

# LATIN AMERICA MINERAL AND ENERGY LAW

## Newsletter

Volume 3 | No. 2 | 2025

### *In this issue*

<b>Argentina</b>	<b>1</b>
<b>Bolivia</b>	<b>1</b>
<b>Chile</b>	<b>5</b>
<b>Colombia</b>	<b>6</b>
<b>Venezuela</b>	<b>7</b>

## **ARGENTINA**

*Inés Agüero Ovejero, Reporter*

### **Latest Major Modifications to Argentina’s Mining Legal Framework**

#### Launch of the National Mining Hub

The National Technological University, in partnership with the Argentine Chamber of Mining Companies, has established the “Mining Hub.” This collaborative platform is designed to promote sustainable mining, foster technological innovation, and enhance professional training. The Hub seeks to expand educational opportunities, advance research, and encourage the adoption of best environmental practices, aligning with the UN Sustainable Development Goals.

#### RIGI Evaluation Committee Expanded

Through Resolution 198/2025 (Apr. 25, 2025), the Ministry of Economy expanded the Evaluation Committee overseeing the Incentive Regime for Large Investments (RIGI). The committee now includes the Executive Director of the National Agency of Ports and Shipping, with the aim of streamlining the evaluation and approval process for large-scale investment projects.

#### Argentina and France Sign Strategic Agreements on Lithium and Nuclear Energy

At the UN Ocean Conference in Nice in April, Presidents Milei and Macron confirmed a strategic alliance to promote French investments in Argentina’s critical minerals and nuclear energy sectors. The partnership underscores both countries’ commit-

*page 2*

## **BOLIVIA**

*Gonzalo Dávila, Reporter*

### **Regulation of Fuel Imports for Commercialization by Private Entities as a Measure to Address the Economic Crisis and Fuel Shortages**

#### Economic Crisis and Fuel Shortages

Since 2024, Bolivia has increasingly felt the effects of a worsening economic crisis. Two of the most critical consequences have been the shortage of U.S. dollars and the scarcity of fuels, particularly diesel oil and gasoline. This crisis stems from multiple structural factors, including insufficient private investment, rising unemployment, widespread informality in the economy, declining hydrocarbon production, and the absence of new hydrocarbon sources. Compounding these issues is the growing difficulty of importing fuel due to the dollar shortage—needed for international purchases—and pervasive legal insecurity. Together, these conditions have contributed to depreciation of the national currency and persistent fuel shortages nationwide. See *“Inflation, Dollar Shortages, and Fuel Deficits: The New Face of Bolivia,” Opinión* (Dec. 29, 2024).

The deepening crisis has sparked widespread public frustration, with protests, marches, and road blockades over the rising cost of living and the long lines at gas stations—where public transport vehicles, trucks, and private cars queue for gasoline and diesel. According to “Protests in Bolivia Over Dollar and Fuel Shortages,” *Deutsche Welle* (Mar. 19, 2025), the Ombudsman’s Office reported that 66% of service stations

*page 4*

## ARGENTINA

(continued from page 1)

ment to developing Argentina's nuclear program and increasing collaboration in lithium extraction and processing, despite political differences.

### Salta: Incentives for Mining Services

Decree No. 244/2025, enacted in May, introduces a temporary scheme reducing service fees for mining companies operating in Salta. The measure, effective until December 2026 and potentially extendable for another year, aims to encourage exploration and investment by lowering operational costs. The Salta Mining Chamber (CMS) has praised the initiative as critical relief for the industry during current market challenges.

### Salta: National Meeting on Mining Transparency

Salta hosted the most recent National Meeting of the Extractive Industries Transparency Initiative (EITI), gathering government, industry, and civil society stakeholders. The session emphasized improving governance in the mining sector and advancing transparency through global standards, with a focus on strengthening social license and community engagement.

### Catamarca: Training Indigenous Environmental Observers

Supported by the Federal Investment Council and the College of Mining Engineers, Catamarca's Mining Ministry has launched the "Environmental and Social Management Strengthening Program." This initiative trains Indigenous community members from Aguas Calientes, La Angostura, and Carachi to serve as environmental observers in mining projects. It also aims to prepare local candidates for technical roles supporting geological and mining investigations.

