

The New Legal Regime for the Hydrocarbon Market in Mexico

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The Energy Reform approved in 2013 developed a new legal regime for oil and gas exploration and extraction activities as well as the electric sector. The two main state-owned companies: Petroleos Mexicanos (PEMEX) and the Federal Electricity Commission (CFE) became State Productive Companies (EPE), which means that they have commercial nature and autonomy over their budgets, however, they maintain a limit of public debt and remunerations controlled by the Mexican Government. The reform to Mexican Constitution reaffirms the principle that the Mexican Nation is the owner of the hydrocarbons and ratifies that the exploration and extraction of crude oil and other hydrocarbons are strategic activities exclusive to the Mexican Government, likewise, this energy reform represent an opportunity for investment participation for the private sector, including foreign investors.

The Mexican Government may carry out the activities of exploration and extraction of crude oil and other hydrocarbons through three variants: (i) allocations granted to PEMEX by the National Hydrocarbon Commission (CNH) within the new legal framework, (ii) Contracts with PEMEX and individuals and (iii) PEMEX associated with individuals.

For these purposes, new regulatory bodies of the energy market were created such as CNH and the Energy Regulatory Commission (CRE). CNH and CRE have the legal power to grant permits, authorizations, and carry out tenders necessary to conclude contracts in the field of hydrocarbons and electric energy.

Hydrocarbons (Oil, gas, condensates and unconventional resources)

Because of the Energy Reform in Mexico, two new laws have been issued: (i) Hydrocarbons Act, which sets forth the legal conditions for the participation of the national and foreign private investor in the exploration and exploitation of hydrocarbons; and (ii) the Hydrocarbons Revenue Act, which regulates the revenues to be received by the Mexican Government from these and, therefore, the new tax regime of Pemex.

Likewise, because of this reform, prior public bidding, the Mexican Government can make agreements directly through CNH with domestic and foreign companies that can carry out upstream activities using the following four types of contracts:

- a. License Agreement, by which the Mexican Government transfers the total exploration and exploitation activities over hydrocarbons to a company that keeps the resources obtained and pays the Mexican Government a signing bonus and a contractual fee, royalties and consideration.
- b. Shared Utility Contract, contract by which the Mexican Government shares the profits with the private companies that contribute money for the investment.

- c. Shared Production Contract, the Mexican Government shares the production products obtained from an exploitation process with the private company, which is paid with a percentage of the production obtained.
- d. Service Contract, by which the Mexican Government hires a company to perform the exploration and exploitation of hydrocarbons, the private company delivers the entire production to the Mexican Government.

A combination of the four contracting modalities is also possible.

The Mexican Energy Ministry (SENER) is responsible for establishing the contract model for each contract area, whether it is tendered or awarded, and can choose any of the four modalities specified herein, and all of them must be subject to the Hydrocarbons Revenue Act.

PEMEX, to increase its productivity, may enter into private or domestic services contracts, provided the consideration is settled in cash.

PEMEX is commercializing hydrocarbons, through PMI Comercio Internacional, its commercial branch, that was granted by SENER, the title of State Commercial Government Company; however, from 2018 the Mexican energy market will have new competitors for this commercialization.

The opening to the private investment for the sale to the public of gasoline and diesel and importation of hydrocarbons began on January 1, 2016.

With all of this, Mexico is expected to grow steadily and attract strong foreign investment that will enable PEMEX to compete with large oil companies in a field of equitable competitiveness.

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