

The Energy Reform or The Return to Oil Multinationals

Rosío Vargas*

THE SCENARIO

Official discourse in recent months has systematically denied that the government intends to privatize Pemex.¹ However, at the same time the state-owned oil company is presented to the public as unviable, on the brink of bankruptcy, inefficient and corrupt, requiring “rescuing” via large investments, given the decline of its main deposits in the Cantarell oil fields, to avert a national collapse.

The strategy for passing an energy reform has been based on establishing this catastrophic diagnosis in the public’s mind, generating the perception that urgent, immediate action is needed, as the first step toward a reform package that would be made public when the executive branch, the Institutional Revolutionary Party (PRI) and the National Action Party (PAN) have come to an agreement on it all.² The Senate will be the venue for the reform’s fast-track approval without any intervention from society.³ Promoting in the media the reform’s urgency and benefits are President Felipe Calderón; his minister of the interior, Juan Camilo Mouriño; Pemex Director Jesús Reyes Heróles; PRI legislators Manlio Fabio Beltrones, Emilio Gamboa and Francisco Labastida; and PAN Senator Santiago Creel.

What the official campaign generally neglects to include is that during the last four administrations, Pemex’s resources have been systematically depleted to encourage its disappearance as a public company. This de-capitalization is presented publicly as proof of its inefficiency and immanent



Debating the future of Mexican oil.

bankruptcy. Actually, it has been the result of 25 years of market-oriented policies that have propitiated vertical disintegration, the implementation of a fiscal policy that virtually confiscates the company’s resources, a lack of investment in practically all areas of the firm’s activity, debt, the practical elimination of technological development as a budget item and surreptitious privatization.⁴ Budget and accounting mechanisms deliberately leading Pemex to the brink of a financial crisis have been implemented to justify the need for state capitalization or a legal reform to open it up to private investment. With the aim of overcoming this purported “crisis,” the energy reform promotional strategy is based on a

*Researcher at CISAN. Coordinator of the Area of Globality Studies.

Budget and accounting mechanisms deliberately leading Pemex to the brink of a financial crisis have been implemented to justify the need for state capitalization or a legal reform to open it up to private investment.

series of arguments to legitimize the measure and disqualify its detractors.

THE ARGUMENTS

The official arguments are the following:

1. *A lack of resources.* They say that large investments are needed and cannot be taken out of government coffers because there would be a risk of cutting education, health and other fundamental social rights spending. This is despite the fact that in the last seven years, oil earnings accumulated at 2007 prices have come to US\$410 billion. In 2007 alone, earnings came to US\$101.6 billion. The vast majority of these monies go to the Finance Ministry, which depends on oil revenues for 40 percent of its budget.
2. *Deep-water drilling is required.* Government spokesmen allege that this is where Mexico's wealth is located. Moving into deep waters will open up our oil deposits to the multinationals through risk contracts. The only option proposed for getting greater volumes of fossil fuels is deep-water drilling, despite the fact that deposits there are not proven reserves.

It should be pointed out that Mexico has a strip of territory containing light crude oil with high associated gas content running from the coast to intermediate depths where drilling is cheaper than in deep waters and the fossil fuels yield more when refined. It also has areas where little drilling has been done, areas that have been abandoned because efforts have been concentrated on exploiting the Cantarell fields. This is why specialists are questioning the idea of developing deep-water wells, because the majority of the remaining reserves we have are located along the coast and in shallow waters.⁵

Actually, the argument about deep-water drilling is the door for investors to walk through to their dream of

achieving legal certainty in these kinds of constitutionally prohibited activities.

The government justifies the opening by arguing there is a "need" for investments on the order of US\$250 billion for developing upstream activities in the deep waters of the Gulf of Mexico and Chicontepec. Estimates of possible reserves in the latter come to around 7.1 billion barrels of equivalent crude oil. According to Chicontepec's performance and expert opinions, both proposals overestimate existing resources.⁶

3. Another much-used argument is that *the country does not have the technology needed to explore these fields.* Proponents present a false choice between having nothing or accessing the necessary technology, solely possible by sharing Mexico's oil wealth. Actually, this technology can be acquired in the international oil market relatively easily without needing to establish strategic alliances with multinationals or sharing our oil production. Suffice it to point to two deep-water drilling and pumping projects in the Gulf, the Independencia and the Matterhorn projects, as examples of easy access to deep-water drilling technology.⁷

THE POLITICAL ACTORS

The Senate bill was initially attributed to the PRI's Francisco Labastida, president of the Energy Commission, who has made public assurances that Article 27 of the Constitution will not be touched. Labastida has said that his party has already drafted a bill of "secondary reforms", leaving Pemex as a public company without opening the sector up to private investment.⁸ The PRI has not come out against private investment in Pemex, but would condition and limit it to certain parts of the production process, maintaining 100 percent state ownership to "modernize, and make [the company] more efficient, but without privatizing it."