### SEGEMAR Agreements in Río Negro and Jujuy

The Argentine Mining Geological Service (SEGEMAR) formalized cooperation agreements with the provinces of Río Negro and Jujuy to promote mining development. In Río Negro, a 15-month program will explore lithium-bearing pegmatites through field campaigns and laboratory analysis. In Jujuy, SEGEMAR will provide support for new research, training, and consulting initiatives focused on local mineral resources.

### First RIGI Mining Project Approved: Río Tinto's Rincón

On May 20, 2025, the National Secretariat of Energy and Mining, via Resolution 735/2025, formally approved the first mining project under RIGI: Río Tinto's Rincón lithium project in Salta province. The approval grants access to the special tax, customs, and foreign exchange benefits provided under Law 27,742, along with a streamlined regime for importing capital goods, inputs, and spare parts. The Rincón project involves an estimated investment of US\$2.7 billion.

### Salta: New Mining Tender for Strategic Projects

Salta's Energy and Mining Resources Company (REMSa) launched Tender No. 04/25 for the exploration and potential development of properties in Salinas Grandes and Taca Taca. The available blocks include Salinita Norte I, Ignacio II, and Atena I, with proposal submissions due by July 1, 2025. This call follows Tender No. 03/25, which focused on lithium, copper, and gold prospects.

### La Rioja: Legislative Proposal for Local Content in Mining

A key committee in the Chamber of Deputies of La Rioja has advanced a bill to strengthen the province's mining sector. The proposed legislation would require mining companies to hire at least 70% of their workforce locally and prioritize local

## LATIN AMERICA MINERAL AND ENERGY LAW NEWSLETTER

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suppliers, aiming to maximize the economic benefits for the region.

*Jimena Vega Olmos, Reporter*

### Argentina Issues Implementing Regulations Governing LNG Exports

Following the regulatory amendments introduced by Law No. 27,742 (Bases Law) and implementing Decree No. 1057/2024, the Energy Secretariat approved the LNG Exports Procedure through Resolution SE No. 145/2025 (published in the Official Gazette on April 4, 2025). Section 3 bis of the Natural Gas Law No. 24,076, as amended by the Bases Law, authorizes holders of firm LNG export authorizations to export the

approved volumes continuously—without interruptions, reductions, or redirections—during the term of the authorization.

Resolution SE No. 145/2025 establishes the implementing regulations governing the LNG export process.

To obtain the required authorization, an advance notice of export must be submitted, including the following information and supporting documentation: (1) availability of natural gas volumes for at least five years (own projected production and contractual agreements with other producers), certified by external auditors; (2) maximum LNG volumes to be exported; (3) evidence of initiation of the inclusion process under the Incentive Regime for Large Investments (RIGI), if applicable; and (4) technical feasibility of the LNG export project (covering existing or planned transportation, liquefaction, storage, export infrastructure, location, and financing).

The Energy Secretariat may object to an export notification only in very limited circumstances. Any objections must be issued within 120 business days of the filing, and applicants then have 30 business days to respond. If no objections are raised—or if any raised are resolved—the Energy Secretariat must issue the corresponding LNG export authorization, which remains effective as long as the conditions under which it was granted are maintained.

#### **Approval of the Declaration of Long-Term Availability of Gas Resources**

Section 3 bis of the Natural Gas Law No. 24,076, as amended by the Bases Law, requires the government to conduct an analysis of gas availability to ensure that Argentina's natural gas resources are sufficient to meet domestic demand while supporting firm, continuous LNG exports.

In this regard, through Resolution SE No. 157/2025 (published in the Official Gazette on April 21, 2025), the Energy Secretariat issued and approved the so-called Declaration of Long-Term Availability of Gas Resources.

According to the analysis and resulting declaration, based on current domestic demand rates, Argentina's gas resources are sufficient to last more than 150 years—or between 63 and 68 years under more restrictive scenarios that include larger LNG exports.

Consistent with section 3 bis of the Natural Gas Law No. 24,076, the Resolution also provides that LNG export authorizations grant firm export rights for up to 30 years from the commissioning of the LNG plant, ensuring uninterrupted access to gas supply, transportation, processing, and storage capacity.

#### **Developments in Connection with ENARSA's Privatization**

Through Decree No. 286/2025 (published in the Official Gazette on April 25, 2025), the Argentine government initiated the privatization of Energía Argentina S.A. (ENARSA). ENARSA, a state-owned energy company created by Law No. 25,943, is engaged in the exploration, production, transportation, and commercialization of hydrocarbons and electricity, with the federal government holding approximately 98% of its capital stock.

