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PEMEX'S MATURE FIELDS AWARDS: THE FIRST BIDDING ROUND UNDER THE NEW PEMEX LAW

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Abstract. *This article offers a perspective on the legal, economic and institutional issues associated with a new type of procurement transaction that was made possible by the Energy Reform of 2008. The procurement by Pemex Exploration & Production (E&P) concerned the purchase of field redevelopment services on a long-term contract in three blocks located in the state of Tabasco. The procurement was carried out by means of a public tender in which the sole biddable element was the offered fee/barrel. The character of the contract was that of a farm-out, that is, the common practice, found internationally, by which an operating company with leaseholder rights to acreage in effect subleases an area to another company which, in return, receives a legal interest in the revenue from future production of the well or wells that the second company may drill. The discussion calls into question the legality and economic justification of the lowest-price award criterion, and observes that Pemex made an ad hoc interpretation of Article 6 of the Petroleum Law to justify the concept of a fee/barrel. Finally, the report asks if the new contractual modality represents, in the first place, a new chapter in Mexican oil policy, and, in the second place, does it represent a step toward privatization.*

Key Words: *Pemex, procurement, energy sector, oil, privatization.*

Resumen. *Este comentario ofrece una perspectiva acerca de la problemática legal, económica e institucional relacionada con una nueva forma de adquisiciones que se puede realizar a partir de la reforma energética de 2008. Se ofrece un estudio de caso de la adquisición por Pemex Exploración y Producción (PEP) de servicios para un nuevo desarrollo de un contrato de largo plazo de campos ubicados en tres cuadrantes en el estado de Tabasco. La adquisición se llevó a cabo por medio de una licitación en la cual el único componente de la licitación fue con respecto a la oferta de precio por barril. La naturaleza del contrato fue*

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la de una subcontratación, una práctica común a nivel mundial en la cual una empresa explotadora con derechos de arrendatario de una superficie le otorga en subarrendamiento a otra empresa los derechos que a su vez recibe un beneficio legal de los ingresos de la producción futura del pozo o pozos que esta ultima pudiera perforar. El texto cuestiona la legitimidad y la justificación legal del criterio de otorgarlo al postor con el menor precio, y advierte que Pemex realizó una interpretación ad hoc del artículo 6 de la Ley Federal del Petróleo para justificar el concepto de precio de barril. Por último, el comentario pregunta si la nueva modalidad contractual representa, en primer lugar, un nuevo capítulo en la política del petróleo mexicano y, en segundo lugar, si constituye un paso hacia la privatización.

Palabras clave: *Pemex, adquisiciones, sector energético, petróleo, privatización.*

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I. Introduction

The first commercial fruit of the Energy Reform of 2008 was harvested on August 18, 2011, in a Pemex ceremony held in Villahermosa, Tabasco, headquarters of Pemex's Southern Region for exploration and production. It appears that Pemex's uncertain bet finally paid off: at least a few Mexican and international companies accepted a Technical Service Agreement (TSA) for the development of three onshore blocks. An award for third-party hydrocarbon production that included both oil and gas had not taken place in Pemex since 1951. In all, 11 companies had prepared bids for submission.

For what some observers believed should have taken no more than 30 minutes —the opening of bid offers and the announcement of the lowest-priced (and winning) bidder for each of three blocks— the Pemex protocol held in Villahermosa afforded a show of bureaucratic punctiliousness that finally, after 2 ½ hours, resulted in two winners for three blocks. As one Pemex executive tellingly pointed out, "You didn't get everything you wanted, and we didn't get everything we wanted."

This comment is based on observations of the Internet streaming of this event, coupled with a familiarity with the legal background and corporate culture of Pemex that gave both the contracts and the award ceremony their particular shapes. The comment also reflects off-the-record conversations with contractors and oil-company observers, and explores the implications of the awards both for Pemex's upstream unit as well as for its midstream and downstream businesses. To fully comprehend the legal and institutional drivers that facilitated this transition, some background is needed.

II. Background

To appreciate the importance of Mexico-based contracts that out-source Pemex's oil production operations, it will help to review some legal and policy issues. For Pemex, the challenge has always been to overcome the legal and political impediments that have prevented foreign oil companies from working in Mexico as operators.

