

# LATIN AMERICA MINERAL AND ENERGY LAW

## Newsletter

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## ARGENTINA

*Facundo Maciel Bo, Reporter*

### Regulatory Developments

#### Appointment of Authorities for the Unified Regulator

On May 5, 2026, Decree N° 318/2026 appointed the new authorities of the National Gas and Electricity Regulatory Entity (ENReGE). This body replaces the former ENRE (electricity regulator) and ENARGAS (gas regulator) with a single leadership for both sectors. Vice President Vicente Serra currently holds the presidency on an interim basis.

#### Extension of the Energy Emergency

Emergency Decree (DNU) 585/2026, signed on July 8, 2026, and published in the Official Gazette on July 13, 2026, extended the National Energy Sector emergency until December 31, 2027, citing the persistence of conditions deemed “critical.” This measure follows the extension issued in May 2025 (Decree 370/2025, in effect until July 9, 2026). It is based on findings that the system is operating with very low reserve margins—only 4.4% of the peak demand recorded in February 2025. The decree also points to an aging and inefficient generation fleet, structural limits on the transmission grid (with major substations running above 90% load), and deteriorated distribution infrastructure, since over 60% of distribution failures occur on feeders more than 25 years old. It further notes the need to keep the electricity emergency aligned with the ongoing gas-sector emergency and to preserve the tools needed to continue normalizing the wholesale electricity market, warning that failing to do so could disrupt the regulatory and financial progress made so far.

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## BOLIVIA

*Mattías Garrón, Reporter*

### Mining Investment: Toward a Competitive Regulatory Framework

For years, the debate surrounding the future of Bolivian mining focused on the country’s geological wealth. However, in modern mining, the success of a jurisdiction does not depend solely on what lies beneath the ground. It also depends on the ability of its regulatory framework to attract the capital, technology, and expertise necessary to transform those resources into productive projects. Law N° 535 represented an important effort to reorganize Bolivia’s mining regime and adapt it to the economic and institutional context of its time. More than a decade later, however, the industry faces different challenges. The energy transition, increasing competition for mining investment, the emergence of critical minerals, and the growing sophistication of financing mechanisms require a reassessment of whether certain rules continue to meet the sector’s current needs.

Consequently, the question is no longer whether Bolivia possesses mining potential. The question is whether it has the necessary conditions to compete for the investments that will make it possible to develop that potential. There are at least three areas in which this discussion is particularly relevant.

First, legal certainty must translate into operational predictability. Investors assume geological, commercial, and financial risks as a natural part of mining activity.

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## ARGENTINA

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### Súper RIGI, for New Economic Activities

The Executive Branch sent the “Súper RIGI” bill to Congress (Message 181/2026). Súper RIGI, or the Incentive Regime for Large Investments in New Industries, is a scheme that complements the original RIGI. It sets a minimum investment threshold of US\$1 billion and offers more aggressive benefits, including a 15% corporate income tax rate (versus 25% under RIGI), zero tariffs on imported inputs and intermediate goods, zero export duties from day one, and 30 years of fiscal, foreign-exchange, and customs stability. The bill targets “new economic activities,” which it defines as any industrial, technological, or service project linked to strategic technological and digital infrastructure that has a transformative impact on the national productive structure. To qualify, the project must not be developed, produced, or provided in the country as of the law’s effective date, or its stage of development must be experimental or pilot. The implementing regulations will set out the objective criteria and measurable parameters for this test.

### Adjustments to the Mining Investment Regime

On June 23, 2026, the Argentine Government enacted Decree N° 482/2026, introducing significant updates to the regulations implementing the Mining Investment Regime (Law N° 24,196). The reform seeks to modernize administrative procedures, reduce regulatory burdens, and enhance legal certainty for mining investors.

The main changes include:

- Modernization of the import regime, replacing prior authorization requirements with a sworn declaration system integrated with customs platforms.
- Improved fiscal stability procedures, clarifying approval timelines and strengthening the protection afforded by fiscal stability certificates.
- Simplification of the accelerated VAT refund regime for exploration activities, reducing documentation requirements and eliminating prior notifications.
- Expansion of the regional integration concept, increasing the permitted distance between mining operations and processing facilities to 500 kilometers.
- Environmental guarantee updates, allowing environmental insurance mechanisms to satisfy certain remediation-related obligations under the regime.
- New annual compliance requirements, including the filing of an annual sworn statement through the TAD platform together with an economic-financial report.
- Mandatory electronic legal domicile, through which all official notifications under the regime will be deemed validly served.

The decree reflects the Government’s broader effort to streamline procedures and promote investment in Argentina’s mining sector.

### San Juan’s “Local Content” Law, in Tension with the National Framework

On July 2, 2026, San Juan’s provincial legislature passed the Local Mining Development Law by a vote of 33 to 2. The law replaces the previous Law 1208-M, which was never implemented, and sets targets of 80% local employment and at least 60% in annual purchases of goods and services from compa-

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nies based in the province, subject to competitive conditions. It also creates the San Juan Mining Suppliers Registry (Re.Pro.Min.) and a transferable Fiscal Credit Certificate as an incentive. This law is part of a broader trend among provinces that goes beyond the national RIGI floor of 20% local purchasing. Santa Cruz, under its 90/10 law, requires that 90% of the workforce be provincial residents. Salta, Jujuy, and Catamarca impose 70% local-content floors. Mendoza, which has no such law, argues that these quotas are unconstitutional.

### Market Developments and Transactions

#### Privatization of Transener

The privatization process of Argentina’s principal high-voltage electricity transmission operator is now complete. On May 8, 2026 (Resolution 673/2026), the Ministry of Economy

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awarded 100% of the state's stake in Citelec—the controlling company of Transener—to the Edison Transmisión-Genneia consortium for US\$356,174,811.78. The parties signed the share purchase agreement on June 11 through Transmisión Eléctrica S.A. (TESA), and on June 22 ENReGE (Resolution 130/2026) authorized the final transfer of shares.

#### LNG and Pipelines

Southern Energy (SESA)—a consortium made up of Pan American Energy (PAE), YPF, Pampa Energía, Harbour Energy, and Golar LNG—signed a contract worth more than US\$7 billion with Germany's state-owned Securing Energy for Europe GmbH (SEFE) in February to export LNG starting in late 2027. SESA also awarded construction of the 471-km Vaca Muerta-Gulf of San Matías (Río Negro) pipeline to Sicim-Víctor Contreras for US\$530 million.

#### Vaca Muerta

In May 2026, YPF submitted the largest RIGI project to date: LLL Oil, a US\$25 billion investment to develop crude oil exports, targeting a plateau of 240,000 barrels per day starting in 2032. Other notable filings include Pampa Energía's Rincón de Aranda (US\$4.5 billion), PAE's dedicated gas pipeline (US\$1.3 billion), Tecpetrol's Los Toldos (US\$6.3 billion), the joint Oldelval/MEGA expansion (US\$740 million), and Chevron's expansion (more than US\$10 billion). The Vaca Muerta Oil Sur (VMOS) pipeline is expected to enter operation by late 2026.