The privatization will proceed in phases, reflecting the diversity of ENARSA's activities and assets. The first phase will

involve the sale of ENARSA's equity interest in Compañía Inversora en Transmisión Eléctrica Citelec S.A., which controls Transener S.A.—Argentina's main high-voltage transmission company—and its subsidiary Transba S.A., the transmission operator for the Province of Buenos Aires.

#### **Sale Process for the Controlling Interest in Four Hydropower Generators**

Through Joint Resolution No. 2/2025 of the Energy Secretariat and the Agency for the Transformation of State-Owned Enterprises (published in the Official Gazette on May 7, 2025), the initial steps for the sale of the controlling interests in Alicurá Hidroeléctrica Argentina S.A., Chocón Hidroeléctrica S.A., Cerros Colorados Hidroeléctrica Argentina S.A., and Piedra del Águila Hidroeléctrica Argentina S.A. were approved.

The resolution provides for a national and international public tender and directs the Energy Secretariat to draft the corresponding terms and conditions, including the form of the concession agreement. A data room will be managed by CAMESA, and ENARSA is tasked with establishing a competitive procurement process to engage a recognized firm to value the assets.

The provinces of Río Negro and Neuquén, where the hydropower plants are located, were invited to appoint observers to ensure transparency and regional participation throughout the process.

#### **Approval of the Incorporation to RIGI of Argentina's First LNG Project**

Resolution ME No. 559/2025 (published in the Official Gazette on May 5, 2025) approved the incorporation of Southern Energy S.A.'s LNG project into the Incentive Regime for Large Investments (RIGI) established by the Bases Law No. 27,742. The project is a long-term strategic export initiative to be located in the San Matías Gulf, Province of Río Negro. Southern Energy S.A. is a joint venture of Pan American Energy (30%), YPF (25%), Pampa Energía (20%), Harbour Energy (15%), and Golar LNG (10%).

The project entails the installation and operation of two offshore floating liquefaction units (FLNGs) to process and liquefy natural gas from Vaca Muerta for export, with a declared investment in computable assets totaling US\$6.878 billion. It is expected to boost Argentina's gas production by 5%–8% annually.

RIGI is a long-term incentive regime for strategic investments in certain sectors, offering beneficiaries various tax, customs, foreign exchange, and regulatory stability benefits.

#### **Extension of the Emergency Declaration**

Through Decree No. 370/2025 (published in the Official Gazette on June 2, 2025), the Federal Executive Branch extended the declaration of emergency in the electricity generation, transportation, and distribution sectors until July 9, 2026. The decree also extended, through the same date, the intervention of the Federal Gas Regulator and the Federal Electricity Regulator, as well as the so-called "Focused Energy Subsidies Transition Period."

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As a result, the Energy Secretariat is instructed to continue issuing the necessary regulations to restructure the energy subsidies regime and to define specific mechanisms for allocating and disbursing subsidies to end users.

### High-Voltage Transmission System Expansion Program

Through Resolution ME No. 715/2025, the Ministry of Economy declared 16 high-voltage (HV) and extra-HV electricity transmission projects to be urgent and of national priority.

The projects include:

- AMBA I + STATCOM Ezeiza
- 500 kV Vivotará–Plomer Line
- AMBA II + STATCOM Rodríguez
- 500 kV Plomer–O’Higgins Line
- 500 kV Puerto Madryn–Choele Choel–Bahía Blanca Line
- Comodoro Rivadavia Oeste 500/132 kV, 450 MVA
- Eastern Alternative: 500 kV Río Santa Cruz–Puerto Madryn Line / Western Alternative: 500 kV CH Kirchner–Futaleufú–Piedra del Águila Line
- 500 kV Río Diamante–Charlone–O’Higgins Line
- 500 kV Rodeo–Chaparro–La Rioja Sur Line
- 500 kV Malvinas–San Francisco–Santo Tomé Line
- El Espinillo 500/132 kV substation
- 500 kV Lavalle–Chumbicha Line
- 500 kV Chaparro–Antofagasta de la Sierra–Punta-Cobos Line
- International Interconnection: 500 kV Yaguaca (Bolivia)–Salvador Mazza (Salta)–San Juancito (Jujuy)
- International Interconnection: 500 kV Villa Hayes (Paraguay)–Formosa
- 500 kV Santa Cruz–Tierra del Fuego Interconnection

These projects were prioritized based on the electricity transmission system expansion and upgrade plan approved by Resolution SE No. 507/2023.