1. *Article 6 of the Petroleum Act of 1958*

As a result of an 8-year battle with Pemex Director General Jaime J. Bermúdez, who had refused to turn over to the Senate copies of risk contracts that had been awarded to several American companies during the administration of Adolfo Ruiz Cortines,[1] the Mexican government promulgated the

[1] By the terms of a draft contract dated July 17, 1957, Pauley Petróleos Mexicanos and

Petroleum Act of 1958 on the last working day of Mr. Bermúdez' term in office. The most notable feature of Article 6 was that it was drafted in a way to thwart Pemex from entering risk contracts in the future. Although the oil monopoly was free to contract any provider it wished, payment could only be in cash and not be linked to the project's outcome. Payment in-kind was strictly prohibited.[2]

At an industry seminar held in Galveston in the spring of 2010, the question was raised about the legality of a fee/barrel as compensation for contractors in view of the restrictions of Article 6 (Exhibit A). The unexpected answer given by Sergio Guaso, the Pemex speaker, was that Article 6 had been interpreted to mean that it only applied to contracts that linked payment to production at market prices. Since Pemex was proposing a fixed-fee tariff and not a percentage of sales, however, the restrictions of Article 6 would not apply.

2. *Article 51 of the Pemex Administration Act of 2008*

Article 51 of the Pemex Administration Act of 2008 allows Pemex to supplant the traditional Public Works Law of 1999 in favor of innovative contract models. The Procurement Dispositions of 2010 provided guidelines and limitations of terms that could —and could not— be included by Pemex in a contract.

The new thinking, as embodied in the Pemex model contract, required that contractors be paid from a trust account funded by the sale of oil and gas production from the awarded block —with the caveat that funding occur on an after-tax basis. The contractor would thus be paid a biddable fee for any production that exceeded the level specified by Pemex for a given month in the life of the contract. The qualified contractor with the lowest bid price would be declared the winner.

3. *Article 47 of the Public Service Responsibility Act of 1982*

The painstaking efforts displayed on August 18th by the bid organizers —purportedly in the name of "transparency"— cannot be fully appreciated

Edwin W. Pauley, Signal Oil and Gas Company and American Independent Oil Company, the contractors would be paid "a sum equivalent to 18 ¼% of value of sales of the production of oil, gas or other hydrocarbon substances from the wells drilled by the 'Contractor' into the structures selected under the First Clause of this Contract, as compensation for both the investment and risk incurred." In addition, the company's costs would be reimbursed [Text courtesy of Barrows Company of New York].

[2] Some of this history is recounted in Miguel Angel Granados Chapa, *Pemex Contra La Ley*, Reforma, Aug. 21, 2011, at 11. The author believes that the new contract model violates Article 6 of the Petroleum Law.

without deeper understanding of the apprehension felt by Pemex managers in matters involving contract bids.

In an implicit acknowledgment of the procurement abuses that took place during the Oil Boom of 1979-81, PRI presidential candidate Miguel de la Madrid spoke of the need for a "moral reform" of Pemex. On Dec. 31st, his administration promulgated the Public Service Responsibility Act of 1982, whose purpose was to hold any federal employee accountable not only for illicit enrichment, but also for economic damages to the State resulting from acts or omissions. Punishment could take the form of fines, temporary or permanent loss of employment or a ban on future public employment.[3]

Critics both inside and outside Pemex have complained that this law has been applied arbitrarily, and sometimes with a political agenda,[4] resulting in a risk-adverse culture with regard to the signing of supply contracts. An example of this apprehension can be seen from the Pemex Law of 2008 in relation to the procurement regime into which a given project falls. Only if a project is deemed "a substantive activity of a productive character"[5] does the Pemex Law even apply.

Curiously, there is no test for such a finding. The simple solution would be to have the project manager, in his status as manager, make such a determination; but there has been across-the-board resistance from Pemex business units which, as an alternative, regularly submit lists of activities subject to Article 51 contracts.

4. *Total-Value Procurement*

Pemex is not unfamiliar with the concept of total-value procurement. As this method requires the awarding of points to distinct elements of a bid, however, it could give rise to accusations of corruption. For this reason, it has

[3] In the late 1990s Antonio Acuña, at the time the director of the Cantarell Complex, was temporarily suspended from his employment for three months as a consequence of his decision to award a contract without adhering to government procurement rules. The director general of Pemex, Adrián Lajous, expressed his disagreement with this sanction, as Acuña apparently acted in an emergency situation. In an unexpected turn of events, on Oct. 10, 2011, Sergio Guaso, the mastermind of the new ventures initiatives since 2002, was suspended for three months for unspecified transgressions that were purportedly related to the *ill-starred* contract with EMS in 2007 for O&M services on a quadrant of Pemex pipelines. Mr. Guaso was reinstated after about two months, but two of his co-workers were still in the court system filing appeals.

