



# ICLG

The International Comparative Legal Guide to:

## Oil & Gas Regulation 2016

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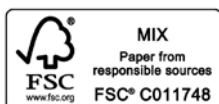
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**General Chapters:**

1	<b>The Oil and Gas Authority: Sea-change for the UK's Oil and Gas Industry</b> – Michael Burns & Justyna Bremen, Ashurst LLP	1
2	<b>Playing the Percentages – Getting Your Petroleum Royalty Agreement Right First Time</b> – Peter Roberts & Joanna Kay, Andrews Kurth (UK) LLP	8
3	<b>Developments in the North American Oil and Gas Sector</b> – John P. Cogan, Jr. & Carlos Morán, Cogan & Partners LLP	13
4	<b>CEE Overview</b> – Kostadin Sirlishtov & Varinia Radu, CMS	19
5	<b>EU Energy Law: Increased Regulatory Risk and Ways to Reduce It</b> – Ana Stanič, E&A Law Limited	25

**Country Question and Answer Chapters:**

6	<b>Albania</b>	Gjika & Associates Attorneys at Law: Gjergji Gjika & Oltion Toro	31
7	<b>Argentina</b>	Estudio Randle / Cogan & Partners LLP: Ignacio J. Randle & Carlos Morán	40
8	<b>Australia</b>	Ashurst Australia: Peter Vaughan & Tara Dilena	51
9	<b>Austria</b>	Schoenherr: Bernd Rajal	63
10	<b>Bolivia</b>	BM&O Abogados – Attorneys at Law: Adrián Barrenechea B. & Camilo Moreno O.	74
11	<b>Brazil</b>	Campos Mello Advogados: David L. Meiler & Bárbara N. Bittencourt	85
12	<b>Bulgaria</b>	CMS Bulgaria: Kostadin Sirlishtov & Pavlin Stoyanoff	96
13	<b>Canada</b>	Blake, Cassels & Graydon LLP: Kevin Kerr & Christine Yick	107
14	<b>Colombia</b>	Peña Mancero Abogados: Gabriela Mancero Buechli	119
15	<b>Congo – D.R.</b>	Etude Kabinda/Avocats DRC: Alex Kabinda Ngoy & Dolores Kimpwene Sonia	134
16	<b>Croatia</b>	Schoenherr: Bernd Rajal & Petra Šantić	144
17	<b>Denmark</b>	Windahl Sandroos & Co.: Bo Sandroos & Claus V. Seidelin-Prip	160
18	<b>France</b>	JEANTET: Thierry Lauriol & Valeria Vidoni	169
19	<b>Gabon</b>	Project Lawyers: Jean-Pierre Bozec	190
20	<b>Ghana</b>	Amarteifio & Co.: George Amissah Eshun & Kwesi Austin	198
21	<b>Greenland</b>	Windahl Sandroos & Co.: Bo Sandroos & Claus V. Seidelin-Prip	208
22	<b>Ivory Coast</b>	Geni & Kebe: Mouhamed Kebe & Rahimine Toure	215
23	<b>Kazakhstan</b>	Colibri Kazakhstan Law Firm: Zhanar Abdullayeva & Azamat Bussurmanov	223
24	<b>Mexico</b>	Rodríguez Dávalos Abogados (Consultores en Energía RDA, S.C.): Jesús Rodríguez Dávalos & Raúl Fernando Romero Fernández	233
25	<b>Namibia</b>	Koep & Partners: Irvin David Titus & Hugo Meyer van den Berg	241
26	<b>Netherlands</b>	Loyens & Loeff N.V.: Max W. F. Oosterhuis & Roland W. de Vlam	252
27	<b>Nigeria</b>	Bloomfield Law Practice: Kunle Obebe & Bode Adegoke	263
28	<b>Norway</b>	Advokatfirmaet Simonsen Vogt Wiig AS: Preben T. Willoch & Bjørn-Erik Leerberg	272
29	<b>Poland</b>	Noerr Menzer Sp.k.: Paweł Żelich & Bartosz Ostrowski	280
30	<b>Portugal</b>	Miranda & Associados, Sociedade de Advogados R.L.: Diogo Xavier da Cunha & Margarida Taborda Gonçalves	290