In order to not commit its own political capital, the PRI has waited for the chief executive to present his "diagnostic analysis," but has made clear its interest in passing a "comprehensive reform," encompassing not only the *modernization* of Pemex, but also of the Federal Electricity Commission (CFE) and the Central Mexican Light and Power Company (LFC), to include wind and fossil fuel-based energy. That is, the entire sector.

PRI National Executive Committee President Beatriz Paredes Rangel has clearly and repeatedly stated that the

party's basic documents will not be changed to adjust them to the energy reform. However, voices have been raised in her party, both inside and outside Congress, in favor of privatization and the "opening." Some governors want privatization and it is not by chance that some of those voices come from the state of Campeche, like that of state Governor Jorge Ramos Hurtado.⁹ The PRI and the PAN have come to a certain consensus in the Chamber of Deputies, since the former approves of private participation in the oil industry as part of the energy reform.

PAN President Germán Martínez Cázares has never tired of repeating that "those who believe that the PAN wants to privatize Pemex are flat out lying; they are falsifying our position." Only recently have they revealed that their party's proposal would include measures to open up Pemex to foreign capital. What is more, Héctor Larios, a member of the PAN and president of the Chamber of Deputies Political Coordination Board, has confirmed that "the central axis of the energy reform" is alliances with multinational companies that will make it possible to explore and exploit new fields and build refineries. In general, the PAN's proposals favor private investment in areas like transportation, storage, refining and pipelines. Secure in the support of a large part of the PRI caucus and of some legislators from the so-called "progressive left" —like Jesús Ortega and Ruth Zavaleta—,¹⁰ the PAN is looking at a promising future for its interests.

The majority of the PRD thinks the capital needed for investment can be found in the profits from the enormous revenues coming in with the over US\$100-a-barrel price of oil compared to a production cost of US\$4 a barrel. They situate the problem as a matter of the government confiscation of the company's revenues, and therefore find its solution in a comprehensive fiscal reform that would let the company breathe and free it from footing the bill for government current expenditures, deficits and debt. As a strategy, PRD legislators have closed ranks with Andrés Manuel López Obrador, the so-called "legitimate president."

THE PROTAGONIST: ENERGY REFORM

The proposal to privatize —attributed by some initially to López Obrador's over-active imagination— turned out to be a reality when announced by Energy Minister Georgina Kessel, who also said it would be ready in late March 2008.

**Moving into deep waters
will open up our oil deposits to the multinationals
through risk contracts. The only option proposed
for getting greater volumes of fossil fuels
is deep-water drilling, despite the fact that
deposits there are not proven reserves.**

Among its proposals is that Pemex would forge partnerships or alliances with international oil companies to explore and exploit deep-water deposits. In a television news interview, the minister made it clear that in return for a partnership for deep-water exploration, 50 percent of the fossil fuels discovered would be handed over to the multinationals.¹¹

While at the time of this writing, there is not yet an official version of the definitive content of the energy reform, the media has leaked several points that will be included, like the following:

- Several changes to secondary legislation will be included, mainly to the law that regulates constitutional Article 27 regarding oil, the Law of Public Works, the Law of Acquisitions and Pemex's Charter.¹²
- Some proposals would privatize part (20 to 40 percent) of the company's equity by listing it on the stock market.
- In the proposed version of autonomous management for Pemex, the method considered politically viable for transferring the property to the private sector by changing its legal status is by allowing private participation. Budgetary autonomy for Pemex would allow its Board of Directors to determine the company's course and ultimate future.
- Licensing and opening up gas and oil pipelines; strategic or technological alliances for deep-water drilling and pumping, particularly in the case of trans-border deposits.
- Changes in Pemex's Board of Directors functions to include board members from outside the firm.
- Transferring the exploitation of marginal deposits and previously drilled wells to the private sector, following the example of Venezuela's neoliberal opening in the 1990s.
- Authorizing the creation of independent producers of refined products and crude oil.
- Creating a directorship to manage risk contracts, which would assign the resulting blocks to the highest bidder so they could operate them as concessions or through a risk contract.
- Creating a market institution similar to the ones in Norway, Brazil and Canada, a "Fossil Fuels Council" that would

manage exploration and exploitation of oil, natural gas and the other fossil fuels through public, private or mixed enterprises.