[4] There is concern in Pemex that a future presidential administration would retroactively annul any contracts signed in violation of the 1982 law. During the Fox administration there was speculation that a PRD presidency would challenge the legality of the Multiple Service Contracts.

[5] This phrase, taken from the Pemex Administration Act of 2008, is more simply translated as a "core" or "mission-critical" activity.

not been embraced in the special Procurement Dispositions; instead, Pemex adheres to the traditional "lowest price" standard stipulated in the Public Works Law.

As the notably divergent bids on August 18^{th} 2011 suggest, Pemex's plan to use qualifications criteria to only permit bidders of comparable levels —thus validating a lowest-price methodology— went notably unfulfilled. This outcome, however, was far better than the alternative, which would have been no bidders at all or less than a half-dozen.

III. Discussion

In this section we use two different perspectives to analyze what happened, what didn't happen and what might yet happen in the future in relation to E&P contract awards. One unanswered issue concerns the applicability of the upstream model contract to midstream and downstream projects.

1. *The Awards Ceremony*

About 27 companies bought more than 50 of the bid packages offered by Pemex for the three blocks. In the end, 17 of these companies were present for the submission of bids.

A. *Theatrics*

A big part of the protocol followed on August 18th for the submission and opening of bids was planned specifically for television. The most cinematic scene came at the beginning: the order in which a bidder would step forward and submit his bid was established by a lottery system that included randomly selected numbered balls placed in a rotating bin. Each company's turn was announced with great solemnity. For the approximately 75 people in the hall, this exercise prolonged the event by about 45 minutes without conferring any advantage either to Pemex or the bidder.

B. *Bidders and their Bids*

Pemex's official record of the proceeding provides details of the bids submitted by each of the bidders, as well as a list of bidder representatives. In a custom dating back to the Spanish colonial period, each of the 17 pages is adorned with the initials of each bidder representative (Exhibit B).

Despite these dramatic touches, Pemex chose not to provide corporate profiles or histories of any of the bidders; about a third in fact were unknown to industry observers. Not all bidders in the room submitted bids.

The winning bidders were notably less than most of their competitors and —surprisingly if not shockingly— significantly below Pemex's maximum allowable price.

C. *Santuario*

This block was the most popular receiving seven bids. Pemex's maximum bid price was $7.97/BOE, and the winning bid was $5.01 (by *Petrofac*). This bid was 63% of the maximum allowed, 48% below the average of all bidders and 20% of the value of the highest bid (by *Repsol*).

The third bidder whose quote was below Pemex's maximum price (at $6.99) was the joint venture between Constructora y Perforadora Latina, a Mexicali-based company specialized in the drilling of geothermal and water wells; and Monclova Pirineos Gas (MPG), operator of a Multiple Service Contract (MSC) in the Burgos Basin.[6]

D. *Magallanes*

Although there were five bidders for this block, only four bids were accepted (see below). Pemex's maximum bid price was $9.75/BOE; the winning bid was also $5.01 (again by *Petrofac*). This that none of these awards would have been possible without the Energy Reform of 2008, which allowed Pemex to experiment with contractual models outside the Public Works Law.

E. *Carlos Morales*

Ing. Morales thanked all those who participated in the bidding process; and, as an aside, noted: "You did not get everything you wanted, and we did not get everything we wanted."

In congratulating the winners, Juan José Suárez Coppel, Pemex's director general, referred to them as Pemex's new "partners."

2. *Who Got What?*

Answers to the questions, "*Who got what?*" and "*Who didn't get what?*" require additional investigation.

[6] MPG was legally formed on March 10, 2005, and subsequently, on March 23, 2005, signed Multiple Service Contract No. 414105826. By year-end MPG was operating 7 wells with an average production of 5 MM cfd, a volume 2 MM cfd above the initial production. See http://www.mpg-ihsa.com.mx/mpg/html/quienes.html.

A. *Contractors' Gains*

In one leap the two winning contractors breached the "Chinese Wall" around the Mexican oilfield service market that had been built, principally by Schlumberger, over the previous half-century. For Petrofac, a UK-based company, this beachhead in Mexico —with immediate revenue generation on Day One of the contract— is especially important, as it provides the company with a platform from which to bid on other Pemex contracts, be they incentive-based or otherwise.

It may turn out that this market platform will have to provide sufficient revenue to compensate for the minimal margins, if not losses, that a lowest-price bid will entail.