Continued Overleaf ➔

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Country Question and Answer Chapters:

31	<b>Puerto Rico</b>	Ferraiuoli LLC: Jorge L. San Miguel & Eidalia González Tosado	302
32	<b>Romania</b>	Pachiu & Associates: Laurentiu Pachiu & Delia Vasiliu	312
33	<b>Senegal</b>	Geni & Kebe: Mouhamed Kebe & Jocelyn Ismaël Itoua Ongagna	325
34	<b>Serbia</b>	Moravčević, Vojnović & Partneri in cooperation with Schoenherr: Bernd Rajal & Aleksandra Petrović	334
35	<b>Slovenia</b>	Schoenherr: Petra Smolnikar & Miša Tominec	344
36	<b>South Africa</b>	Bowman Gilfillan Africa Group: David Forfar & Shane Jaftha	353
37	<b>Spain</b>	Hogan Lovells International LLP: Santiago Garrido de las Heras & David Antón Vega	363
38	<b>Turkey</b>	Türkoğlu & Çelepçi in cooperation with Schoenherr: Levent Çelepçi & Francesca Maran	372
39	<b>Ukraine</b>	CMS Cameron McKenna: Vitaliy Radchenko & Inna Antipova	380
40	<b>UAE</b>	Ashurst LLP: Mhairi Main Garcia	392
41	<b>United Kingdom</b>	Ashurst LLP: Geoffrey Picton-Turbervill & Julia Derrick	404
42	<b>USA</b>	Cogan & Partners LLP: Elizabeth Molino & James A. Cogan	424

# Mexico

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## 1 Overview of Natural Gas Sector

**1.1 A brief outline of your jurisdiction's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.**

During the first semester of 2015, the average production of natural gas was 6,432 MMSCFD. According to the *Oil and Gas Journal*, Mexico had approximately 17 Tcf of proved natural gas reserves by the end of 2014. Mexico has approximately 545 Tcf of technically recoverable shale gas resources. Just the Burgos Basin itself contains 393 Tcf of technically recoverable shale gas resources. The Federal Electricity Commission ("CFE" for its Spanish acronym) has requested, between 2014 and 2015, bids for more than 10 natural gas transportation projects (2,300km), with a value of more than US\$5 billion. The target is to increase the national pipeline transportation system by more than 75% by 2018. One of the projects, which will be awarded by the end of 2015, allows the use of open technologies for the transportation of natural gas, which gives new investors the opportunity to develop the project as an LNG project. The national oil company, Petroleos Mexicanos ("Pemex"), is also developing a pipeline project that will allow international transactions from North America to Asia through the 324km pipeline along the Tehuantepec Isthmus.

**1.2 To what extent are your jurisdiction's energy requirements met using natural gas (including LNG)?**

Approximately 65% of the energy requirements in Mexico are met through thermoelectrical generation facilities. Such facilities work with bunker oil, gas and diesel combustion. Out of the referred 65%, approximately 58% is produced through combined cycle generation using natural gas.

**1.3 To what extent are your jurisdiction's natural gas requirements met through domestic natural gas production?**

According to the U.S. EIA, Mexico imported a total of 1,052 Bcf of natural gas. Out of the 1,052 Bcf, 69% (729 Bcf) were imported from

the United States. This represents an increase of 120% from 2010. Given the ongoing pipeline infrastructure projects, it is estimated that Mexico will import 5 Bcf/d of natural gas by 2020. In the meantime, LNG imports represent the other 31% of the total imports, equal to 329 Bcf in 2014.

**1.4 To what extent is your jurisdiction's natural gas production exported (pipeline or LNG)?**

During the first semester of 2015, Mexico exported approximately 2.8 MMSCFD of dry gas. Mexico is not currently not a net importer of natural gas, and its exports of this resource are significant when compared to its imports. This is because the national demand for natural gas has been growing steadily for the past few years, and domestic production is focused on satisfying this growing internal need.

## 2 Overview of Oil Sector

**2.1 Please provide a brief outline of your jurisdiction's oil sector.**

Oil production this year in Mexico decreased by approximately 10% compared to oil production in 2014. As of May 2015, crude oil production was estimated at 2,227 mbd. 38.6% of the national production was produced in Ku-Maloob-Zaap, while Cantarell produced 12.7% overall.