#### Alma SADI

On July 7, 2026, through Resolution 155/2026, the Secretariat of Energy awarded the Alma SADI tender for 700.5 MW of battery energy storage (BESS) across 20 projects, with an estimated investment of US\$700 million. Five companies won the awards: Genneia (7 projects), DQD Energy (8), 360 Energy Solar (3), Aluar (1), and Intermepro (1). The projects are spread across seven regions of the country: Buenos Aires Province, NOA, NEA Chaco-Formosa, NEA Misiones-Corrientes, Litoral Entre Ríos, Litoral Santa Fe, and Pampa. The process, launched in March, received 235 technical bids totaling 8,338 MW—more than 11 times the tendered target—showing strong interest from private companies. This award builds on Alma-GBA, the country's first large-scale storage initiative, which allocated 713 MW at critical nodes in the Buenos Aires metropolitan area (AMBA). That project, valued at more than US\$540 million, is currently under construction.

## **BOLIVIA**

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What is far more difficult to manage are the risks arising from uncertain procedures, prolonged administrative delays, or shifting regulatory interpretations. A modern regime must ensure clear rules, due process, and institutional mechanisms that allow projects to be developed within investment horizons that often extend for decades.

Second, competitiveness also depends on the ability of the regulatory framework to facilitate investment and project development. Globally, mining projects evolve through strategic partnerships, specialized financing, corporate acquisitions, and the transfer of assets among operators with different technical and financial capabilities. When regulation excessively restricts

these dynamics, the result is often the immobilization of resources, undeveloped areas with significant potential, and investment opportunities that ultimately migrate to other markets. In an industry where investment flows toward the most competitive jurisdictions, the ability to structure complex transactions is no longer an advantage; it is a basic condition of competitiveness.

Third, Bolivia needs rules designed for the mining industry of the future. International interest in minerals linked to the energy transition has profoundly transformed the global market. Resources such as hard-rock lithium, rare earth elements, and other technology minerals present regulatory challenges that differ from those of traditional mining. The absence of regulatory frameworks capable of recognizing these particularities may become a barrier to exploration, technological development, and the arrival of new investors.

Regulatory reforms have the capacity to significantly alter the conditions under which investment decisions are made. Clearer rules, more efficient procedures, and mechanisms that provide greater legal certainty can translate directly into new projects, increased exploration, and more active participation by Bolivia in the global competition for investment. The countries that currently lead in attracting mining capital have understood that geological competitiveness must be accompanied by regulatory competitiveness.

Bolivia finds itself at a particularly important moment to reconsider certain aspects of its mining regulatory framework. The discussion surrounding regulatory modernization, legal certainty, and competitiveness reflects an unavoidable reality: attracting investment requires rules capable of responding to the dynamics of contemporary mining.

## **CHILE**

*Joaquín Corvalán Azpiazu, Reporter*

### **Publication of Law N° 21,883 on the Use of Seawater for Desalination**

On May 12, 2026, Law N° 21,883 on the use of seawater for desalination was published in the Official Gazette. The purpose of this law is to regulate the sustainable development of seawater desalination initiatives and projects, enable such uses, and contribute to improved water security, better adaptation to climate change, the protection of biodiversity, and the sustainable use of marine and coastal ecosystems.

This law also regulates the development and updating of a National Desalination Strategy and the procedure for granting a concession or special maritime designation for desalination; it further regulates the exercise of such concessions, as well as inspections, sanctions, renewals, expirations, and terminations, among other matters discussed below. It also recognizes that the sea and marine waters constitute national assets for public use and establishes a special legal framework for desalination, parallel to the Water Code.

This law is of particular importance to Chile, given that there are more than 30 desalination plants currently in operation and dozens more planned for the coming years.

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### Key Provisions of Law N° 21,883:

#### *National Desalination Strategy*

The law establishes the State's obligation to develop the National Desalination Strategy, which will contain guidelines for the sustainable development of seawater desalination projects. It must be approved by a supreme decree signed by specified ministries and must take a long-term perspective, with updates every six years. The General Directorate of Water (DGA) will be the agency responsible for drafting the proposed National Strategy.

#### *Special Maritime Concession Regime*

A special system of maritime concessions for desalination is established, granted by supreme decree following a favorable report from the General Directorate of Water (DGA). These concessions will have a maximum term of 30 years, renewable only once, and authorize the use and enjoyment of the area for the authorized activity, which may include the use of the sea, public beach land, the seabed and its subsoil, as well as rocks located both inside and outside the bay.

#### *Priority for Human Consumption*

Among the conditions for granting the concession, the General Directorate of Water (DGA) may include a provision for human consumption or sanitation of up to 5% of the desalinated water production capacity in the case of projects whose primary purpose is not the production of water for human consumption or sanitation.

#### *Legal Desalination Easement*

The law establishes a special legal easement that the concessionaire may create or impose for the construction and operation of the desalination plant; the concessionaire is also authorized to impose any relevant legal easements provided for in the Water Code. These easements grant their holders the right to occupy and fence off the land necessary for the construction, development, and implementation of all works required for the plant's operation and functioning, including water, brine, and electrical lines, as well as the opening of access roads or paths and the installation of ancillary facilities necessary for these purposes.

#### *Inspections and Penalties*

The General Directorate of Water (DGA) shall be responsible for inspecting and imposing penalties for violations of the conditions established by law and regulations governing the granting and exercise of concessions, as well as for ensuring compliance with the instructions, resolutions, and technical circulars issued regarding desalination. Violations are classified as minor, serious, and very serious.

### Effective Date and Transitional Provisions of Law N° 21,883:

The law provides for a differentiated schedule for entry into force. The general rule is that it enters into force 18 months after its publication in the Official Gazette, that is, on November 13, 2027. As an exception, Title II of the Act, concerning the National Desalination Strategy, will be governed by specific regulations, which must be issued within 18 months of its publication in the Official Gazette, that is, by November 13, 2027.

Furthermore, the general regulations of the Act must be issued within one year from the date of the Act's publication in the Official Gazette, that is, by May 13, 2027.

### **Issuance of Two Relevant Supreme Decrees on Electric Power**

#### Issuance of Supreme Decree N° 1 of 2026, Which Amends Supreme Decree N° 88 of 2019, Approving Regulations for Small-Scale Means of Generation

Notable among the relevant amendments is the inclusion of small-scale storage facilities of up to 9 MW, giving regulatory effect to Law N° 21,505 on storage, as well as the redesign of the price stabilization mechanism. The decree also specifically regulates the treatment of energy withdrawals for charging storage systems and updates key definitions—such as “Self-Dispatch” and “Self-Producer”—to explicitly incorporate storage systems. It adjusts the entire connection procedure to allow existing Small Distributed Generation Facilities (PMGDs) to integrate storage through a simplified process, while also adjusting numerous administrative deadlines throughout the regulations.

