

# Client Alert

Global Transactions Practice Group

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## Mexican President Enrique Peña Nieto Promulgates Secondary Oil and Gas Legislation

Yesterday, Mexican President Enrique Peña Nieto promulgated 21 new and amended laws which regulate last December's historic constitutional energy reform. Among others, the new laws include a Hydrocarbons Law, which governs the upstream, midstream and downstream oil and gas sectors, a Hydrocarbons Revenues Law, which governs the manner in which the State may generate income in such sectors, and the Law of Pemex, which governs the conversion of *Petróleos Mexicanos* (Pemex), Mexico's national oil company, into a "productive state enterprise".

During the signing ceremony, the President announced the following governmental actions to accelerate the full implementation of the energy reform:

1. by Wednesday, August 13, 2014:

a. the *Secretaría de Energía* (SENER), Mexico's energy ministry, will publish lists of the exploration and production (E&P) areas it will assign to Pemex under "round zero",<sup>1</sup> and of the E&P areas it will auction off to state-owned companies (including Pemex) and private investors as part of the first round of bidding for E&P contracts;<sup>2</sup> and

b. Pemex will publish a list of the areas assigned to it by SENER with respect to which it desires to associate with third parties to perform E&P operations;<sup>3</sup>

2. by the end of August 2014, the President will:

a. submit to Congress a bill for the creation of the *Centro Nacional de Control de Gas Natural* (CENAGAS), the new natural gas pipeline and storage system operator;

b. propose to Congress his short list of candidates to serve as commissioners of the *Comisión Nacional de Hidrocarburos* (CNH), the upstream regulator, and the *Comisión Reguladora de Energía* (CRE), the midstream and downstream regulator;

c. propose to Congress his short list of candidates to serve as independent members of the *Fondo Mexicano del Petróleo* (FMP), a new

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- trust that will administer all state revenues generated from E&P activities; and
- d. appoint five new independent members of Pemex's board of directors;<sup>4</sup>
3. by the end of September 2014, the President will:
- a. submit to Congress bills for the creation of the FMP, of a second trust for the promotion and development of domestic suppliers and contractors to the energy industry, and of a third trust to promote the participation of state companies in the E&P sector; and
  - b. present to the public, through SENER and the Department of Education, a program for the training of Mexicans in the hydrocarbons industry;
4. by the end of October 2014, the President will:
- a. publish all administrative regulations applicable to the secondary legislation; and
  - b. send Congress a bill restructuring the *Instituto Mexicano del Petróleo* (IMP), Mexico's governmental agency of research and development in the hydrocarbons sector; and
5. by the end of November 2014, the President will issue regulations applicable to the organization and functioning of the *Agencia Nacional de Seguridad Industrial y de Protección al Medio Ambiente*, the new environmental regulator in the hydrocarbons sector.

The promulgation of the secondary legislation finalizes the legislative process in connection with Mexico's historic energy reform, and commences the regulatory phase, *i.e.*, the phase in which the various regulatory agencies will be stood up, detailed regulations promulgated to support their activities, and forms of E&P contracts and other documentation developed. In due course, we will provide a deeper analysis of the reform as it pertains to the Mexican upstream, midstream and downstream oil and gas sectors.



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<sup>1</sup> "Round zero" is a special procedure that permits Pemex to retain on a preferential basis all acreage it currently explores and exploits, and that allows the federal government to continue to receive the level of revenue it currently receives from Pemex's E&P operations in such areas. In all, Pemex requested an assignment of over 83% of the total proved and probable (2P) reserves and 31% of all prospective resources known to exist within the Mexican territory.

<sup>2</sup> SENER expects to issue the full terms and conditions for the first round of bidding during the first trimester of 2015.

<sup>3</sup> This presumably means that Pemex will convert the assignments covering such areas into E&P contracts. If such is the case, SENER must approve the conversion and the upstream regulator must conduct a competitive bidding process to select the joint venture partner. To select the joint venture partner Pemex will have the right to issue opinions with respect to (a) the technical,

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financial and execution capacities and the experience to be required of the joint venture partner under the bidding terms and conditions, and (b) the various capacities of the bidder during the prequalification process conducted by the upstream regulator.

<sup>4</sup> Independent directors will serve for three year terms, may not be removed without cause and due process, and may not have a conflict of interest. Conflicts of interest include: having been employed by or served as an external auditor of Pemex or its subsidiaries during the 12 months prior to the date of appointment; having been a public or elected official or an officer of a political party during the two years prior to the date of appointment; having been a client, service provider, supplier, contractor, debtor or creditor of Pemex or its subsidiaries; or having any type of kinship with any of the foregoing.