**2.2 To what extent are your jurisdiction's energy requirements met using oil?**

According to the U.S. EIA, Mexico's petroleum and other liquids account for 45% of the total energy consumption. Natural gas represents 40%, while coal is only 8%.

**2.3 To what extent are your jurisdiction's oil requirements met through domestic oil production?**

Mexico produced an average of 2.8 million b/d of petroleum and other liquid fuels during 2014. Crude oil represented 2.4 million b/d, even with the ongoing decline of oil production in Mexico. Mexico is the third largest exporter of crude oil in America; however it is a net importer of refined petroleum products.

#### 2.4 To what extent is your jurisdiction's oil production exported?

Exports of crude oil in the first quarter of 2015 are estimated at 1,113.7 mbd, which means that compared to 2014, crude oil exports decreased by 0.2%. Mayan oil accounted for 62.2% of the exported crude oil. The United States imports 56.1% of the total exported Mexican crude oil, while the Middle East accounts for 20%, and Europe 21.6%.

### 3 Development of Oil and Natural Gas

#### 3.1 Outline broadly the legal/statutory and organisational framework for the exploration and production ("development") of oil and natural gas reserves including: principal legislation; in whom the State's mineral rights to oil and natural gas are vested; Government authority or authorities responsible for the regulation of oil and natural gas development; and current major initiatives or policies of the Government (if any) in relation to oil and natural gas development.

The Mexican State is allowed to execute exploration and extraction agreements with private parties through the National Hydrocarbons Commission ("CNH" for its acronym in Spanish). The Hydrocarbon Law establishes two schemes for exploration and extraction of hydrocarbons: (i) assignment titles (*asignaciones*) that may only be granted to Pemex or other productive State-owned companies; and (ii) pursuant to Chapter II of the Hydrocarbons Law, the National Hydrocarbons Commission will be in charge of developing different bidding processes (known as "Round Bids", which are divided into "Calls") to award extraction and exploration contracts to private parties. Round Zero was executed to exclusively assign blocks to the national oil company. As for Round One, after the First Call in December 2014, nine out of 26 companies presented bids and only two out of 14 blocks were awarded in July, 2015. The Second Call was issued on February 2015 and concluded with three out of five blocks being awarded at the end of last September. The Third Call was published on May, 2015, and will conclude at the end of this year with the awarding of several onshore blocks.

#### 3.2 How are the State's mineral rights to develop oil and natural gas reserves transferred to investors or companies ("participants") (e.g. licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

There are different types of exploration and extraction contracts that may be tendered by and executed with the CNH. The Ministry of Energy ("SENER" for its Spanish acronym) determines the type of contract for each Call during the Bid Rounds. By law, mineral rights of oil and natural gas shall remain State property. Said statement shall be included in every awarded exploration and extraction agreement. So far, the first two Calls of Round One had a production-sharing contract scheme, while the Third Call concerns a licence agreement. Under Mexican law, a licence agreement gives ownership and possession to the contractor in exchange for the payment of certain hydrocarbon taxes, which include a royalty. Production-sharing contracts also give partial ownership and possession to the contractor of the hydrocarbons production; in turn, hydrocarbon taxes are delivered in kind to the State. Finally, profit sharing and service contracts do not give title or possession to the contractor of the hydrocarbons, only cash considerations.

#### 3.3 If different authorisations are issued in respect of different stages of development (e.g., exploration appraisal or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

Contractors under a hydrocarbons exploration and extraction contract must carry out all exploration and extraction operations in accordance with the work programmes and plans approved by the CNH. Before each stage of development of a block, the approval of the corresponding plan must be obtained. Furthermore, any modifications to the originally approved plan must be agreed with the CNH.

Additionally, the execution of any hydrocarbons exploration and extraction contract includes a minimum work commitment that requires a minimum investment in the corresponding block. The work programmes presented to the CNH for approval must be aligned with the minimum work commitment. The amount of the minimum work commitment varies depending on the size and type of fields within the block.

#### 3.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of oil and natural gas reserves (whether as a matter of law or policy)?