- Reforming Pemex and its subsidiaries' charters as well as the legislation delineating federal administration operations. This proposal, made in a document dealing with activities from 2007 to 2015, points to the need to change Article 6 of the law regulating constitutional Article 27 to legalize "unitization agreements" to allow the exploitation of transborder oil deposits, to designate a single operator and to share profits, eliminating cash payments and putting this kind of project outside the jurisdiction of public works and procurement legislation. This kind of argument is presented based on the supposedly urgent need for exploiting transborder deposits since Mexico runs the risk of the United States doing so using the "drinking straw effect" (the United States sucking up all the oil from its side of the deposits).¹³
- The creation of an authority that would exercise the rights over hydrocarbons is an important part of the strategy. To do this, Articles 27 and 28 of the Constitution would be amended.

A LETHAL BLOW

When some predicted a rapid "happy end" to the government's aim of approving the energy reform, the panorama changed with López Obrador's accusation that Minister of the Interior Juan Camilo Mouriño had been guilty of influence peddling when he worked in the Ministry of Energy and signed over contracts with Pemex worth millions to his family. AMLO presented the documentary proof to the coordinators of the Progressive Broad Front (FAP).

Those who up until that point had unconditionally supported the reform responded immediately. The PRI's Manlio Fabio Beltrones stated that "all the consensuses around the issue" had not yet been reached, and therefore, his alliance with the executive branch no longer seems completely unconditional. As the evidence mounts of Mouriño's conflict of interests, not only regarding the energy reform, but also as a federal public servant given the profits his immediate family and his father-in-law have received through influence peddling from public posts in exchange for economic advantages, his leadership with regard to the energy reform is increasingly weak. Today, not only are more contracts coming to light that were never bid for, but there is also evidence

The central axis of the energy reform is alliances with multinational companies that will make it possible to explore and exploit new fields and build refineries. In general, the PAN's proposals favor private investment in areas like transportation, storage, refining and pipelines.

that Mouriño's unconditional followers —themselves public servants— have been placed in key positions in Pemex and other government institutions to validate strategic alliances with multinational companies, among other tasks.¹⁴ Mouriño's hold on his post is shaky.

THE END OF THE PLAY

However, although the reform has not yet been approved, privatization has been put into practice on the ground through the "collaboration agreements for research and scientific, technological and human resource development" for exploration, drilling and oil and gas production signed by the government and multinational corporations. Recently, one of these agreements was presented for developing a joint study for marine electromagnetic controlled source registry to reduce deep-water exploration risks. In practice, Pemex's agreements have already been signed with Chevron, Nexen, Petrobras, Shell, Statoil and Exxon Mobil on the condition that they will have to go before international panels if any of the parties fail to live up to their part of the bargain. The crime has already been consummated.

CONCLUSIONS

It is not yet a certainty that the risk contracts, and, in general, the energy reform will pass. However, the forceful way it is being presented, the interests behind it and the actions promoting it leave little room for imagining a different outcome.

The difficulty for conducting a more objective debate that would really allow for evaluating its pros and cons lies in how specialized the issue is and the manipulation of information and arguments. Euphemisms like modernization and democratization can be given any content the speaker wants, but everything in the PAN strategy seems to converge

In their folly, reform proponents
have reduced the discussion to a domestic
debate, twisting or ignoring the world context,
which influences the top management of state
companies to cooperate among themselves
to stave off future energy crises by taking
advantage of growing oil prices.

on mechanisms of privatization by legislating everything but the Constitution, changing it only *de facto*, without any major changes to its actual wording. As has been the practice up to now in Mexico, the purpose is the slow, but steady, dismantling of Pemex.

While President Felipe Calderón's commitment to the multinationals is clear, the recent revelations about influ-

ence peddling involving the minister of the interior show that it is no longer just a matter of turning things over to them, but of business deals already brokered from the very power centers of the state.¹⁵

The problem is that in their folly, reform proponents have reduced the discussion to a domestic debate, twisting or ignoring the world context, which influences the top management of state companies to cooperate among themselves to stave off future energy crises by taking advantage of growing oil prices and the resulting revenues.