Under Resolution ME No. 715/2025, the projects will be executed through the public works concession regime established by Law No. 17,520 (as amended by the Bases Law No. 27,742 and its implementing Decree No. 713/2024). This regime provides for construction, operation, and maintenance by the private sector, financed through payments by electricity market demand via CAMMESA, without direct public funding.

Although detailed implementing regulations are pending, the Resolution sets forth the following guiding principles:

- (1) Expansions may be financed through a specific transmission expansion tariff, applied to Wholesale Electricity Market (WEM) users.
- (2) The concessionaire shall operate and maintain the works under the supervision of the relevant transmission company, as an independent operator, pursuant to a technical license granted by the transmission company.
- (3) Upon expiration of the concession term, the transmission assets shall be transferred to the federal government at no cost and shall not be incorporated into the capital base of the receiving transmission company.

## BOLIVIA

(continued from page 1)

lacked fuel that week, while drivers at the remaining stations waited between 4 and 24 hours to refuel.

These shortages have disrupted the broader supply chain, hampering the private and public sectors alike. The scarcity of foreign currency has hindered the purchase of imported raw materials, obstructed production, and constrained transportation of goods. As a result, prices of essential consumer products have risen significantly, and the gap between the official and parallel exchange rates for the dollar has widened.

Constitutionally, the Bolivian State, through its oil company Yacimientos Petrolíferos Fiscales Bolivianos (YPFB), is designated as the sole entity authorized to engage in hydrocarbon production and commercialization (Article 361-I of the Political Constitution). Article 17 of Hydrocarbons Law No. 3058 (May 17, 2005) likewise authorizes YPFB to import fuels independently or in association with private entities. However, the State has proven unable to meet domestic demand, overwhelmed by the severity and urgency of the current crisis.

### Alternative Measures to Ensure Domestic Market Fuel Supply

To address these challenges, the Bolivian government has implemented two key regulatory mechanisms:

- (1) *Streamlined procedures for self-consumption imports*: Supreme Decree No. 5218 (Sept. 4, 2024) simplified the process for private entities to import fuel for self-consumption, under the authorization and supervision of the Hydrocarbons Regulatory Authority (Agencia Nacional de Hidrocarburos, ANH). This procedure derives from the framework originally set by Supreme Decree No. 28419 (Oct. 21, 2005), now applied in simplified form.
- (2) *Authorization for imports and commercialization by private entities*: Supreme Decree No. 5271 (Nov. 13, 2024), as optimized by Supreme Decree No. 5313 (Jan. 15, 2025), established conditions under which private parties may import and sell fuels in the domestic market. As these fuels are not produced domestically, the decrees permit private imports as an exceptional measure—allowing sectors willing to pay non-subsidized prices access to fuel supply. These measures were officially announced by the Ministry of Hydrocarbons. See “Government Enacts Decree 5271 Authorizing Free Importation of Fuels and Their Commercialization in the Domestic Market” (Nov. 13, 2024); “Decree 5313 Extends Deadlines, Simplifies Procedures, and Encourages Private Participation in Fuel Importation” (Jan. 19, 2025).

### Scope and Particularities of Supreme Decree No. 5271: Procedures for the Importation and Commercialization of Gasoline or Diesel Oil by Private Entities

The key provisions of Supreme Decree No. 5271 are as follows:

- (1) *Exceptional Measure and Duration*: Articles 1 and 2 provide that, as an exceptional measure, the Government authorizes private individuals and legal entities to import diesel and gasoline for domestic commercialization for an initial term of one year from the effective date of the Decree—a term later extended to three years by Supreme Decree No. 5313 of January 15, 2025.