The Mexican State has ownership of the mineral rights and will be entitled to the payment of certain hydrocarbon taxes or special considerations included in the contracts. In August 2014, during Round Zero, the CNH assigned to Pemex exclusive exploration and extraction of 83% of the 2P Reserves and 21% of prospective resources, subject to their capability of compliance with their exploration and extraction plan. Furthermore, the first two Calls of Round One considered as bidding variables: (i) profit oil split; and (ii) incremental work commitment. Given the results of the First Call of Round One, the bidding guidelines for the following Calls were published, including the minimum values for the bidding variables, which were not disclosed in the First Call. The ownership interest that the State expected to have on these contracts was approximately 35% to 45% of the profit oil.

#### 3.5 How does the State derive value from oil and natural gas development (e.g. royalty, share of production, taxes)?

In general, contractors under exploration and extraction contracts must pay: (i) a royalty that is a percentage of the gross revenues of the production; (ii) an exploration fee per square kilometre of the block during the exploration phase of the contract; (iii) a percentage of the profit oil or additional percentage of the production depending on the type of contract; and (iv) income tax applicable to the profits obtained from hydrocarbons production.

#### 3.6 Are there any restrictions on the export of production?

As for service contracts and profit-sharing contracts, oil and gas production is transferred to a special State Trader (*Comercializador del Estado*) as an intermediate, who will sell and then distribute the proceeds from the sale to the Mexican Fund for Stability and Development and the contractor, once its commission fee has been charged. On the other hand, for production-sharing contracts

and licence agreements, the contractor is free to store or sell the production it owns to national or international markets, subject to the regulatory permits set forth by the Energy Regulatory Commission (“CRE” for its Spanish acronym).

### 3.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

Under the current legislation there are no currency exchange restrictions or direct transfer fund restrictions. Notwithstanding the above, depending on the type of contract under which hydrocarbons are produced, contractors may not be able to market the production directly, only through a special State Trader, which may indirectly limit currency exchange options available to monetise the production.

### 3.8 What restrictions (if any) apply to the transfer or disposal of oil and natural gas development rights or interests?

Pursuant to the Hydrocarbons Law and the model contracts of Round One Bidding Guidelines, transfer of rights or interests shall not be permitted unless authorised by the CNH. The CNH will consider the same criteria for the prequalification process of the bid. Additionally, no change of control, either direct or indirect, shall exist without the previous consent of the CNH.

### 3.9 Are participants obliged to provide any security or guarantees in relation to oil and natural gas development?

As part of the formal bid proposal, bidders have to present a seriousness guarantee that shall be executed by the CNH in case a bidder wins a block in a bidding round but does not sign the corresponding contract. Once the winner of the bid executes the exploration and extraction contract with CNH, such participant shall submit one Corporate Guaranty plus an additional Performance Guaranty to comply with the minimum work commitment. The Corporate Guaranty shall be submitted by the ultimate parent of the winning bidder that obliges jointly and severally with such bidder.

### 3.10 Can rights to develop oil and natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

Article 45 of the Hydrocarbons Law states that assignees and contractors are allowed to report, for accounting and financial purposes, the benefits of the exploration and extraction contracts or assignments, as long as such assignment or contract sets forth that mineral rights are owned by the State.

### 3.11 In addition to those rights/authorisations required to explore for and produce oil and natural gas, what other principal Government authorisations are required to develop oil and natural gas reserves (e.g. environmental, occupational health and safety) and from whom are these authorisations to be obtained?

The Hydrocarbons Laws sets forth the need for a social impact authorisation issued by SENER for the development of a hydrocarbons project. It is noteworthy to mention that rights of way obtained for the development of hydrocarbon blocks are subject to a special acquisition process, which involves both executive and judicial authorities.

The National Agency for Industrial Safety and Environmental Protection for the Hydrocarbons Sector (“ASEA” for its Spanish acronym) regulates and supervises environmental protection and health and safety. Specific regulations for health and safety requirements are yet to be issued. For the development of gas and oil reserves, this authority must grant an environmental impact authorisation. Note that the granting of this authorisation is subject to obtaining the social impact authorisation referred to above.

### 3.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in oil and natural gas development? If so, what are the principal features/requirements of the legislation?

