?

Q **Ecuadorean President Rafael Correa said last month his country would withdraw from the Washington-based International Center for the Settlement of Investment Disputes, charging that ICSID allows companies to bypass Ecuadorean courts. Ecuador is currently facing more than \$12 billion worth of arbitration complaints at ICSID, many of them from energy companies. Can Ecuador successfully withdraw from ICSID? What options would that leave for companies with arbitration proceedings currently pending in ICSID? Would the move make companies less willing to invest in Ecuador?**

A **Guest Comment: Carla A. Hills:** "President Correa's stated intention to withdraw Ecuador from ICSID, the World Bank's dispute resolution forum, is unfortunate for Ecuador, its people and those wishing to invest there. Created in the mid-1960s, ICSID facilitates investment by assuring foreign investors that if an investment dispute arises with a host government, there is a process for an impartial, timely resolution. ICSID arbitration is increasingly included in modern bilateral and multilateral investment agreements. Why then leave? President Correa complains ICSID compromises Ecuador's sovereignty by removing cases from Ecuador's courts. But removing disputes from courts where justice may be biased, as in Ecuador, is pre-

cisely ICSID's objective, and one shared by ICSID's 140 plus member countries. The US government notes, '... susceptibility to political or economic pressures in the rule of law constitute[s] the most important problem faced by US companies investing in ... Ecuador.' Investors in Ecuador today have every reason to seek an impartial international forum: in six years, Ecuador has been a respondent in 13 ICSID cases. Many countries have ICSID provisions in their investment treaties with Ecuador; President Correa's statement is, in effect, a

Q&A continued on page 4



PDVSA Sees Net Profit Soar to \$9.3 Billion in 2008

Venezuela's oil minister and chief of state oil company PDVSA, Rafael Ramirez, spoke Thursday during a Petrocaribe meeting. PDVSA saw profits nearly double in 2008, but still owes \$7.6 billion to suppliers. See story on page 2.

Photo: Petrocaribe.

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ENERGY SECTOR BRIEFS

Repsol-YPF to Invest in Argentine Refinery Upgrades

Spanish-Argentine oil company **Repsol YPF** will invest \$348 million to upgrade refineries in Argentina in a bid to boost supply of premium gasoline, reported Bloomberg News on Sunday. The investment in high-grade petroleum and diesel will take place over three years. The market for premium fuels is expected to increase 33 percent to about 8 million cubic meters a year by 2017, according to the report.

Chile to Receive its First LNG Shipment in Late June

Chile is expected to receive its first-ever shipment of liquefied natural gas at the end of this month, Reuters reported Tuesday. **BG Group's** Methane Jane Elizabeth departed from Trinidad Monday and is expected to arrive at Chile's Quintero terminal on June 28. BG has a 21-year contract to supply Chile with LNG, which will be used for industry and the domestic market in the Santiago area. Chilean Energy Minister Marcelo Tokman said the shipments would "give the country more energy independence."

Fugro-Jason Opens New Office in Mexico

Houston-based oil services company **Fugro-Jason** has opened a new office in Mexico, the company said Monday. The new Veracruz office is part of the company's expansion in Mexico, where it has operated for more than a decade. "This new office puts us closer to many of our clients," said Carlos Spindola, Fugro-Jason's business manager for Mexico. Fugro-Jason produces reservoir characterization technology and is a unit of Netherlands-based **Fugro NV**.

Oil & Gas News**Peruvian Congress Suspends Land Laws That Sparked Protests**

Peru's Congress has suspended a pair of land-use laws whose implementation sparked protests that turned deadly in northern Peru, Reuters reported Wednesday. Peruvian President Alan Garcia decreed the laws that outline how investments can be made in the country's Amazon region in an effort to clarify property rights and land titles in order to comply with obligations under a free trade agreement with the US. Indigenous protesters, who consider the area their ancestral homeland, say one of the laws would open approximately 60 percent of Peru's jungle for development, primarily



Pizango

File Photo: Agencia Andina.

of oil and gas resources. The other law, protesters say, would allow companies to secure permits enabling them to extract natural resources directly from the federal government, bypassing local authorities. Protests last Friday and Saturday left at least 60 people dead, including indigenous protesters and police. It is unclear how long the suspensions will be in effect. Nicaragua on Tuesday granted political asylum to Alberto Pizango, an indigenous leader accused by Peru of sedition for leading the protests. Nicaragua's ambassador to Peru, Tomas Borge, said Pizango had sought refuge in the Nicaraguan Embassy in Lima. "We ask for the understanding of the Peruvian government," he said, adding that Nicaragua is seeking Pizango's safe exit from Peru. On Thursday, at least 20,000 students, union members and indigenous Peruvians

joined in protests across the nation to show their support for the Amazonian Indians, reported the AP. Police used tear gas to disperse a crowd gathered in front on Peru's Congress, according to the report.