- (2) *Condition for Commercializing Fuels*: Article 2 of the regulation establishes and underscores the condition that private entities may only commercialize fuel products that have been imported.
- (3) *Prohibitions*: Building on the above, Article 6 of the Decree explicitly prohibits: (a) the commercialization by private entities of domestically produced, subsidized fuels within the domestic market; (b) the application of government subsidies to fuels imported by private actors; and (c) the engagement in monopolistic practices by private entities in the importation of diesel and gasoline.
- (4) *Quality Standards*: Articles 3 and 7 stipulate that all fuels imported for the purpose of commercialization must comply with the quality parameters set forth in the Fuel Quality Regulation approved by Supreme Decree No. 4718 of May 18, 2020. Oversight and enforcement of these standards are delegated to ANH.
- (5) *Authorization for Importation and Commercialization*: Articles 4 and 5 require that individuals or legal entities wishing to import and commercialize fuels must obtain the appropriate authorizations from both the hydrocarbons regulatory authority and the Vice Ministry of Social Defense and Controlled Substances, under the Ministry of Government. In the case of the hydrocarbons regulator, the requirements outlined in Supreme Decree No. 28419 of 2005 modified by Supreme Decree No. 5218 of 2024 shall apply.
- (6) *Additional Regulations*: Article 8 and the First Transitory Provision task the Ministry of Hydrocarbons and Energy with issuing a Ministerial Resolution establishing the methodology for calculating the price of diesel and gasoline. Concurrently, the Ministry of Government is instructed to issue, by Ministerial Resolution, the requirements and procedures for (a) the registration of new regulated entities engaged in the importation, transport, and/or commercialization of fuels; (b) the prior import authorization; and (c) the authorization for commercialization.
- (7) *Special Tax*: Article 9 of the Decree provides that the importation of fuels for commercialization purposes shall be subject to a specific rate to the effects of the application of the Special Tax on Hydrocarbons and Their Derivatives (*IEHD by its name in Spanish*).

#### Application of the Legal Framework in Practice

Following the issuance and publication of all accompanying regulations pertaining to this government measure, on March 12, 2025, the Ministry of Hydrocarbons and Energy published on its official website a “Guide for the Importation of Fuels for self-Consumption and Commercialization.” This guide outlines that in order to import fuels for commercialization purposes, private entities must complete procedures before the following four institutions:

- (1) *YPFB*: For the signing of a Contract between YPFB and the applicant and the presentation of a fuel quality certificate.
- (2) *ANH*: For obtaining the administrative resolution authorizing the importation for commercial purposes.
- (3) *General Directorate of Controlled Substances (DGSC) under the Ministry of Government*: For obtaining both the registration certificate and the prior authorization for importation and commercialization.

- (4) *Bolivian National Customs (Aduana Nacional)*: For the presentation of the Import Declaration.

The guide notes that, if all requirements are met, the process can be completed within five business days.

According to data from the Ministry of Hydrocarbons and Energy, the government has authorized private companies to import and sell more than 29 million liters of diesel monthly. As of mid-March 2025, 20 companies were in the process of obtaining authorization from ANH, and five were seeking authorization from the DGSC. See Bolivian Info. Agency, “Private Companies Authorized to Import and Commercialize over 29 Million Liters of Diesel per Month” (Mar. 15, 2025).

It remains to be seen whether this measure will, in the short and medium term, succeed in alleviating Bolivia’s ongoing economic and fuel crisis.

## CHILE

*Joaquín Corvalán Azpiazu, Reporter*

### **Law That Introduces Amendments to the Water Code Was Enacted, Reinforcing the Control and Surveillance Powers of the General Water Directorate**

On April 23, 2025, Law No. 20,740 was published in the Official Gazette, amending the Water Code with respect to the control and surveillance procedures carried out by the General Water Directorate (DGA). The following are the main amendments introduced by the law.

#### A New Simplified Sanctioning Procedure Is Established

This new simplified procedure will apply to investigated facts that meet any of the following criteria: (1) the facts are punishable with fines ranging from 10 to 500 *Unidades Tributarias Mensuales* (Monthly Tax Units), approximately US\$680 to US\$34,000; (2) the facts occur in declared and current water shortage zones; or (3) the facts do not require on-site inspections.

The purpose of the simplified sanctioning procedure is to streamline the DGA’s actions, reduce the processing time of procedures (the DGA is required to resolve the procedure within a maximum of 60 days), and, in general, to improve the efficiency of public resource use. Infractions committed by individuals who, whether or not they currently hold a water use right, intentionally obtain a double registration of their right in the Water Property Register of the Real Estate Registry, for personal benefit or to the detriment of third parties, are expressly excluded from this simplified procedure.

Only appeals for reconsideration (before the DGA) and appeals (before the relevant Court of Appeals) may be filed against a sanctioning resolution under this procedure.

#### Reinforcement of the DGA’s Inspection Powers and Introduction of Surveillance Powers

The amendments reinforce the DGA’s authority to request enforcement of its resolutions by municipalities or other bodies, including requesting assistance from the public forces. The DGA may also stop projects where unauthorized water extraction is reliably verified and block wells, among other measures.