The Law of the National Agency for Industrial Safety and Environmental Protection for the Hydrocarbons Sector sets provisions for the abandonment or decommissioning of this kind of structure. Furthermore, the model contract used in Round One has a specific provision that requires the contractor to set an abandonment trust, which should be controlled jointly by the contractor and CNH, in case a commercial discovery exists.

### 3.13 Is there any legislation or framework relating to gas storage? If so, what are the principal features/requirements of the legislation?

Pursuant to the Hydrocarbons Law, gas storage services, as a general rule, are subject to non-discriminatory third party open access in exchange for a tariff payment approved by the CRE. A certain percentage of the storage capacity may be available for self-use, subject to prior authorisation by the CRE.

Despite the above, it is essential to highlight that, as of August 28, 2014, the creation of the National Center of Natural Gas Control (hereinafter referred to as “CENAGAS”) was decreed with the purpose of generating a competitive natural gas transportation and storage market. This centre will act also as an independent operator of the Integrated National Natural Gas Transportation and Storage System, which is meant to maintain the continuity and safety of the supply of natural gas across the Mexican territory.

## 4 Import / Export of Natural Gas (including LNG)

### 4.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

Pursuant to article 48 of the Hydrocarbons Law, the export and import of hydrocarbons shall be subject to a permit granted by the Ministry of Energy.

## 5 Import / Export of Oil

### 5.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of oil and oil products.

As mentioned in question 4.1 above, pursuant to article 48 of the Hydrocarbons Law, the export and import of hydrocarbons shall be subject to a permit granted by the Ministry of Energy. (Please refer to question 3.6 for exceptions.)

## 6 Transportation

### 6.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

The Hydrocarbons Law classifies the transportation of oil and gas through discharge lines, from the point of upstream production to the point of entry into the transmission network, as “gathering activities” (*Recolección*). Gathering activities are regulated by the CNH, but this authority has not yet issued the corresponding regulations.

Prior to the Amendment to Article 27 of the Mexican Constitution and the publication of the Hydrocarbons Law, only Pemex was able to perform E&P activities in Mexico, and thus to this date only Pemex owns these gathering facilities.

### 6.2 What governmental authorisations (including any applicable environmental authorisations) are required to construct and operate oil and natural gas transportation pipelines and associated infrastructure?

The current text of the Hydrocarbons Law does not stipulate that a permit is required for the performance of gathering activities; nevertheless, regulations by the CNH are still pending, and may require some type of authorisation.

Notwithstanding the possible need for a “regulatory” authorisation by the CNH, the construction and operation of gathering pipelines will require local and municipal authorisations such as an archaeological authorisation issued by the Anthropology and History National Institute. The federal, state, and municipal governments shall contribute to the exploration and production projects, as well as to the transportation and gathering activities through procedures and coordination that expedites and ensures the issuance of permits and authorisations in the relevant area.

### 6.3 In general, how does an entity obtain the necessary land (or other) rights to construct oil and natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

The hydrocarbons industry is of public interest and exclusive federal jurisdiction, and therefore only the federal government may stipulate the applicable standards for land regulation. The Hydrocarbons Law sets certain procedures for acquiring land and/or rights of way for hydrocarbon projects that facilitate land access or land use in coordination with both executive and judicial authorities. Furthermore, in case an agreement between the project developers and landowners is not possible, government authorities can enforce compulsory acquisition to facilitate land access through the establishment of legal easements.

### 6.4 How is access to oil and natural gas transportation pipelines and associated infrastructure organised?

The CNH has not published applicable regulations to gathering activities. It is plausible that this service will be subject to open access obligations for third parties with open seasons to award the system’s available capacity in a non-discriminatory way, as it works with transmission, storage and distribution services.

### 6.5 To what degree are oil and natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

Before the Energy Reform, Pemex was the only oil and gas producer in Mexico and the only operator of gathering pipelines. Much of the information regarding these type of pipelines is not available to the public; however, the pending regulations of these activities by the CNH will probably provide cooperation and coordination mechanisms as they do in the case of natural gas transmission, storage and distribution.

### 6.6 Outline any third-party access regime/rights in respect of oil and natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport oil or natural gas compel or require the operator/owner of an oil or natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

Natural gas transportation/gathering regulations are pending publication by the CNH, but they will probably function in an analogous way to those applicable to transmission, storage and distribution.