PDVSA Posts \$9.3 Bn Net Profit in 2008, Owes \$7.6 Bn to Suppliers

Venezuelan state oil company **PDVSA** on Saturday posted a net profit of \$9.3 billion in 2008, a 49 percent increase over the previous year as high oil prices fueled company earnings and social investments by the Venezuelan government. Average crude production increased 3.5 percent from the previous year to 3.26 million barrels per day, and exports reached 2.9 million bpd, according to the company's annual earnings report, released last weekend after considerable delay. The results show PDVSA owes \$7.6 billion in accounts payable to oil service companies and suppliers, more than doubling the previous year's outstanding debt. **Helmerich & Payne** and **Williams**, both based in the US, and Italy's **Saipem**, have said PDVSA owes them at least \$90 million each, reported Bloomberg News. [Editor's note: see related Q&A in the May 15 [issue](#) of the *Energy Advisor*.] In 2008, PDVSA contributed \$53.1 billion to government coffers through taxes and royalties, Venezuelan Oil Minister Rafael Ramirez told reporters at a press conference Tuesday, according to a release on PDVSA's Web site. "The great leap we've taken with our non-oil-related activities

“The great leap we've taken with our non-oil-related activities has not compromised our fundamental activities.”

— Rafael Ramirez

has not compromised our fundamental [oil-related] activities; on the contrary, now we have a company that strengthened in its oil, gas and refining sector, as the numbers show," said Ramirez, who is also

president of PDVSA. He added that the company's investments in 2009 would drop to \$14 billion from \$15.3 billion last year. In related news, **Enco International** said it was ending a contract on an offshore drilling rig with PDVSA unit **Petro sucre** due to the Venezuelan company's nonpayment of a \$16.9 million debt. "The notice period has ended and the contract between Enco and Petro sucre is now terminated," the Dallas-based company said in a statement, referring to a notification it sent Petro sucre in May. According to Enco, Petro sucre has not returned the \$17.7 million rig and plans to continue operating it. Enco said it is pursuing an insurance claim on the rig, as well as "legal remedies for damages" related to the unit.

GE Inks Four-Year Contract With Petrobras Worth Over \$250 Million

US-based **GE Oil & Gas** said Monday it secured a three-year agreement to supply subsea wellheads to Brazilian state oil company **Petrobras** in a deal valued at more than \$250 million. The US company will supply 250 **VetcoGray** subsea wellhead systems produced at its Jandira plant in Sao Paulo state as part of the largest contract awarded to date in the industry, according to a press release. "We're delighted to strengthen our already solid partnership with Petrobras," said Fernando Martins, GE Oil & Gas' regional vice president. "This agreement reinforces our strong presence in Brazil, where more than 1,200 of our subsea wellhead systems and 180 of our subsea trees have been produced and installed over the past 30 years." The deepwater units, which include the VetcoGray MS-700 and VetcoGray MS-800 Fullbore models, are due to be delivered beginning next month. With the Petrobras deal, GE Oil & Gas said it is continuing "to expand its presence across Latin America's oil and gas sector" through its regional offices in Argentina, Bolivia, Brazil, Ecuador, Peru, Mexico and Venezuela. VetcoGray, which GE acquired in 2007 for \$1.9 billion, also signed an agreement in March with Brazilian oil and gas company **OGX** to provide subsea wellheads and casing strings on 50 offshore wells.

In Profile

Germanico Pinto Takes Over as Ecuador's Energy Minister



Name

Germanico Pinto

Background

Pinto attended Colegio La Condamine in Quito, where he later taught mathematics. He graduated from Escuela Politecnica Nacional with a degree in electrical engineering, and also studied economics at Pontificia Universidad Catolica del Ecuador.

In 2007, he served in Ecuador's constituent assembly representing Pichincha as a member of President Rafael Correa's Alianza Pais.