In addition, the amendments introduce the concept of “surveillance powers,” which may be exercised by the DGA. Surveillance powers or tasks are defined as those carried out by DGA officials to identify minor breaches of the Water Code that can be rectified or corrected without the need to initiate formal sanctioning procedures. In exercising these surveillance tasks, the DGA may instruct early corrective measures to remedy mi-

nor breaches, thereby ensuring compliance with regulations and correcting improper conduct before formal sanctions are imposed.

For these purposes, minor breaches are understood as acts involving minor regulatory deviations, as determined by the National Director of the DGA through specific instructions. The procedure for early correction of minor breaches is subject to special rules contained in the Water Code. This mechanism allows water rights holders to correct minor deviations before the initiation of formal sanctioning procedures.

#### Suspension for Illegal Water Extraction Is Established

When unauthorized water extraction is detected, the DGA must order, as part of the relevant sanctioning resolution, the suspension of such extraction until it is either regularized or authorized. Exceptions may apply when, based on public interest—such as human consumption, sanitation, ecosystem preservation, water availability, aquifer sustainability, and, more broadly, the balance between efficiency and safety in productive water uses—continued extraction is justified.

Once extraction is suspended, DGA personnel will install a seal or other appropriate means to prevent or inhibit unauthorized extraction. Tampering with or breaking the seal is a criminal offense, punishable under the Penal Code with a minimum term of imprisonment and a fine of six to ten *Unidades Tributarias Mensuales* (approximately US\$415 to US\$680). To carry out these measures, the DGA may request assistance from the public forces at the site of the illegal extraction.

#### A New Compliance Incentive Mechanism Is Established

The amendments establish a 25% reduction of the fine if the sanctioned party does not file an appeal for reconsideration before the DGA and pays the fine within nine days of the resolution imposing the sanction. The same reduction applies to an alleged infringer who accepts the charges during the simplified sanctioning procedure described above.

#### New Notification Procedure

The amendments to the Water Code also introduce a new notification procedure, authorizing the DGA to issue notifications by electronic means. In addition, during an inspection procedure, if facts deemed to constitute an infringement are documented in the inspection report, the DGA must personally notify the alleged infringer if present at the inspection site, providing a copy of the report.

Finally, it is important to note that Law No. 20,740 establishes transitional provisions applicable to inspection procedures already underway as of the date of its enactment.

### **The Superintendence of the Environment Issues a Resolution Regulating Notification of the Start of Execution of a Project with an Environmental Qualification Resolution**

On May 7, 2025, Exempt Resolution No. 860/2025 of the Superintendence of the Environment (SMA) was published in the Official Gazette. This resolution establishes the procedure for giving notice of the milestone marking the start of execution of a project that has an Environmental Qualification Resolution (RCA), provided the project began its environmental assessment process on or after February 24, 2020.

The resolution provides that notification of the start of execution must be submitted via a digital platform accessible through the SMA's website. The project owner must update the project's status or phase by selecting the "start of execution" option and identifying the date of commencement along with the required supporting information.

In addition, the resolution specifies the information that a project owner holding an RCA must submit to properly notify the SMA of the start of execution milestone. Once the SMA has reviewed and determined that the submitted information is complete and adequate, it will formally declare the start of project execution through an exempt resolution.

## **COLOMBIA**

*Milton Fernando Montoya Pardo & Ernesto Guzmán Arana,*  
Guest Reporters

### **Overview on Energy Transition and Energy Security in Colombia**

According to data from XM (the Interconnected System Operator and administrator of the Colombian Wholesale Energy Market) and the Mining-Energy Planning Unit (UPME), Colombia's electricity generation matrix is composed of approximately 65.3% hydropower, 30% thermal power, and about 4% renewable energy.

Although Colombia's electricity generation system is considered the sixth cleanest in the world, the transition to a more sustainable energy system remains imperative. This transition requires the coexistence of traditional energy sources with an expansion of renewable energy, such as wind and solar, along with the implementation of technologies that ensure supply reliability.

Complex licensing processes and inter-institutional requirements significantly delay project development, particularly in high-potential regions like La Guajira. In these areas, prior consultation with indigenous communities and the management of social conflicts add substantial complexity and extend project timelines. For example, while 23 wind projects in La Guajira have approved connection licenses, only two have reached the testing phase.