The winning contractors would also receive an earned, contractual interest in the revenue from future incremental production from their respective blocks, as well as a contractual interest in the revenue from baseline production where such production existed (Magallanes and Santuario).

B. *Pemex's Gains*

Pemex now has real evidence that there is a small subset of oil companies and oilfield service companies for whom the current contract model is acceptably competitive, if not by reference to the economics of a block then by reference to its value as a market-entry vehicle.

In the two winners, Pemex got, in *Petrofac*, a world-class oilfield service company that specializes in farm-ins, meaning, the assumption, on an equity basis, of responsibility for the development and management of oilfields that have already been discovered (Exhibit C). For the Santuario block, from Petrofac, by the bidding rules, Pemex got a commitment for an extra 100.5% of funding commitment for the basic development program.

In *Administradora en Proyectos de Campos (APC)*, Pemex got a Mexican company whose name was unfamiliar nationally or internationally. On September 21, a spokesman for APC told an industry congress in Mexico City that his company would provide *"vivienda digna"* (dignified housing) for squatters at the city refuse site located on the Carrizo block. On October 19, two months after the award, when the winners of the blocks were to sign the final contract, APC was unable to deliver the required performance bond; Pemex wasted no time in reassigning the contract to Schlumberger (at a much higher price).[7]

[7] Mexico energy journalist Ronald Buchanan, in telephone interviews with Grupo Industrial Monclova (GIMSA), learned that APC's principals were former employees who had only recently formed APC for the purpose of bidding in the Pemex mature field auctions. While the principals, as individuals, might have been qualified, the company had no experience what-

C. *What Pemex Didn't Get*

Pemex did not get its partner *Repsol* as a winner,[8] nor the name of a recognized American bidder on the final bidder list; nor an international bidder with a research facility in Houston.[9]

By virtue of the lowest-price criterion, Pemex did not get a contractor budget (measured by the tariff in US$/BOE) that could support much innovation. Collaterally, Pemex did not get an investment opportunity for a buy-in of 10% of a contract with a high-margin potential.

Three world-class companies that would have helped Pemex gain valuable new skills did not win the first bidding round. Although the Mexican energy conglomerate shall learn from *Petrofac*, by winning two blocks, this bidder took the space of a third company that would have better fulfilled Pemex's expectations. Instead of three expert-mentors in mature field rejuvenation, Pemex only got one.

Pemex also forfeited the opportunity to fully test the "Total Value Procurement" approach to bid evaluation. This method had been used in a limited way for the breaking of ties: by making companies break a tie on price —the amount by which their respective minimum work program would be increased— Pemex was using a non-price parameter. In the case of a second tie, Pemex planned to award the block to the bidder with the highest credit rating, another non-price parameter.

In sum, Pemex failed to exploit the results of an experiment that would have weighted elements that reliably predict contract performance. In awarding such sharply discounted bids —63%, 51% and 41% of the allowable maximum price— Pemex also failed to obtain a commitment to innovation that a bigger budget would have permitted.[10]

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soever, thus raising serious questions about how APC was qualified (or, in Pemex-speak, "prequalified") in the first place.

8 Within two weeks of the mature field's awards in Villahermosa, an international controversy erupted when it was discovered that Pemex was seeking to double its shares in Repsol to almost 10%. In a document, *Contexto del aumento de participación de Pemex en Repsol* dated Sep. 1, 2011, Pemex explained its strategy to associate itself with SACYR, another Repsol shareholder, in order to have a 30% voting bloc on the corporate board. Pemex visualized Repsol as an on-going contractor in Pemex bid rounds for incentive-type contracts. In this context, Repsol's bid of $25/bbl, five times the winning bid, was a disappointment for Pemex. (Among themselves, industry observers commented that it was unrealistic for Pemex to have assumed that an increase in its equity would result in any increased interest in Mexico by Repsol's business units.)

9 Pemex says it wants innovation, which usually means laboratory research and computer simulation as well as field trial-and-error. Petrofac has offices in Houston, but no research facility.

10 Innovation is built on top of the bricks of failure, so a budget for innovation must include a room for paying for experiments that fail. It is unlikely that a low-budget operation will be able to afford to fund many failures.

D. *What Contractors Didn't Get*

It had been widely known, from the specimen contract of November 1, 2010, if not from a general knowledge of Mexican petroleum legislation, that contractors would not be given any commercial rights over production. As a result, contractors would not receive any direct, upside reward from rising market prices.