Prior to taking over as energy minister, Pinto served as technical secretary in the Ministry of Coordination of Strategic Sectors, which oversees the energy, electricity and transportation ministries as well as state oil company Petroecuador.

On his Constituent Assembly Web site, Pinto says he has been interested since childhood in "working for social transformation" in Ecuador.

Notes

Pinto takes over the helm from Derlis Palacios, who served as oil minister since October. Palacios began negotiations with major foreign oil companies to switch over to service contracts instead of allowing them to retain and sell a part of the oil they produce. He reached temporary agreements with **Repsol**, **Petrobras** and **Agip Oil** that are slated to expire between this August and May of next year. But Palacios was unable to reach deals with **Occidental**, **CGC** and **Burlington**.

During Pinto's swearing in ceremony on Monday, Correa suggested that Palacios had not been tough enough on oil companies. "We need a much stronger posture for [dealing with] these companies, which still believe they can continue to abuse the country; failing to pay taxes, initiating arbitration suits, judging us and asking for millions in damages," he said. [Editor's note: see related Q&A on page 1.] He called upon Pinto to work toward a "stricter and more rigid policy" in dealing with these companies.

On Tuesday, Pinto promised a hard line on the renegotiation of contracts, slated to begin again in August. He said his objective would be a "solid policy defending Ecuador's sovereignty and its non-renewable natural resources."

Sources: Constituent Assembly Web site, *El Comercio*, *El Ciudadano*

Power Sector

Mexican Government Signs Contracts for Two New Wind Farms

Mexico's **Federal Electricity Commission** (CFE) on Tuesday said it signed contracts to build two new wind farms for a total of \$393.6 million. The agency said Mexican consortium **Energias Ambientales de Oaxaca** will

construct the \$176.6 million Oaxaca 1 wind farm. The agency also signed an agreement with **Iberdrola Renewables** to build the \$217 million La Venta 3 wind farm, also in Oaxaca state. La Venta 3 will consist of 121 wind turbines. Each project will have 101 megawatts of capacity, create approximately 1,000 jobs and allow Mexico to avoid releasing about 150,000 tons of carbon dioxide into the atmosphere each year. "In addition to represent-

ing a significant capacity for clean electricity generation, the investment channeled into these two projects confirms investor confidence in the solidity of the Mexican economy," CFE said in a Web site press release. Mexico has established a goal of generating 25 percent of its energy from renewable sources by 2012. [Editor's note: see related Q&A in the Feb. 6 [issue](#) of the *Energy Advisor*.]

Biofuels News

Sudan Opens Ethanol Plant Built By Brazilian Company

Sudan on Wednesday opened a Brazilian-built sugarcane ethanol factory, Agence France-Presse reported. The **Kenana Sugar Company** plant, constructed by Brazilian company **Dedini**, is expected to produce 65 million liters of ethanol this year and increase its production to 200 million liters in the next two years. Sudanese President Omar al-Bashir, who hopes to make Sudan a leader in biofuels production, was on hand for the plant's inauguration. Brazil is the world's top ethanol exporter and is the world's second-largest producer after the United States. Brazilian President Luiz Inacio Lula da Silva has talked about using biofuels as an area for collaboration between the United States and Brazil in Africa, as well as Central America and the Caribbean. During a visit to Costa Rica last week, Lula said he saw potential for Brazilian companies to produce ethanol in the Central American nation and export it to the US duty free under the Central American Free Trade Agreement, reported the Associated Press. "Brazil wants to export ethanol ... and one way to do that is for our companies to set up plants here," he said. Lula added that Brazilian companies in Costa Rica could also re-export ethanol back to Brazil.

Political News

Cuba Formally Rejects Offer to Reactivate OAS Membership

In an official declaration printed Monday

Featured Q&A

Continued from page 1

short-sighted attempt to abrogate them. His words say much about his desire to impose his will on foreign investors no matter the terms of previously negotiated agreements and his fears that in an impartial forum Ecuador might not prevail. The real losers here will be the Ecuadorean people. Pulling Ecuador out of ICSID will only discourage investment that Ecuador sorely needs, deny people jobs and prevent Ecuador from developing its full potential. President Correa would be wise to rethink his position."