In general for other activities, permit-holders, who provide transportation and distribution services to third parties through pipelines, as well as hydrocarbons storage services, have the obligation to provide open, not unduly discriminatory access to their facilities and services, subject to the availability of their systems. If there is no available capacity, permit-holders may execute agreements with third parties in order to expand or extend their systems. Open seasons may also be carried out in order to determine the expansion and/or extension requirements as well as the investment scheme. The users of such system shall pay interconnection costs.

### 6.7 Are parties free to agree the terms upon which oil or natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

The Natural Gas Transportation Services Agreements executed by the transporter and third parties allows the parties to freely set the terms for the service. However, such terms should not be on the General Terms and Conditions approved by CRE with the issuance of a transportation permit. Furthermore, CRE shall approve a maximum tariff to be charged for the transportation of natural gas.

## 7 Gas Transmission / Distribution

### 7.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

The Hydrocarbons Law regulates natural gas transmission and distribution activities, particularly in the Third Chapter of said Law. The CRE shall issue other applicable regulations and resolutions. Pursuant to the applicable provisions, the CRE grants the corresponding permits for the performance of these activities.

For distribution, permits are granted for a specific geographic zone, taking into account the technical and economic requirements that allow efficient and profitable development of the distribution network. Additionally, the CRE shall approve the applicable tariff that is charged to the users of distribution services.

### **7.2 What governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?**

Once the Energy Regulatory Commission permit is granted, permit-holders must obtain: a construction and land use authorisation granted by the local and municipal authorities, as well as a property or possession title; an environmental impact authorisation with a risk study issued by the ASEA; and an archaeological authorisation issued by the Anthropology and History National Institute. Additionally, other authorisations may be required depending on the distribution network path, such as road crossing authorisations and electricity transmission line crossing authorisations, among others.

### **7.3 How is access to the natural gas distribution network organised?**

The natural gas distribution network is divided into geographic zones allotted across the country and assigned by the Energy Regulatory Commission either to exclusive permit holders, or if it is not a first-time assigned zone, to different permit holders that may carry out the activity within such geographic zone. Currently, there are 15 geographic zones and approximately 24 granted permits. Subject to the applicable regulations, open access shall be granted to users that require distribution services.

### **7.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?**

Distributors are obliged by law to extend or expand their systems within their geographic zone. Furthermore, natural gas distribution companies shall develop an expansion plan in order to connect new users to their system.

### **7.5 What fees are charged for accessing the distribution network, and are these fees regulated?**

The fee that is charged to users of the distribution network is determined by the CRE for each permit holder.

### **7.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?**

There are no restrictions or limitations in relation to acquiring an interest in a gas utility or the transfer of assets forming part of the distribution network. However, certain notifications shall be given to the Energy Regulatory Commission and, depending on each case, permit modifications may have to be approved by such Commission.

## **8 Natural Gas Trading**

### **8.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.**

As mentioned before, Article 27 of the Mexican Constitution sets forth that the State is the owner of all the hydrocarbons in the subsoil. The ownership of natural gas extracted from the ground by means of a hydrocarbons exploration and extraction contract executed between private parties and/or productive State-owned companies, and the CNH will depend on the type of contract. Specifically, natural gas extracted under a profit-sharing contract will all be traded through a State Trader hired by the CNH, while natural gas extracted under a licence contract will be owned and freely traded by the contractor, but shall require a permit by the CRE to trade within the Mexican territory or to export natural gas. For production-sharing contracts, the proportion of natural gas that corresponds to the State (as determined by the special taxation regime) will be traded by the State Trader, while the proportion that belongs to the contractor will be traded by such contractor, as in the case of licence contracts.

### **8.2 What range of natural gas commodities can be traded? For example, can only “bundled” products (i.e., the natural gas commodity and the distribution thereof) be traded?**

Subject to the provisions of certain regulations which are still pending to be issued as a result of the approval of the energy reform, natural gas marketing may be carried out by private companies and bundled services may also be provided by distribution companies.