The transitional provisions safeguard the rights of PMGDs already covered by the former stabilization mechanism, keeping those rules in effect until July 2034 unless they modify their connection conditions, while the new connection rules in Title II will take effect 30 days after publication.

#### Issuance of Supreme Decree N° 32 of 2025, Which Amends Supreme Decree N° 125 of 2017, Approving the Regulations on the Coordination and Operation of the National Electric System

The amendments to the aforementioned regulations primarily address the need to implement Law N° 21,505, which promotes energy storage and electromobility, and to regulate Generation-Consumption Systems (SGCs) as a new category of electrical installation for the purpose of enabling their connection. In addition, amendments related to the coordination and operation of the National Electric System are incorporated into the aforementioned regulations with the aim of ensuring service reliability.

Among other matters, a new chapter on installations with self-consumption schemes is included; economic dispatch and operational scheduling are regulated; the storage regime is restructured; and rules regarding the “under construction” declaration and the project life cycle, economic order, marginal costs, and valuation are established. The operation of the short-term market and guarantees are also regulated. The decree further establishes that the Competition Monitoring Unit of the National Electricity Coordinator may file complaints directly with the National Economic Prosecutor's Office (FNE).

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*Alejandro Montt, Reporter*

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### **Government Introduces Omnibus “National Reconstruction” Bill Cutting the Corporate Tax Rate, Reviving 25-Year Tax Invariability, and Streamlining Environmental Permitting**

On April 22, 2026, President José Antonio Kast submitted to the Chamber of Deputies the bill “for National Reconstruction and Economic and Social Development” (Boletín N° 18216-05). Although the bill is a broad, omnibus measure that also addresses housing and employment, several of its provisions are of direct relevance to natural resources and energy investors. On May 20, 2026, the Chamber approved the bill in general and in particular, completing the first constitutional stage. In late June 2026, the Senate approved it in general and opened the article-by-article debate in its Finance, Labor, and Environment Committees, with the government seeking to have it dispatched during July. Several provisions summarized below were added or refined by amendment during the discussions in the Cham-

ber, and core elements, notably the duration of the tax-invariability regime and the phase-in of the corporate-rate cut, remain under negotiation in the Senate.

#### Corporate Tax and Reintegration

The bill provides for a phased reduction of the first-category (corporate) income tax rate from 27% to 23%, amending the Income Tax Law (contained in Decree Law N° 824). Under the sixth transitional article, the general-regime rate is set at 27% for commercial year 2026, 25.5% for 2027, and 24% for 2028, reaching a permanent 23% beginning in commercial year 2029; the differentiated regime for small and medium-sized enterprises is maintained, with its transitional rates under Law N° 21,755 converging to the same rate beginning in 2029. The bill also restores full integration between the corporate and shareholder levels of the income tax system.

#### Twenty-Five-Year Tax Invariability

The bill creates a new tax-invariability regime, formalized through a contract with the Ministry of Finance, available to domestic and foreign investors developing projects of at least US\$50 million in mining, industry, forestry, energy, infrastructure, telecommunications, research, technological development, and medical or scientific fields, among others. The invariability runs for 25 years from the project's start-up (i.e., from when it first earns gross operating income). The regime guarantees a total effective income tax burden equal to that in force on the date the contract is signed, excluding the mining royalty and the specific mining tax. It also stabilizes essential elements of the system (asset depreciation, loss carry-forward, and organization and start-up expenses) and the VAT and customs treatment of imported machinery and equipment for as long as the investment takes. The benefit may extend to "connected projects" (those forming a single economic exploitation unit through physical proximity, shared infrastructure, or economic interdependence, with separate accounting). For mining projects, the bill adds express invariability over the mining royalty, new mining-specific taxes, and more burdensome changes to exploration and exploitation patents. An investor may waive the regime once and return to the common regime. Projects begun between the date of the Message and the law's publication may opt in by applying within six months of publication, and the regime would take effect on January 1, 2027 (or on the law's entry into force, if later).

This mechanism revives the logic of the former Foreign Investment Statute (Decree Law N° 600), which offered contract-based tax stability that was historically important to the mining sector.

#### Permitting and Environmental Review

As approved by the Chamber, the bill couples several measures aimed at shortening permitting and reducing post-approval litigation risk.

- (1) It cuts to six months (from the general two-year period) the window for administrative invalidation of the sectoral authorizations referred to in article 5, N° 3, of Law N° 21,770 (the Framework Law on Sectoral Authorizations, published September 29, 2025).
- (2) With respect to the SEIA itself, amendments to Law N° 19,300 provide that modifications to a project already holding a favorable Environmental Qualification Resolution (RCA) require a fresh assessment only where impacts change substantively or, if the modification is a technological change, only if it significantly increases environmental burdens; limit the number of correction rounds ("adendas") in an evaluation; add a new article

24 bis barring administrative recourse or review against a favorable RCA (leaving only the specific environmental remedies); and strengthen the technical authority of the Environmental Assessment Service over other agencies during evaluation. The bill also limits to 30 calendar days—renewable only by reasoned resolution, up to a total of six months—the precautionary measures that can halt a project holding a favorable RCA. It also makes a conforming change to Law N° 20,600 (which created the Environmental Courts) regarding the invalidation of environmental administrative acts, except with respect to the RCA.

- (3) The most contested environmental provision creates a reimbursement mechanism (arts. 14–18): where an RCA is annulled by a final judgment, the holder may claim restitution of the direct and effective expenses incurred in executing the project, unless the annulment rests on false, incomplete, or inaccurate information attributable to the holder. Claims are lodged with the Ministry of Finance within 30 business days, quantified by a three-member expert commission on the basis of separate project accounting, and subject to review by the Santiago Court of Appeals.

#### **Bill Would Overhaul the Mining Patents Regime and Reverse Part of the 2022–2023 Reform**

On May 18, 2026, the Executive submitted a bill amending the Mining Code and Laws N° 21,420 and N° 21,649 "in matters of mining amparo and other matters" (Boletín N° 18259-08). The bill responds to effects attributed to the patent increases introduced by Laws N° 21,420 and N° 21,649: according to the Message, between 2024 and 2025, the number of concessions placed on the auction list for nonpayment rose 45% for exploitation concessions and 75% for exploration concessions (with auctioned areas increasing by 63% and 99%, respectively, compared with 2023), while ownership shifted away from small and medium-sized miners.