As noted, barriers to renewable energy projects in Colombia include: (1) the complex process of obtaining the environmental and technical permits necessary to reach a "ready-to-build" stage; (2) challenges related to physical security and community relations; and (3) a lack of regulatory stability. These issues raise concerns about the urgent need to fully meet national energy demand in the short term, while also casting doubt on the country's long-term energy security.

A primary challenge is promoting policies and regulatory frameworks that facilitate the integration of renewable energy into Colombia's energy mix. A robust legal framework—addressing prior consultation, community participation, and greater efficiency in environmental permitting—is critical to avoiding the cancellation of ongoing projects or the suspension of investments in the renewable energy sector. Currently, solar projects are driving much of the progress in renewables, but nearly 40 wind projects have already been canceled, and another seven are suspended. This is especially concerning given that energy consumption is growing at twice the rate of supply, making it vital to meet demand to prevent future energy shortages.

Another significant challenge is the need for substantial infrastructure investments. Colombia must modernize and expand its energy infrastructure to ensure a reliable and efficient supply. This entails maintaining existing energy solutions while building new generation plants, optimizing transmission and distribution networks, and developing energy storage systems to address the intermittency of renewable sources. Such investments are essential to strengthening Colombia's energy

security and supporting its long-term economic and social development.

In short, these dynamics serve as a reminder that robust energy security depends not only on self-sufficiency, but also on the diversification of energy sources and the capacity to adapt to a constantly evolving global energy landscape.

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*Milton Fernando Montoya Pardo & Manuel José Ocampo  
Hernández, Guest Reporters*

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### Challenges and Opportunities for the Colombian Mining Industry

In recent years, the Colombian mining industry has faced a challenging environment that has tested its adaptability and resilience, particularly in response to public policy decisions (or announcements) that have threatened to substantially alter the way the industry operates in the country.

Several notable changes have already been introduced, including:

- (1) *Modification to the minutes of the mining concession contract.* The National Mining Agency (ANM, by its Spanish acronym), Colombia's mining authority, issued Resolution 1023 on March 20, 2025, updating and amending the standard mining concession contract document and adopting new contracting models.
- (2) *Appointment of a new president of the National Mining Agency.* Through Decree 630 of June 6, 2025, the Ministry of Mines and Energy (MME, by its Spanish acronym) appointed a new ANM president tasked with continuing "the mining formalization program and strengthening the strategic minerals that Colombia has for the just energy transition and the reindustrialization of the country" (National Mining Agency, 2025).
- (3) *Declaration of a "Temporary Renewable Natural Resources Zone."* By Resolution 0855 of June 20, 2025, the Ministry of Environment and Sustainable Development (MADS, by its Spanish acronym) declared a zone in the department of Antioquia where, due to environmental constraints, no new permits for mining activities may be granted for an initial period of three years. The affected municipalities are Jericó, Támesis, Valparaíso, Santa Bárbara, Fredonia, and La Pintada.

At the same time, several announcements and initiatives have generated concern in the industry, primarily due to uncertainty about their potential effects. Among these, the following are noteworthy:

- (1) *Creation of the Colombian Minerals Company (ECOMINERALES).* One of the government's main proposals to transform the mining sector is the creation of a state-owned company that would directly participate in mining activities. This initiative is currently under consideration in the Colombian Congress. If approved, the company would ostensibly compete in the market on equal footing with private companies.
- (2) *Mining Law for a Just Energy Transition, National Reindustrialization, and Mining for Life.* This draft bill was released for public comment on February 24, 2024, but has not yet been submitted to Congress for debate. If enacted, it would fundamentally change the legal and regulatory framework governing mining in Colombia. In our interpretation, it would repeal the current Mining

Code (Law 685 of 2001) and replace it with a new legal regime.

The above developments—whether fully realized or not—underscore that the Colombian mining industry is at a moment of significant reflection about its future, marked by considerable uncertainty. In this environment, it is crucial that associations, mining companies, and other stakeholders closely monitor developments and engage proactively, given the mining sector's vital importance to Colombia's economy and its regions.

## VENEZUELA

*Isabella Sordo and Santiago Fontiveros, Reporters*

### Possibility of Implementing Production Sharing Contracts in Venezuela for Natural Gas Fields Considering the Current Legal Framework

An essential aspect for companies initiating a natural gas production project is understanding how they can acquire the rights to explore and exploit the resource in a given country. The answer to this question depends largely on who holds the right to own and commercialize natural gas under the relevant jurisdiction.