## **9 Liquefied Natural Gas**

### **9.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.**

Transportation through pipelines and storage of Liquefied Natural Gas (“LNG”) is considered a newly regulated subject matter under the Mexican regulation. Furthermore, under the new regime of the Hydrocarbons Law, the liquefaction and regasification of natural gas requires a permit granted by the CRE as well. The joint or separate performance of these activities shall be subject to certain general provisions the CRE has yet to issue.

### **9.2 What governmental authorisations are required to construct and operate LNG facilities?**

Notwithstanding, the fact that certain regulatory provisions applicable to LNG plants are still pending, the construction and operation of an LNG plant will require a regulatory permit by the CRE, as well as other relevant permits required for any energy project such as a social impact authorisation, an environmental impact authorisation and local construction licences.



### 9.3 Is there any regulation of the price or terms of service in the LNG sector?

The services required for the LNG sector are regulated by CRE not only in terms of their performance, but in terms of the consideration or tariff that is charged for the rendering of such services; however, the specific provisions that will set forth the price and terms of service in the LNG sector are still pending.

### 9.4 Outline any third-party access regime/rights in respect of LNG facilities.

Currently, only the storage of LNG is subject to an open access obligation towards third parties. For such purposes, permit holders are required to carry out open season procedures in order to accommodate interested third party's requests.

## 10 Downstream Oil

### 10.1 Outline broadly the regulatory framework in relation to the downstream oil sector.

Pursuant to the Hydrocarbons Law, in order to perform oil refining and natural gas processing activities within the Mexican territory, a permit granted by the SENER is required. Additionally, in order to market any oil, gas, petrochemical or petroliferous product, a permit granted by the CRE is required.

It should be noted that, to ensure adequate market conditions, the first-hand sale of products carried out by Pemex, its productive State-owned subsidiaries or affiliate companies is subject to approval by the CRE.

### 10.2 Outline broadly the ownership, organisation and regulatory framework in relation to oil trading.

Pemex and its productive State-owned subsidiaries may trade oil and gas extracted by means of their assignation titles. Additionally, contractors under certain Hydrocarbons Exploration and Extraction Contracts (namely licence contracts and production-sharing contracts) may trade oil and gas extracted from their fields on their own. Otherwise, oil and gas are traded through the State Trader that, until 31<sup>st</sup> December, 2017, shall be Pemex as well.

## 11 Competition

### 11.1 Which governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the oil and natural gas sector?

The Federal Economic Competition Commission ("COFECE" for its Spanish acronym) is the authority in charge of regulating competition and anti-trust practices in Mexico, in general. Nevertheless, the Energy Regulatory Commission, with the opinion of the COFECE, shall issue certain administrative provisions that apply to regulated activities of the hydrocarbons sector in order to promote the efficient development of competitive markets.

### 11.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

The Federal Antitrust Law in Mexico regulates different anti-competitive practices such as absolute monopolistic practices, relative monopolistic practices, illicit economic concentrations and any other restriction being imposed on the market. The Federal Economic Competition Commission is entitled to regulate any economic activity performed by any economic agent; therefore, its scope is of general applicability in the country.

### 11.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

The COFECE is a stronger agency than the previous regulator. It has new powers to eliminate barriers to competition, regulate access to essential inputs and order the divestiture of assets, if the case requires so, to restore competition conditions. It works as a jurisdictional entity for the sanctioning of anti-competitive practices, which consists of different stages, such as: investigation; evidence analysis; service of process; and trial resolution. Additionally, the CRE is invested by the Hydrocarbons Law with power to apply penalties to permit holders that do not adhere to the economic competition provision that such authority issues.

### 11.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the oil and natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

In general terms, transactions that qualify as "concentrations" (*i.e.* mergers, asset acquisitions, changes in control, etc.) that exceed the amount of 18 million minimum wages in Mexico (approximately US\$74 million) must be approved by the COFECE, for which a special notification must be made to such authority. The COFECE verifies that the transaction does not go against the principles of free competition, and may authorise, condition or even deny the transaction. As a general rule the process takes approximately 60 business days, but may be exceptionally extended for another 40 business days in certain cases.

## 12 Foreign Investment and International Obligations

### 12.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

There are no restrictions or limitations for foreign companies due to the recent amendments to the Foreign Investment Law.

### 12.2 To what extent is regulatory policy in respect of the oil and natural gas sector influenced or affected by international treaties or other multinational arrangements?