#### New Exploitation-Patent Structure

The annual exploitation patent would be set at 0.4 monthly tax unit (UTM) per full hectare, reduced to 0.1 UTM per full hectare for exploitation mining concessions (pertenencias) that fall within one of three situations: (a) those included in a mining development project involving exploration, prospecting, construction, exploitation, mineral processing, or closure, where the holder holds or has filed—and had admitted for processing—a permit or form before the National Geology and Mining Service (SERNAGEOMIN), a sworn statement, or an alternative enabling technique under Law N° 21,770; (b) those included in a project holding a favorable RCA or admitted for processing in the SEIA under Law N° 19,300; or (c) those for which geological information has been delivered under article 21 of the Mining Code and certified by the Service, with this last benefit applying for two consecutive patent periods. The bill eliminates the progressive patent scale currently contained in article 142 bis, under which the exploitation patent rises from 0.4 UTM per hectare in the first five years to as much as 12 UTM per hectare beginning in the thirty-first year of the concession. A UTM is an inflation-indexed unit of account used primarily for tax, legal, and regulatory purposes in Chile; e.g., at current values 1 UTM is equivalent to approximately US\$75.

#### Repeal of the 500-Hectare Rebate and Related Changes

The bill repeals article 142 ter (the reduced patent for holders of one or more pertenencias not exceeding 500 hectares), with transitional grandfathering for current beneficiaries, and

correspondingly repeals the second transitional article of Law N° 21,649 and article 10, Nos. 13 and 14, of Law N° 21,420. It also amends article 9 so that the presence of hydrocarbons within a concession is reported to the Ministry of Energy rather than the Ministry of Mining, and it reverses the repeal of Mining Code articles 118 and 119 concerning survey monuments (hitos de mensura) and their replacement that Law N° 21,420 had ordered.

#### Status

The bill's substantive article 142 bis provisions would take effect one year after publication (transitional art. 2), with the Mining Code Regulation to be amended within six months (transitional art. 3); current article 142 ter beneficiaries would retain the benefit for the remaining term (transitional art. 4). The bill is in its first constitutional stage before the Chamber of Deputies.

#### Interaction with the Invariability Regime

The two bills are best read together. The 25-year invariability regime in the National Reconstruction bill discussed above would allow qualifying investors—those developing projects of at least US\$50 million—to lock in exploitation and exploration patent levels, among other tax elements, by contract, while the mining patents bill would restructure patent levels for holders generally. If both are enacted, the practical result would be a two-track patent landscape: large, contract-holding investors insulated from future patent changes and the remainder subject to the reformed article 142 bis.

#### **Additional Developments**

##### Water—DGA Tightens, Then Reverses, the Test for Proving Use of Water Rights

Under the 2022 Water Code reform (Law N° 21,435), water-use rights that remain on the annual non-use list are extinguished after five years for consumptive rights or 10 years for non-consumptive rights, counted from first inclusion; for rights first listed in 2023, that period runs to 2027, and use is assessed each year. Because the statutory presumption of use turns on whether the holder has works “apt and sufficient” for effective use—a factual standard consistently applied by the higher courts (see, e.g., Supreme Court Rol N° 53,398-2025)—the criteria for proving those works became a live issue. In February 2026, the General Water Directorate (DGA) issued Circular N° 1 (February 6, 2026), which repealed the DGA's 2023 reconsideration criteria and instructed that works would be treated as apt and sufficient only when they had received final acceptance (“recepción”) from the DGA itself. This criterion was criticized as substituting an administrative test for the statutory material standard and, because the underlying permits and acceptance can take years, could expose rights that are in fact in use to extinction. On April 15, 2026, the DGA reversed course: Circular N° 5 repealed Circular N° 1, and Circular N° 6 restored the material standard, confirming that the absence of completed administrative acceptance does not, by itself, render a right subject to the fee where other evidence (technical reports, georeferenced photographs, extraction-monitoring records, or any other suitable means) establishes apt and sufficient works. Although a significant correction, Circular N° 6 retained a heightened evidentiary threshold for major hydraulic works.

##### Lithium—Pro-Investment Tone, State-Centric Model Unchanged

The new administration combined the Economy and Mining portfolios under a single minister and has signaled a more investment-oriented posture. The underlying regime, however, remains unchanged: lithium is non-concessible, and access continues to depend on State participation or a Special Lithium

Operation Contract (CEOL), with the Chilean Nuclear Energy Commission (CCHEN) retaining authority over sale and export.

## **COLOMBIA**

*Tomás Augusto de la Calle Botero, Reporter*

### **How Colombia Planned Its Way Out of Gas Self-Sufficiency**

#### Introduction

“The bad news is we didn't find oil; the good news is we didn't find gas,” the geologist would tell the CEO as the wildcat well finished drilling—or so the old adage went when exploration ventured into undeveloped gas markets. That held true in Colombia until the turn of the century, but not for the two decades since, as consuming markets matured and became not just ready to absorb the gas but dependent on it. Today, the joke is no longer funny. Far from being an unwanted by-product, natural gas has become a strategic commodity whose scarcity has emerged as one of Colombia's most pressing energy challenges. Last June, the National Hydrocarbons Agency (ANH) reported that Colombia's proven natural gas reserves had declined from 2.0 Tcf at year-end 2024 to 1.7 Tcf at year-end 2025. The latter figure represents barely one-fifth of the country's all-time peak of 7.7 Tcf in 1996 and less than one-third of this century's peak of 5.7 Tcf in 2012.

Over the three decades following the creation of the Mining and Energy Planning Unit (UPME), Colombia's proven natural gas reserves and domestic demand followed increasingly divergent trajectories. If planning has seldom been Colombia's comparative advantage, the question posed in this report is not whether the country produced plans, but whether its institutional framework remained capable of integrating planning, policy, and execution as the gas sector evolved.

#### Whose Planning Is It Anyway?

The early 1990s confronted Colombia with two seemingly contradictory realities. Even as the country celebrated the discovery of giant oil and gas fields, it was enduring an 11-month electricity rationing crisis. The “apagón” laid bare the devastating economic—and political—cost of inadequate long-term planning. The crisis prompted Congress to enact sweeping market reforms, creating—among other institutional pillars—the UPME and the Energy and Gas Regulatory Commission (CREG) (by “Energy,” the legislature actually meant “Electricity”). Although born from an electricity emergency, the UPME was deliberately entrusted with a far broader and more sophisticated mission: to plan Colombia's energy system as an integrated whole.

In practice, however, preserving that integrated vision proved far more difficult than creating it. During its first decade (1993–2003), the UPME naturally concentrated on the electricity sector, while natural gas planning largely followed Ecopetrol's upstream outlook, which effectively became the de facto planning baseline. This arrangement was sustained by the belief that, given its abundance, gas required little strategic attention. As its advocates pointed out, the reserves-to-production ratio at the time exceeded 40 years.

The institutional landscape changed in 2003 with the creation of the National Hydrocarbons Agency (ANH). Besides its core mission, the ANH was expressly entrusted with undertaking “[t]he actions necessary to seek adequate supply of the national demand for hydrocarbons” (art. 5.12, Decree 1760 of 2003). The decree kept the UPME in the picture by requiring the ANH to support its supply-and-demand studies, but the line between planning and administration had now become blurred. No

provision formally transferred the UPME's planning mandate to the ANH; yet an agency explicitly charged with "seeking adequate supply" inevitably raised the question of who was ultimately accountable for achieving it.