As a result of Pemex's insistence on awarding blocks to qualified bidders with the "lowest price," the most highly-qualified contractors did not receive fair treatment. Pemex would have preferred Dowell-Schlumberger to have won the Carrizo block rather than a roll-of-the-dice winner simply because it had much higher qualifications.[11]

3. *A New Chapter in Mexican Oil?*

Does the award of these contracts represent a new chapter in Mexican oil? There are two very clear answers to this question: *Yes* and *No*.

Yes

In the Multiple Service Contracts of 2003-05, contactors were only permitted to produce natural gas, whereas the new legal framework is focused on oil, as payment for natural gas is sharply discounted from BTU parity with oil. Even more important, the new rules permit contractors to invoice Pemex for both current and incremental production of its block instead of the rendering of discrete technical services.

At a higher level of analysis, the fact that a tender was made for mature fields at all is an implicit —albeit belated— acknowledgment that the market structure of the international, upstream oil industry exists for good reason: large companies' economies of scale are best suited to large-scale projects, while those of small companies are best fitted for small projects.[12] As a large company, Pemex E&P has no incentive to directly manage small projects; so it makes perfect sense for it to offer other oil companies operational responsibility in exchange for compensation based on production. Such an acknowledgment does indeed represent a new chapter in Mexican oil.

[11] Pemex did get its (unexpressed) wish when APC failed to provide a performance bond two months later. (There is room for speculation that the missing performance bond was a cover for a management decision by Pemex that APC was so unqualified to undertake the project that it had to be pushed aside in favor of Schlumberger.)

[12] This argument in relation to Mexico was presented by George Baker and James L. Wilson in *Mexico's Basins Could Provide Niches for Various Sized Firms*, Oil & Gas Journal 53-57, Nov. 16, 1996.

No

Under the new scheme, the winners are still only contractors but without any of the commercial rights of a well owner: it's the scheme of the U.S. Gulf of Mexico, only turned on its head.

The absence of this central, commercial dimension means that nothing essential has changed.

Further in addition, the Hydrocarbons Commission (CNH) is still only an advisory body that generates reports that may or may not be read by the Energy Ministry. At this point, it is not yet a true upstream regulator whose responsibilities include the administration of tenders administered today by Pemex. The third leg of the oil status quo in Mexico is that the government has not initiated any effort to change the self-restrictive, inward-looking oil narrative in Mexico.

These three considerations support the conclusion that the August 18 awards do NOT represent a new chapter in Mexican oil.

4. Incentive Contracts from Pemex Refining, Chemicals and Gas?

The requirement that a contractor be paid on an after-tax basis is ideally suited to the situation in which the contractor produces a product that has a market value and that is taxed by federal authorities. Such a requirement is suited to Pemex E&P where crude oil and natural gas have global markets with international price benchmarks.

But what about steam, water treatment, hydrogen and other ancillary services needed by refineries and chemical plants? Such services a) lack international price benchmarks and b) have no unit tax liability, as they do not create revenue.

Such services would require an independent-supplier contract known in the industry as over-the-fence (OTF). The government and Pemex Refining have announced major plans for the expansion of capacity but, to date, no specimen contract under the new rules has been issued.

IV. Observations

One of the primary justifications for out-sourcing E&P operations is to provide Pemex a new learning platform from which to observe alternative approaches to engineering and project management; in this way, Pemex cannot be indifferent as to the number and quality of such "learning platforms." From Pemex's perspective, each block should have a different contractor with unique skill sets and management styles; and each contractor should be internationally recognized for its accomplishments in other parts of the world.

For Pemex, *Petrofac* represents such a platform. *Administradora en Proyectos de Campos (APC)*, a company based in Coahuila with experience in dry gas production in the Sabinas Basin, does not. There is a two-month period, until October 18, for the contacts to be formally signed. *During this time, reasons may surface that prevent the winner of the Carrizo block from proceeding with the contract.*[13]

The male-dominated culture of the E&P world in Mexico was visible in the all-male membership of the head table and the procession of male executives submitting their bid packages. A few scattered women could be seen in the audience. This scene is in stark contrast with *PMI*, Pemex's trading unit, which has a woman as president and a professional workforce that is over 50% female.

The names of a number of international companies that bought bid packages, including *Apache*, *Maersk* and *BP*, did not appear on the list of qualified bidders; the reasons for their omission have not been made public.

The proposal submitted by the consortium *IPC-Grupo R* was not accepted on the grounds that the "maximum price" had already been publicly announced. This rejection could only be justified in a culture in which bidders often try to cheat the system by preparing multiple bid envelopes.

Sergio Guaso was not among the speakers at the awards ceremony, as the public face of the bid round had passed to Vinicio Suro, the director of the Southern Region.