In the case of Mexico, it is of even more concern that there is no discussion of the kind of asymmetrical energy integration with our neighbor to the north, which promises to deepen if our resources are turned over to the multinationals. This is not just a business issue; it is geo-political and involves our very survival as a nation. ■■■

NOTES

¹ See statements by Francisco Labastida Ochoa, president of the Senate Energy Commission, with regard to the anti-privatization movement headed up by Andrés Manuel López Obrador (AMLO). Labastida maintains that AMLO is promoting a movement against "the phantom of privatization" of Pemex, since no one is proposing it be sold. *El País* (Madrid), February 22, 2008, p. 3A.

² With meager government investment in Pemex, combined with opening it up to private capital, new investors will be allowed to take over national oil income, which in practice is the same as privatizing Mexico's oil.

³ Israel J. Rodríguez, "Avanza la idea de llevar hasta 49% del capital social de PEMEX a la bolsa," *La Jornada*, February 3, 2008, p. 18.

⁴ For the oil industry's recent history, see Narciso Bassols Batalla, *Las etapas de la nacionalización petrolera* (Mexico City: Miguel Ángel Porrúa, 2006).

⁵ It is interesting to note the converging points of view of U.S. specialists and those Mexicans who are proposing exploring in shallow waters and along the coasts where there is presumed to be potential remaining reserves given the fact that only 22 to 25 percent of Mexico's territory and only 4 percent of the coastal waters have been explored.

⁶ Abelardo Cantú published an analysis in the magazine *PetroQuiMex* in which he states that no proposal specifies what exploration tools would justify seeking oil in deep, vaguely located places in the Gulf of Mexico. He also questions the option of exploring Chicontepec. Abelardo Cantú Chapa, "Prioridades de la exploración petrolera nacional: ¿Chicontepec o Campeche?" *PetroQuiMex*, no. 29 (September-October 2007), pp. 60-63. Available on line at http://www.petroquimex.com/numeros_anteriores.php?num=091007.

⁷ From the experiences with these projects, we can conclude that, with the discovery of isolated, marginal fields, small independent companies were able to partner up, and, with the help of suppliers and sub-contractors, managed to successfully complete one of the most complex drilling and pumping projects in ultra-deep waters developed to date. The technology Pemex would need to exploit deep-water deposits is available in the suppliers and sub-contractors market for offshore oil

production. The companies that have developed it offer all the equipment, tools and services needed for deep-water exploration and development. For more information, consult the magazine *Atlanta Offshore Limited* and the following websites: World Oil (www.worldoil.com) and E&P (www.eandp.info).

⁸ We should point out that there is a large gap between the reform proposal's real content and the PRI and PAN's political discourse, which the media have taken it upon themselves to disseminate.

⁹ I am referring here to Minister of the Interior Juan Camilo Mouriño's family, which is from Campeche.

¹⁰ Members of the PRD "New Left" current, today fighting to head up the party. [Editor's Note.]

¹¹ Andrea Becerril, "No nos cruzaremos de brazos ahora que ya soltaron la sopa: AMLO," *La Jornada*, February 15, 2008, p. 5.

¹² See Sergio Domínguez Reyna, "Reforma energética, propuestas y perspectiva," *Energía a debate*, year 4, no. 24, January-February 2006, pp. 10-20.

¹³ A very timely book has recently been published dealing with these issues in detail: Juan E. Pardini et al., *Cruzando límites. México ante los desafíos de sus yacimientos transfronterizos* (Mexico City: Red Mexicana de Energía, 2008). Available at http://www.remexen.org/descargas/transfronterizos/CRUZANDO_LIMITES_web.pdf

¹⁴ Minister Mouriño's friends have come to his defense, arguing that the accusations are just a PRD tactic to boycott the energy reform by eliminating a federal government negotiator, striking a blow against the president and creating a distraction to divert attention away from the conflicts and differences inside the PRD. See Olivia Pescador López, "Panistas salen a la defensa de Mouriño. Dice Guillermo Velásquez que lo atacan para retrasar la Reforma Energética," on line at www.diarioCaMBIO.com, consulted March 3, 2008, and "Defiende el PAN a Mouriño," *El Porvenir Nacional*, at www.elporvenir.com.mx/notas.asp?nota_id198294, consulted March 2, 2008.

¹⁵ Carlos Fazio, "Privatizar es el nombre del juego," *La Jornada*, February 25, 2008, p. 24.