#### Can the Security of Gas Supply Be Measured?

The first regulatory attempt to do so came with Decree 3428 of 2003, although its immediate motivation was gas exports, as Colombia and Venezuela were developing a cross-border gas pipeline linking the two countries. Article 4 provided: "For purposes of export, and with the object of guaranteeing the national supply of natural gas, natural gas producers . . . may freely dispose of proved reserves only when the Reference R/P Factor is greater than seven (7) years." Five years later, Decree 2687 of 2008 retained the same seven-year R/P threshold while requiring the UPME to prepare a 10-year Gas Supply Plan, thereby complementing a quantitative security criterion with a formal long-term planning instrument.

Decree 2100 of 2011 further refined the framework. For the purposes relevant here, it introduced two important changes. First, it renamed the Gas Supply Plan the "Indicative Gas Supply Plan" (Plan Indicativo de Abastecimiento), required it to be updated annually, and provided that it would be adopted by the MME. Second, it instructed the MME to "design an indicator that takes into account, among other aspects, natural gas reserves, demand behavior, and gas exports and imports," to be calculated and published every year by July 30.

Later that year, Resolution 181704 of 2011 established the indicator, naming it the Natural Gas Supply Index (Índice de Abastecimiento de Gas Natural—IAGN). In substance, however, it was little more than a modified R/P ratio: instead of relying solely on proved reserves, it also incorporated 50% of probable reserves, thereby producing a more optimistic measure of supply adequacy. The MME published the IAGN for 2011 (15.0 years), 2012 (14.2 years), and 2013 (15.7 years). In 2014, however, the government declared natural gas rationing through Resolution 90456, and—perhaps out of institutional embarrassment—the indicator was never published again.

Also in 2011, Decree 4137 reorganized the ANH and quietly removed its explicit responsibility under the aforementioned article 5.12, replacing it with the narrower duty "to contribute to national energy security." The legal distinction is subtle but important: lawyers would describe it as an obligation of means rather than an obligation of result. Two years later, Decree 1617 of 2013 assigned responsibility for supply to the MME, empowering it "[t]o carry out the actions necessary to give continuity to the supply of hydrocarbons and fuels, including natural gas, derivative fuels and biofuels." In practice, the reform acknowledged what had always been true: regardless of the institutional architecture, ultimate political accountability for security of supply rests with the MME. If there is one guarantee in Colombia's energy legislation, it is that the word "guarantee" itself will almost always be avoided.

#### Plan Well, but Drill Wells

While planners sat in Bogotá designing indicative indexes, the physical reality of gas security remained bound to a simpler truth: plans do not produce molecules; only drill bits do.

Exploration has occurred across Colombia's principal gas-prone basins, both offshore and onshore: the Lower Magdalena Valley (VIM), Sinú–San Jacinto (SSJ), Piedemonte, La Guajira (GUA), and Cesar–Ranchería, home to Drummond's coal-bed methane project. With the exception of the capital-intensive offshore campaign, the most sustained exploration effort has been undertaken by Ecopetrol in the Piedemonte Basin. Accord-

ing to a 2024 interview by the USO, Ecopetrol's labor union, the company had already spent US\$250–\$300 million on unsuccessful exploration wells in that basin alone. That amount does not include the apparently dry Floreña N-18Y ST-1 well, completed in 2026.

#### From Duopoly to Monopoly

Since Colombia's natural gas reserves peaked in 2012, reserves booked by Ecopetrol, Canacol, and the industry's remaining producers have declined at a compound annual rate of 8.8%. It is essentially a two-player game: Ecopetrol and Canacol. Although promising entrants—including NG Energy, M&P, and Lewis Energy—are beginning to appear, they remain too small to meaningfully change the picture. Ironically, the market may soon cease to be even a duopoly. With Canacol now under severe financial stress, Colombia risks seeing its domestic upstream gas sector evolve from a duopoly into a de facto monopoly. Imported LNG can replace Colombian molecules, but it cannot replace the royalties, taxes, investment, and employment that those molecules would have generated had they been discovered at home.

#### Conclusion

From 2011 onward, Colombia did not suffer from a shortage of planning but from a shortage of political commitment and implementation. The successive Indicative Gas Supply Plans (IGSPs) consistently identified the investments and infrastructure required to secure future supply. Yet, by design, they were indicative rather than binding. The UPME could diagnose future shortages and recommend the infrastructure needed to address them, but it lacked the authority to ensure that those projects were actually built. The Pacific regasification terminal illustrates this institutional limitation: despite being repeatedly identified as necessary and tendered twice, the project attracted no bidders and remained unbuilt. From the UPME's perspective, the planning exercise had been completed; implementation simply never followed.

Yet the reverse also occurred. The two most recent IGSPs adopted by the MME—the 2019–2028 Plan (2020) and the 2023–2032 Plan (2025)—failed to identify the only LNG import project that is actually being built today: the Puerto Bahía regasification terminal on the Atlantic coast. The disconnect therefore ran both ways: projects identified by the planner were never executed, while the most advanced project eventually undertaken emerged largely outside the formal planning framework.

At the same time, planning responsibilities became progressively compartmentalized across institutions. The UPME largely treated upstream projections as exogenous inputs provided by the ANH rather than as variables that should themselves form part of an integrated planning exercise. This institutional limitation is reflected even in the IGSP's stated objective of promoting exploration and production. As the UPME explains on its website, one of the Plan's objectives is the "Promotion of E&P—incentivizing exploration for new reserves and production in existing fields." In practice, however, the IGSP lacks the regulatory, fiscal, and contractual instruments required to influence those decisions. Consequently, some of the most important determinants of future domestic gas supply—notably the incentives governing upstream development—remained outside the practical reach of the planning process.

What had originally been conceived as an integrated energy-planning framework gradually evolved into a fragmented institutional architecture, leaving no single authority responsible for ensuring that all the conditions necessary for long-term gas

security—from exploration incentives to transportation infrastructure—evolved coherently.

The result is today's precarious gas outlook: a situation that was neither unforeseen nor unforeseeable, but largely foreseen and insufficiently acted upon. Although the LNG import terminal has so far prevented a physical supply crisis, Colombia now faces a widening structural gap as mature fields decline, increasing its dependence on imported gas and exposing consumers to international price volatility despite the country's significant undeveloped domestic gas resources.

The central lesson is therefore institutional rather than geological. Colombia's predicament is not fundamentally one of resource scarcity, but of fragmented governance. The challenge was never simply to produce better plans, but to preserve an institutional framework capable of integrating the entire gas value chain and, above all, translating technical foresight into coordinated public policy and timely execution. Without such integration, planning risks becoming little more than an exercise in accurately forecasting a crisis that no institution is empowered to prevent.