It is likely that the use of a "maximum price" —which, in effect, limits the budget for innovation— arises out of the apprehensiveness associated with the liability of a Pemex employee to sanctions for economic crimes of omission. Similarly, as seen in the August 18 bidding, the use of a "minimum price" can have a perverse effect on bidder strategy.

The choice of words by Pemex Director General Suárez Coppel in describing the winners of the blocks as "Pemex's newest partners" overstated the relationship, which is one of contractor to customer. In describing these companies as partners he was looking ahead to a future time, under revised legislation, by which an upstream partnership could exist as a matter of law and equity and not only as a figure of speech.

The "migration" of the Multiple Service Contracts based on the Public Works Law to new contracts based on the Pemex Law will present special challenges, *e.g.*, for a block already awarded under a long-term contract, there will be no competitive bidding.

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[13] As we anticipated in the original version of this article written on August 21, 2011, such reasons were eventually found. As mentioned, on Oct. 18th, on the occasion of the official signing of the contracts, the press reported that APC representatives had "neglected" to bring documents including a power of attorney and performance bond. The assertion that APC officials "forgot" to bring basic legal documents like a power of attorney is simply not credible. The inability to obtain a performance bond, however, is believable. As a result, Pemex officials immediately declared APC in default. Expediency, more than any bidding rule, likely prompted Pemex to award the contract to Schlumberger as the "next lowest bidder" (there were only two).

The time is long overdue for the Secretariat of Energy to apply its unpublished grid system to Mexican oil provinces; in this way, the term "block" will apply to a geometrical shape, and cease to be used as a metaphor for an anachronistic system of coordinates defined by degrees of latitude and longitude.

V. Conclusions

Pemex gets a C+ for this first round of block auctions. Most importantly, there were bidders who, by their bid quotes, aggressively sought to win one or more blocks. Their motives, however, were less about economics and more about protecting market share (Schlumberger) and gaining market entry (Petrofac).

Credit for this mixed success belongs mainly to New Ventures Manager Sergio Guaso and his team who —against tremendous odds— achieved a measure of market success from what started out as a set of microeconomic equations.

The bid-submission-and-award ceremony was designed to play well with a skeptical Mexican public, especially politicians and their followers who would search for ways to embarrass the government. The bureaucratic lipstick and eye make-up of the ceremony also indirectly reflected Pemex executives' vulnerability to accusations of impropriety.

The protocol of submitting and opening bids and immediately making an award on the simplistic basis of "lowest price" served both political and institutional goals. Politically, Pemex would appear in public as a paragon of transparency. Institutionally, Pemex officials, as civil servants, would stay clear of potential liability from future auditors and legislators who would seek to apply sanctions under the Public Service Responsibility Act.

As for midstream and downstream, it is not yet clear how —if at all— the Pemex Law and the DAC can be adapted to produce a contract model superior to that of the traditional public works law. This conundrum may explain why no other Pemex business unit has yet issued a public tender under the new Pemex law.

As for the awards that were just issued, the most significant challenges ahead are more sociological and cultural in nature than engineering or technical. Pemex employees and local communities will need to accept the presence and authority of new oilfield operators. Such acceptance will take time.

Despite what critics on the left may imagine, these contracts do not represent steps along a road toward "privatization." That road will be taken only when (a) the State assumes authority for the direct administration of farm-out contracts associated with the exploration and exploitation of the national hydrocarbon patrimony (whose authority is currently delegated to Pemex);[14]

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[14] See *Pemex's Farm-Out Program*, Mexico Energy Intelligence, Market Note 111 (Hous-

(b) Pemex is converted to a mercantile entity with minority shares in the New York Stock Exchange; and (c) bidders acquire leases that provide compensation at market prices.

One major fact has not changed: the oil patrimony of Mexico continues to belong to the State, not private parties. For this, we must look back and give thanks to President Lázaro Cárdenas and his advisors who, by means of the oil expropriation of 1938, cleared the air once and for all of a superstition from which the oil companies at that time could not free themselves: They wrongly believed that the oil industry cannot prosper on a world-wide basis without legal ownership of the oil in-situ. "Privatization" will not take the clock back; on the contrary, by allowing Pemex to enter into joint equity contracts with other oil companies, the new policy will move the clock forward from where it has been stuck since 1958.

ton, Feb. 2, 2012) which asks about alternative metrics by which the success of this particular procurement program might be evaluated in the years ahead (noting that the DAC require no such evaluation).

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