A **Guest Comment: Kevin P. Gallagher:** "The international investment treaty-system is in need of fundamental reform. Ecuador's argument that foreign firms can circumvent domestic courts has justification. Nonetheless, Ecuador is threatening to defy international law; actually defying it will do Ecuador more harm than good. Hopefully, such antics are just to gain leverage to reduce the amount Ecuador owes under various ICSID claims. This same strategy was used by foreign investors in Bolivia, but in reverse. When the government announced nationalization, foreign firms threatened ICSID claims. This balanced the terms of the renegotiated contracts under nationalization, and no claims were filed. It is after this process that Bolivia started talking about withdrawal from ICSID, put-

ting Bolivia on higher ground. Ecuador might be better off if renegotiated and paid existing claims, then withdrew from ICSID. What is ironic however is that according to the latest report from the

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“Ecuador's argument that foreign firms can circumvent domestic courts has justification. Nonetheless, Ecuador is threatening to defy international law.”

— Kevin P. Gallagher

United Nations Economic Commission for Latin America and the Caribbean, between 2007 and 2008 Ecuador (40 percent), Venezuela (166 percent), and Bolivia (40 percent) saw the largest increases in FDI over the period. Mexico, a nation with numerous bilateral investment treaties (BITs) and NAFTA saw one of the more significant declines (-19.5 percent). Ecuador has location-specific assets in hydrocarbons, and the nature of those markets will always make them fairly attractive to foreign investors. President

Continued on page 6

the declaration published Monday read in part. "Since the triumph of the Revolution, the Organization of American States has played an active role in Washington's policy of hostility against



Castro

File Photo: Venceremos.

Cuba," it said. "This is an organization with a role and a trajectory that Cuba repudiates." The statement also thanked "those governments which, with a spirit of solidarity, independence and justice, have defended Cuba's right to return to the

organization." [Editor's note: look for a related Q&A in an upcoming issue of the daily *Advisor*.]

US Judge Orders Alleged Cuba Spy Couple Held Without Bond

A federal judge in Washington on Wednesday ordered that a couple accused of spying for Cuba be jailed without bond, the Associated Press reported. Former US State Department employee Walter Kendall Myers, 72, and his wife, Gwendolyn Myers, 71, stand accused of passing US government secrets to Cuba for 30 years. In his order, US Magistrate Judge John Facciola said the couple could attempt to flee the United States. "The defendants' hostility to the United States and their admiration for Cuba is well documented," Facciola's ruling said. "It is hard to imagine, with so much at stake, that they would feel any compunction to fleeing prosecution in a country to which they seem to feel such little loyalty." Thomas Green, the couple's attorney, argued for the husband and wife to be placed on house arrest. The Meyerses, who deny the charges, were arrested last Thursday and are charged with conspiracy, wire fraud and being agents of a foreign government. They each face up to 17 years in prison if convicted.

Economic News

Brazil Enters Recession, But Contraction Not as Bad as Feared

Brazil has officially entered a recession as the country's economy contracted 0.8 percent in the first quarter of the year from the previous three-month period, the country's statistics agency IBGE reported Tuesday. The contraction was better than the 3.8 percent contraction in the fourth quarter of 2008 and not as bad of a decline as economists had feared, Bloomberg News reported. The gross domestic product contraction in this year's first quarter was 1.8 percent year-on-year. The better-than-expected figures for the first quarter spurred Brazil's bond yields to rise at their sharpest rate in almost two months. Brazil was last in

recession in 2003. In the first quarter, investment in Brazil fell 12.6 percent from the previous quarter, IBGE said. Exports in the first three months of the year dropped 16 percent. However, the first quarter also saw a government spending

“The economy is already showing signs of recovery.”

— *Guido Mantega*

increase of 0.6 percent and a household spending rise of 0.7 percent. On Monday, Brazilian Finance Minister Guido Mantega said looking at statistics from the first quarter is akin to "looking through a rearview mirror because the economy is already showing signs of recovery." Since March 1, Brazil's Bovespa index has risen 40 percent.

UN: Latin America's Unemployment Rate Could Reach 9.1% This Year

This year, Latin America's average unemployment rate could reach as high as 9.1 percent, up from 7.5 percent last year, according to a United Nations report released Thursday. The report by the UN Economic Commission for Latin America and the Caribbean and the International Labour Organization predicted an unemployment rate of between 8.7 and 9.1 percent. By the end of March, unemployment in the region's nine largest economies was 8.5 percent, up from 7.9 percent in the first quarter of 2008. "This meant that over a million people joined the ranks of the unemployed," according to the report. During the course of this year, between 2.8 million and 3.9 million more people will join the 15.9 percent who were unemployed in urban areas last year. "We are facing a scenario in which employment and labor data have become numbers behind which lie the real stories of millions of women and men for whom the future is now uncertain," the UN agencies said in the report.