At the risk of borrowing a slogan that has acquired an entirely different political life, perhaps Colombia should launch the "MUGA" movement: "Make UPME Great Again."

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*Santiago González & Martín Jaramillo, Reporters*

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## **Recent Mining, Electricity, Gas, and Energy Transition Regulatory Developments**

Between June and July 2026, Colombian mining and energy authorities issued or advanced several measures with direct relevance to project development, market operation, system reliability, mineral title administration, gas transportation, and the integration of new energy technologies. The following nine developments are the most relevant for practitioners and market participants in the mining, electricity, gas, and energy transition sectors.

### ANM Resolution N° 2261/2026: Economic Capacity for Mining Concession Proposals and Assignments

On June 17, 2026, the National Mining Agency (Agencia Nacional de Minería or ANM) issued Resolution N° 2261/2026, establishing updated criteria for evaluating the economic capacity of applicants for mining concession contracts and requests involving assignments of mining rights or mining areas. The Resolution defines economic capacity as the ability to demonstrate sufficient economic resources or financial support to carry out the mining project under the applicable technical and legal conditions. It applies to proposals and assignment requests filed after its entry into force and allows applicants or assignees to rely on a broader range of financial support mechanisms, including support from a parent or controlling company, subordinated entities, a contractually-linked investor, a standby letter of credit, a committed credit line, or a trust structure, provided that the corresponding supporting documentation is submitted.

For mining companies, investors, lenders, and counsel, the Resolution is significant because it brings the economic capacity test closer to the financing structures commonly used in mineral exploration and project development. Special-purpose vehicles often do not hold substantial assets at the time of application and instead rely on sponsors, controlling entities, affiliated companies, or investors to support early-stage expenditures. By recognizing these forms of backing, the ANM creates

a more practical pathway for applicants to demonstrate financial capability, while also making it more important to prepare robust corporate, contractual, and financial documentation at the time of filing.

The Resolution is one of the most important mining title administration measures of the period because it affects both entry into the Colombian mining sector and the transferability of mining rights. By repealing Resolution N° 352/2018, as amended by Resolution N° 1007/2023, and establishing a transition regime for pending matters, the ANM is moving toward a more flexible, investment-sensitive, and documented economic capacity framework. Its practical effect will depend on how the ANM applies the new criteria in concession, assignment, and area-transfer proceedings, but the measure should be viewed as a material development for mining project structuring and due diligence in Colombia.

### ANM Circular VSC N° 000004/2026 and ANM Resolution N° 759/2024: Mineral Traceability and Technology Operators

The ANM continued implementation of Colombia's Mineral Traceability Platform by advancing the authorization process for Technology Operators for Mineral Traceability (Operadores Tecnológicos de Trazabilidad de Minerales or OTTM). Circular VSC N° 000004 of 2026 extended the timetable for reviewing corrected or supplemented submissions by applicants seeking OTTM authorization in connection with the broader traceability framework established under ANM Resolution N° 759 of October 28, 2024. The traceability platform is intended to record mineral commercialization transactions online, verify in real time the quantity of minerals traded, and help verify that minerals originate from authorized mining operations.

For mineral producers, traders, purchasers, exporters, and compliance teams, the traceability framework has practical implications for documentation, reporting, supply-chain due diligence, and representations concerning mineral origin. The extension of the OTTM evaluation timetable is procedural, but it matters because the effectiveness of the traceability system will depend in part on the number, capacity, and reliability of technology operators authorized to provide the service. Market participants should therefore treat the timetable adjustment not as an isolated administrative extension but as part of a broader implementation process that may affect commercialization practices and compliance controls.

Mineral traceability remains a central compliance and enforcement tool in Colombia's mining sector. Although the Circular primarily adjusts procedural deadlines, the underlying platform is relevant to legal practitioners because it may affect contracting, commercialization, titleholder compliance, anti-illegal-mining controls, and mineral-origin representations in domestic and international transactions. As Colombia continues to strengthen oversight of mineral supply chains, the development of the OTTM system should remain a priority for mining operators and transactional counsel.

### CREG Resolution N° 101 113/2026: Battery Energy Storage Systems in the National Interconnected System

On June 19, 2026, the Energy and Gas Regulatory Commission (Comisión de Regulación de Energía y Gas or CREG) issued Resolution N° 101 113/2026, defining rules for the installation, operation, and commercial treatment of Battery Energy Storage Systems (Sistemas de Almacenamiento de Energía Eléctrica con Baterías or SAEB) in the National Interconnected System (Sistema Interconectado Nacional or SIN). The Resolution replaces the earlier framework under CREG Resolution N° 098/2019 and regulates SAEB as network assets, independent

assets, and components of hybrid generation resources. It includes rules on market participation, connection, dispatch, metering, ancillary services, technical requirements, guarantees, and responsibilities for operation, maintenance, and availability.

The Resolution is highly relevant to storage developers, generators, transmission and distribution operators, investors, and market agents because it creates the legal and commercial architecture for incorporating battery storage into Colombia's power system. It also addresses competition concerns by requiring generators that represent independent SAEB before the wholesale market to publish objective, transparent, and nondiscriminatory conditions for commercial representation, following recommendations from the Superintendence of Industry and Commerce (Superintendencia de Industria y Comercio or SIC). This is particularly important because storage assets may be owned by new entrants, while their participation in the wholesale market may depend on representation by existing market agents.

This is one of the most consequential electricity-sector measures of the period. It moves battery storage from a limited network-deferral tool into a broader regulatory category capable of supporting reliability, hybrid generation, ancillary services, and energy-transition investment. The Resolution also preserves CREG's ability to evaluate market results and consider additional commercial services over time, which suggests that the framework may evolve as the first SAEB projects are developed and operated. For practitioners, the measure will be central to project structuring, grid-access analysis, market-participation strategy, and risk allocation in storage and hybrid-generation transactions.

#### CREG Resolution N° 101 111/2026: Permanent Demand Response Program in the Energy Exchange

CREG established a permanent program for active participation of demand in the Colombian energy exchange. Under CREG Resolution N° 101 111/2026, users may participate directly or through an aggregated demand-response representative by offering voluntary reductions in consumption for inclusion in the wholesale electricity market. The Resolution regulates participation criteria, offer submission and acceptance, baseline measurement, verification, remuneration, deviations, metering requirements, and related cost allocation.

The measure creates a new commercial opportunity for large users, aggregators, retailers, and energy-service providers capable of monetizing flexible consumption. It also gives system operators an additional resource for managing scarcity, high-price periods, and reliability events, while requiring practitioners to focus on baseline design, metering, representation arrangements, settlement rules, and risk allocation in demand-response contracts. For industrial and commercial users, the program may also create incentives to invest in energy-management systems, operational flexibility, and internal protocols for reducing load when market conditions justify participation.