As explained by Wright, C. J. (2019) in *International Petroleum Accounting*, the legal frameworks governing the natural gas industry around the world can generally be categorized as either concessionary (tax/royalty) systems or contractual (production/profit-sharing) systems. In concessionary systems, ownership of the resource may be transferred to the private company at the wellhead, with the state participating through taxes and royalties. In contractual systems, by contrast, the state usually retains ownership of the resource and grants the private company a right to a share of the production or revenue.

#### The System in Venezuela

Venezuela's natural gas regime follows a concessionary model, with ownership of gas deposits in the ground retained by the Republic under Article 1 of the *Ley Orgánica de Hidrocarburos Gaseosos* (1999) – Natural Gas Master Law (NGML): "The gas deposits existing in the national territory . . . belong to the Republic; they are public domain assets and therefore are inalienable and imprescriptible." However, ownership of natural gas may be transferred to private companies at the wellhead through a license (akin to a concession). For example, licenses granted by the Venezuelan Ministry of Hydrocarbons on August 15, 2001 (Resolution Nos. 119 and 120), explicitly confer on the licensee the right to "receive at wellhead, ownership of the fluids produced under the license" (Article 32(f)).

Given this concessionary structure, why consider implementing a Production Sharing Contract ("PSC") for natural gas fields? In recent years, the Venezuelan state has shown growing interest in schemes that both attract private investment and ensure that the state captures more than just royalties and taxes. Against this backdrop, PSCs have emerged as a potential mechanism, as they typically allow the state to retain a larger share of profits than traditional tax/royalty frameworks.

As described by Kaiser and Pulsipher (2004) in *Fiscal System Analysis: Concessionary and Contractual Systems Used in Offshore Petroleum Arrangements*, under a PSC the host government grants a company rights to explore, develop, and produce resources in a specific area, while retaining ownership of the resources. PSCs generally include four components: (1) royalty, (2) cost recovery, (3) profit oil/gas, and (4) tax. Royalties are computed as a percentage of gross hydrocarbon sales. The remaining production is split between the govern-

ment and the private company at a negotiated rate, and the company typically pays income tax on its share of profit gas. Thus, the state earns revenue from three main streams: royalties (and other similar fees under the NGML), taxes, and its share of production as agreed in the PSC.

#### Implementing PSC in Venezuela

Can PSCs be implemented in Venezuela under the current legal framework? The answer is yes—there is no legal provision prohibiting their use. Article 22 of the NGML explicitly allows private companies to engage in any activity across the natural gas value chain, either independently or in partnership with state-owned entities:

The activities related to the exploration and exploitation of non-associated gaseous hydrocarbons, as well as those of processing, storage, transportation, distribution, industrialization, marketing, and export, may be carried out directly by the State or entities owned by it, or by private individuals, whether national or foreign, with or without the participation of the State.

Depending on the private company's role under the PSC, it may need to secure a license or permit from the Ministry: (1) if the private company carries out exploration and exploitation activities, as the operator of the field, a license may be required under Article 24 of the NGML ("national or foreign private persons, with or without the participation of the State, who wish to carry out exploration and exploitation activities of non-associated gaseous hydrocarbons, must obtain the corresponding license from the Ministry of Hydrocarbons"); and (2) if the private com-

pany carries transportation, storage, distribution, commercialization, or export activities, a permit may be required under the NGML.

Although PSCs are not specifically regulated by the NGML, their flexibility can benefit both the state and private investors, allowing the parties to negotiate terms aligned with their respective objectives. The NGML imposes no limitation on the percentage participation of private companies beyond the 20% royalty established in Article 34.

PSCs could be applied to both greenfields and mature fields. They may be particularly attractive for mature fields previously exploited by the state-owned company but now requiring additional investment to reactivate or increase production. In such cases, the state-owned company could contribute existing infrastructure, while the private company provides funding and operational expertise. Production could then be split between the parties, each free to commercialize or use its share of gas.

While PSCs are not commonly used in Venezuela, they offer an alternative to the current licensing scheme, which often obliges licensees to sell all gas to the state—limiting their ability to monetize production. PSCs would allow the state to secure larger gas volumes without purchasing them outright and would give private producers greater flexibility to monetize their share of gas on more favorable terms.

**Editor's Note:** The reporters serve as counsel and director for Sucre Energy Group, which participates in gas-producing companies in Venezuela.



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