POLITICAL & ECONOMIC BRIEFS

Colombia's Uribe to Meet With Obama June 29 in Washington

Colombian President Alvaro Uribe will meet with US President Barack Obama June 29 in Washington where the leaders will discuss Plan Colombia, the fight against drug traffickers and renewable energy, Uribe's office said Tuesday. "The US government has demonstrated that it has interest in working with Colombia's government," Colombian Foreign Minister Jaime Bermudez said in a written statement.

Brazil Will Buy \$10 Bn in Bonds From International Monetary Fund

Brazil will buy \$10 billion worth of bonds from the International Monetary Fund in order to help the organization extend more financing to emerging markets, Brazilian Finance Minister Guido Mantega said Wednesday, according to Bloomberg News. Mantega also said Brazil's decision is not an effort to weaken the US currency. IMF Managing Director Dominique Strauss-Kahn said Tuesday that Russia will also purchase \$10 billion worth of IMF bonds and China could buy as much as \$50 billion.

Chile's Economy Sees Largest Contraction in a Decade

Chile's economy shrank 4.6 percent year-on-year in April, the largest contraction in a decade, the country's Central Bank said Friday, according to Bloomberg News. The South American country's annual rate of inflation also dropped to a two-year low, increasing expectations that the bank will cut interest rates for a sixth month in a row. Consumer prices dropped 0.3 percent last month, sending the annual rate of inflation to 3 percent from 4.5 percent in May.

Featured Q&A*Continued from page 4*

Obama has pledged to reform investment agreements and just this month formed an advisory committee to reform the US Model BIT. Such actions are welcome news."

A **Board Comment: Jonathan C. Hamilton:** "If Ecuador in fact attempts to denounce ICSID, it will not take effect immediately, it will not terminate pending cases and it will not extinguish all dispute mechanisms available under investment treaties. It may, however, affect the environment for foreign investment because it is the latest in a series of steps that could be considered hostile to current and potential investors in Ecuador. Ecuador's latest announcement is best understood in context. Over the past two years, Ecuador gave notice aimed at limiting its consent to ICSID jurisdiction over disputes involving natural resources

“It is the latest in a series of steps that could be considered hostile to current and potential investors in Ecuador.”

— *Jonathan Hamilton*

such as oil, gas and minerals, and has expressed an interest in creating an alternate disputes forum through Unasur. Ecuador also terminated BITs with eight countries, has considered proposing revisions to remaining BITs and adopted a new Constitution that increases regulation of investment and imposes certain limits on state consent to arbitration. If Ecuador proceeds to denounce ICSID, under the ICSID Convention, denunciation would take effect only six months after ICSID receives a formal notice of denunciation. Denunciation does not affect rights or obligations arising out of consent to the jurisdiction of the Center'

given by such state before receipt of the notice of denunciation; thus, pending cases should not be affected. In addition, Ecuador remains a party to 17 BITs, most of which include non-ICSID options for dispute resolution. Denunciation of ICSID would not extinguish all investment dispute options, depending on the nationality of the foreign investor."

Carla A. Hills is chair and CEO of Hills & Company, International Consultants; co-chair of the Inter-American Dialogue and former US Trade Representative. Her firm represents a company currently involved in a dispute with Ecuador.

Kevin P. Gallagher is a professor at Boston University and co-editor of Rethinking Foreign Investment for Sustainable Development: Lessons from Latin America.

Jonathan C. Hamilton is a member of the Energy Advisor board and a Washington-based partner of White & Case LLP. He advises clients on matters involving investments in Ecuador.

Editor's Note

A written comment from Ecuador's embassy in Washington and Foreign Ministry was not submitted by our deadline.

However, during an [event](#) at the Inter-American Dialogue on Thursday, Ecuadorean Foreign Minister Fander Falconi confirmed that Ecuador has begun the process of denouncing the ICSID treaty, but within the mechanism established by law. Although the country is continuing to comply with ICSID rulings, he said, it aims to establish a new "regulatory body" for resolving disputes under the auspices of Unasur, the South American union. Overall investor interest in Ecuador remains strong, Falconi added, with foreign direct investment surpassing \$970 million in 2008.

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