The permanent demand-response program is an important step toward a more flexible and efficient electricity market. Together with the SAEB framework, it shows that Colombia is expanding the set of resources that can contribute to reliability beyond conventional generation and network expansion. The program's success will depend on the credibility of baseline methodologies, the ability of representatives to aggregate and verify reductions, and the market's confidence that demand reductions can be treated as dependable operational resources.

#### CREG Resolution N° 101 112/2026: Reservoir Level Index for Activation of the Shortage Risk Statute

CREG modified the Reservoir Level Index (Índice de Nivel de Embalse or NE) used to activate Colombia's Shortage Risk Statute. CREG Resolution N° 101 112/2026 adjusts the NE index applicable to the activation of shortage-risk measures under the existing reliability framework, with the purpose of refining the trigger used to determine whether reservoir conditions justify regulatory intervention. The measure is technical in design, but it is closely connected to the operation of a power system in which reservoir levels remain central to reliability assessment.

For generators, retailers, large users, and system operators, the change matters because Colombia's electricity system remains highly sensitive to hydrology. A modification to the NE index can affect when scarcity-risk measures are triggered, how market participants assess exposure to hydrological stress, and how generators and commercial agents manage contractual, operational, and regulatory risk during periods of low reservoir levels. The adjustment may also influence expectations in forward contracting, fuel procurement by thermal generators, and the evaluation of complementary reliability tools such as demand response and storage.

While the Resolution is technically narrow in scope, its implications for the sector are significant. It reflects CREG's continuing effort to adjust reliability instruments in response to operational experience and the need for clear signals in a hydro-dependent market exposed to climate variability and El Niño-related risks. In that sense, the measure should be read as part of a broader reliability agenda that includes reservoir monitoring, demand-side participation, gas-supply coordination, and the incorporation of flexible resources into the electricity system.

#### UPME Resolution N° 000443/2026: Connection Procedure for Final Users

On June 17, 2026, the Mining and Energy Planning Unit (Unidad de Planeación Minero Energética or UPME) issued Resolution N° 000443/2026, establishing the procedure for resolving definitive and temporary connection requests by final users to the National Transmission System and Regional Transmission System. The Resolution implements the connection framework under CREG Resolution N° 075/2021, as amended by CREG Resolution N° 101 020/2023, and repeals UPME Resolutions N° 1041/2024 and N° 757/2025.

The Resolution is relevant to large consumers, industrial facilities, electrification projects, data centers, mining-related loads, mobility infrastructure, and other users requiring access to transmission or regional transmission capacity. It establishes procedural timing, filing requirements, evaluation rules, capacity acceptance, temporary connection pathways, guarantees, transition rules, and exceptional filing windows, making connection strategy a central issue in project development. Developers and counsel will need to assess not only whether capacity is technically available but also how the procedural calendar and supporting documentation affect project schedules and investment commitments.

Grid access is increasingly a limiting factor for energy-intensive projects and electrification initiatives. By updating the procedure for final-user connections, UPME is addressing a practical bottleneck that directly affects investment planning, project schedules, and the ability of new loads to connect to the SIN. The Resolution is therefore relevant not only to electricity lawyers but also to practitioners advising on industrial expansion, mining electrification, transportation electrification, and

other projects whose viability depends on timely and reliable access to transmission capacity.

CREG Resolution N° 102 026/2026: Extension of Transitory Gas Transportation Contracting Rules

On June 12, 2026, CREG issued Resolution N° 102 026/2026, extending the transitory validity of article 45 of CREG Resolution N° 102 015/2025. Article 45 allows agents, during the quarter in which gas transportation capacity negotiations occur under CREG Resolution N° 185/2020, to negotiate transportation-capacity contracts at any time during the standard quarter, provided that performance is limited to that period. The new Resolution keeps that mechanism in force for four additional Standard Negotiation Quarters beginning September 1, 2026, and ending August 31, 2027.

The measure is relevant to gas producers, marketers, transporters, thermal generators, large consumers, and gas-market counsel because it preserves short-term flexibility in firm transportation-capacity contracting. Several market participants requested that the mechanism become permanent, arguing that it had been useful for operational contracting needs. CREG, however, concluded that a definitive decision requires further evaluation of incentives, capacity use, and consistency with the broader transportation-negotiation framework.

The Resolution reflects a cautious regulatory approach to gas-market flexibility. It preserves a mechanism that market participants consider useful while allowing CREG additional time to determine whether short-term firm transportation contracting should become permanent, be modified, or be eliminated. For practitioners, the measure is relevant because it affects the design of short-term supply and transportation arrangements, especially in a market where gas availability, transportation constraints, and thermal-generation needs increasingly require more adaptive contracting tools.

Ministry of Mines and Energy Resolution N° 40267/2026: Natural Gas Supply Measures During Scheduled Regasification Maintenance

The Ministry of Mines and Energy adopted temporary measures for natural gas supply in connection with scheduled maintenance of Colombia's regasification infrastructure in 2026. The measure addresses the planned maintenance of the Cartagena regasification facility operated by Sociedad Portuaria El Cayao S.A. E.S.P. (SPEC), scheduled for July 30 to August 3, 2026, and includes information-reporting, coordination, and operational measures intended to protect essential demand and electricity supply.

The measure is important for natural gas producers, marketers, transporters, thermal generators, demand-response representatives, network operators, and large gas consumers because it coordinates gas availability, thermal-generation needs, and essential-demand protection during a planned infrastructure outage. It also illustrates the operational link between gas-system reliability and electricity-system reliability, especially in the Caribbean region and for thermal plants dependent on imported gas. Practitioners should pay particular attention to the allocation of responsibilities among market participants, the treatment of firm and non-firm obligations, and the interface between gas-supply measures and electricity-market reliability tools.

The Resolution is a practical example of reliability regulation in an increasingly interdependent gas and power system. Its relevance lies less in creating a permanent market rule than in demonstrating how authorities may use temporary coordination measures to manage infrastructure outages that could

affect essential public services. In the Colombian context, where imported gas can be critical for thermal generation during hydrological or operational stress, this type of measure is likely to remain important in future reliability planning and emergency preparedness.

CREG Circular N° 294/2026: Hydrogen Blending in the National Gas Transportation System

CREG published a technical study on pipeline integrity for purposes of evaluating the percentages of hydrogen that could be permitted in blends of hydrogen and natural gas in Colombia's National Transportation System. CREG Circular N° 294/2026 made available the final technical report and calculation model for the analysis of hydrogen blending in gas transportation infrastructure, including impacts on infrastructure integrity, maintenance, investment, and operating costs.

The Circular is relevant to gas transporters, hydrogen developers, industrial users, pipeline-integrity specialists, and energy-transition investors because it begins to define the technical basis for using existing gas infrastructure as a potential hydrogen-carrier system. Practitioners should treat the study as an early regulatory signal rather than a complete market framework, but it may inform project design, pipeline assessments, blending pilots, safety analysis, and future tariff or access discussions. The publication also gives market participants an opportunity to engage with CREG on the technical, economic, and operational assumptions that may shape future hydrogen regulation.

Hydrogen blending remains at an early stage in Colombia, but the Circular is important because it moves the discussion from policy ambition toward technical feasibility. Together with the SAEB regulation, it confirms that CREG is beginning to address the infrastructure and market-design issues required for the next phase of Colombia's energy transition. The study may ultimately help determine whether Colombia can use parts of its existing natural gas network to support hydrogen development or whether dedicated infrastructure and separate regulatory treatment will be required.

## ECUADOR

*Maria del Mar Heredia, Reporter*

**Ecuador's Electricity Sector Faces Renewed Reliability Challenges**

Ecuador's electricity sector has once again come under scrutiny following recent technical assessments issued by the National Electricity Operator (CENACE), which highlight persistent challenges affecting the reliability of the National Interconnected System (SNI). Although the government has stated that widespread electricity rationing is not currently anticipated, the assessments underscore the structural vulnerabilities that continue to affect the sector following the energy crisis experienced in recent years.

On March 6, 2026, CENACE submitted a technical report warning of the urgent need for additional investment in Ecuador's electricity system to preserve system reliability and reduce the risk of future supply interruptions. According to the report, the transmission and distribution network lacks an ambitious expansion plan capable of accommodating the country's growing electricity demand and ensuring the timely incorporation of critical infrastructure.

The report also identifies increasing pressure on the electricity grid resulting from transmission constraints, limited reserve margins, dependence on thermal generation during peak-

demand periods, and maintenance requirements affecting existing infrastructure. These factors collectively reduce the system's operational flexibility and increase the importance of timely infrastructure investments.

These developments have reinforced the government's efforts to promote additional investment in generation, transmission, and system reliability. Authorities continue to encourage the development of new renewable and thermal generation projects while evaluating measures aimed at strengthening Ecuador's long-term energy security and operational resilience.

From a legal and regulatory perspective, the current situation may accelerate procurement and contracting opportunities for electricity infrastructure projects, facilitate permitting processes for strategic investments, and lead to additional regulatory reforms concerning system reliability, transmission planning, dispatch rules, and incentives for private-sector participation.

For investors, developers, lenders, and other market participants, these developments highlight the increasing importance of monitoring forthcoming regulatory initiatives and public procurement processes. As Ecuador seeks to expand and modernize its electricity infrastructure, the implementation of these measures is expected to play a significant role in shaping investment opportunities across the country's power sector during the remainder of 2026.

#### **Ecuador's New Upstream Investment Strategy: Renewed Opportunities for Production Sharing and Strategic Partnerships**

Ecuador is reshaping its hydrocarbons investment strategy by signaling a renewed openness to greater private participation in the upstream sector through more flexible contractual arrangements, including production-sharing contracts, strategic partnerships, and other risk-sharing mechanisms. While Ecuador's Hydrocarbons Law has long recognized participation contracts as one of the contractual models available for exploration and exploitation activities, public policy over the past decade overwhelmingly favored service contracts, under which contractors receive a fixed fee while the State retains the economic benefits derived from production.

The current administration has adopted a more investment-oriented approach aimed at reversing declining crude oil production, attracting foreign capital, and incorporating new technologies into Ecuador's mature oil fields. This policy reflects the government's objective of strengthening the country's hydrocarbons sector while preserving State ownership of natural resources, in accordance with the Constitution.

The government's renewed approach became evident during the proposed development of the Sacha Block, Ecuador's largest producing oil field. In early 2025, the government announced its intention to award a 20-year production-sharing contract to an international consortium, describing the project as a strategic initiative to increase production through significant private investment and technology transfer.

Although the proposed production-sharing contract for the Sacha Block was never executed, the initiative marked an important shift in the government's approach to upstream investment. Rather than abandoning this policy following the unsuccessful process, the government has continued to signal its commitment to increasing private-sector participation in the hydrocarbons industry.

In June 2026, Minister of Environment and Energy Juan Carlos Blum confirmed that the government was engaged in

discussions with several international operators regarding the future development of the Sacha Block. He explained that Ecuador is seeking "real investment and fresh capital" and is considering a variety of contractual alternatives—including service contracts, strategic partnerships, and other competitive mechanisms—stressing that the government is "not closed to any of the possibilities."

Although the specific contractual framework for future projects remains under evaluation, these statements suggest that Ecuador intends to maintain a flexible approach to upstream contracting to attract foreign investment while preserving State ownership of hydrocarbon resources.

From a legal perspective, this policy shift does not require any amendment to Ecuador's Hydrocarbons Law. The legal framework has consistently recognized multiple contractual modalities for upstream activities. Article 16 of the Hydrocarbons Law authorizes the State to carry out exploration and exploitation activities through different contractual arrangements, including participation contracts and service contracts. Articles 17 through 23 establish the legal framework governing participation contracts, while articles 40 through 47 regulate service contracts. Consequently, the current initiative reflects a change in public policy rather than the creation of a new legal regime.

Likewise, the government's strategy remains fully consistent with Ecuador's constitutional framework. Articles 313 and 317 of the Constitution reaffirm that nonrenewable natural resources are the inalienable property of the State, while article 316 authorizes the State, under legally established conditions, to delegate participation in strategic sectors to private entities. Accordingly, participation contracts do not transfer ownership of hydrocarbons in situ but instead govern the contractual allocation of production and economic benefits following extraction.

The renewed interest in participation contracts and other investment structures reflects a significant evolution in the allocation of risks and incentives between the State and private investors. Unlike traditional service contracts, under which contractors receive predetermined remuneration largely independent of production performance, participation-based arrangements allow investors to share in production outcomes, thereby creating stronger incentives for operational efficiency, enhanced-recovery techniques, and long-term capital investment. These structures are also generally viewed as more attractive by international operators and lenders because they better align commercial returns with project performance.

Nevertheless, investors should continue to assess Ecuador's legal and regulatory framework carefully. Matters such as fiscal-stability provisions, dispute-resolution mechanisms, environmental compliance, decommissioning obligations, local-content requirements, and the interaction between contractual rights and Ecuador's constitutional regime governing strategic sectors will remain critical considerations when evaluating future investment opportunities.

The Sacha process, despite not being completed, illustrates the government's broader objective of revitalizing Ecuador's upstream sector through increased private participation. As Ecuador continues to seek foreign investment to reverse declining production and maximize the value of its mature oil fields, additional opportunities involving participation contracts, strategic partnerships, or other risk-sharing contractual models may emerge through future licensing rounds and competitive procurement processes.

For international investors, the evolution of Ecuador's contracting policy warrants close attention. While the underlying legal framework has remained largely unchanged, the government's renewed willingness to consider more flexible contractual models signals a meaningful evolution in its approach to upstream investment. Whether implemented through participa-

tion contracts, strategic alliances, or other legally permissible structures, Ecuador appears committed to creating a more competitive environment for private investment while maintaining the constitutional principles governing ownership of its hydrocarbon resources.



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