Mexico has entered into and ratified an international agreement with the United States of America relating to cross-border hydrocarbon deposits in the Gulf of Mexico. This instrument sets forth collaboration measures between these two countries for certain shared offshore oil and gas reserves. Mexico is not a part of a multinational arrangement, such as OPEC.

## 13 Dispute Resolution

### 13.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the oil and natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to oil and natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; downstream oil infrastructure owners or users; and distribution network owners or users in relation to the distribution/transmission of natural gas.

The model exploration and extraction contracts published by the CNH thus far provide for arbitration in accordance with UNCITRAL rules for most disputes derived from these types of contracts. An exception to this is established for contract rescission by administrative authorities, which is an attribution that may be exercised if a rescission event arises.

For the purposes of the arbitration, the applicable law shall be Mexican Law; the arbitration procedure shall be held in Spanish, the arbitration site shall be The Hague in the Netherlands, and the award shall be binding for both parties. Additionally, with regard to private contracts in regulated activities, the regulatory entities, such as the National Hydrocarbons Commission and the Energy Regulatory Commission, might be appointed as arbitrators for dispute resolution.

### 13.2 Is your jurisdiction a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (“ICSID”)?

Mexico is part of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards since 1971 without any reservation whatsoever; however, Mexico is not a member of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

### 13.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

It is not as common as it might be in other countries, though it is a practical issue, not a matter of law. The Commerce Code

establishes in its Section IV of Title V, the applicable rules for arbitration agreements between the parties. Such Code prescribes that the award must be enforceable through Mexican jurisdiction authorities, regardless of the country in which the award was issued. Notwithstanding the aforementioned, Mexican judges are entitled by law to review the award and decide whether it complies with Mexican law provisions.

### 13.4 Have there been instances in the oil and natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

There have been international instances in which awards against Pemex, now a productive State-owned company, have been granted to private foreign companies. Such is the case of Kellogg, Brown & Root who was granted an award of US\$465 million, which was later declared as void by a Mexican Court and, therefore, not enforced. However, Kellogg, Brown & Root is still fighting the validity of such award and has recently sued the Mexican State on the grounds of denial of justice. Notwithstanding the above, with the new legal nature of Pemex and the better corporate governance it is implementing, such issues may start to turn towards an efficient path.

## 14 Updates

### 14.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Oil and Gas Regulation Law in your jurisdiction.

The year 2015 has been an exciting year for oil and gas sectors in Mexico. The constitutional, legal and regulatory changes that derived from the Energy Reform are beginning to be fully implemented. For instance, the two phases of Round One are examples that have resulted in the first five exploration and extraction contracts being awarded by the CNH to private parties. It will still take some time for hydrocarbons to be actually produced from these awarded blocks; however, it is finally possible to say that Pemex is not the only E&P company in Mexico.

The Energy Reform is being successfully implemented not only in the upstream side of the oil and gas industry, but in the midstream side as well. The first phase of “Los Ramones” pipeline has begun operations to import natural gas from the south of Texas into Mexico, and the second phase, which covers over 1,000km, is well under construction. Additionally, the Federal Electricity Commission has announced eight natural gas transportation projects that will represent an additional 2,000km of pipelines in Mexico, and will help supply not only CFE needs, but the growing private power generation industry in Mexico, with this vital resource.

Finally, institutional changes are taking flight, as Pemex is in the process of finalising its corporate restructuring and has created seven productive State-owned subsidiaries which will modify substantially the way this energy giant operates. As for the new strengthened regulators, they are in the way of adapting to the new market and have a tremendous workload. However, these regulators are doing everything they can to meet the deadlines set forth in law to transform the panorama of the oil and gas industry in Mexico.

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Jesús Rodríguez Dávalos, founding member and Managing Partner of RDA since 1995, positioned RDA as a trending energy/infrastructure and consulting firm focused on the power, oil and gas sectors. His experience in strategic legal, business development, and cross-cultural matters has allowed him to identify opportunities on behalf of his clients. He has led many first-of-a-kind projects: the first cross-border wet gas pipeline; the first CNG project; the regulatory strategy of the first ethane pipeline; and the only three private LPG pipelines in operation, among others. He is leading counsel of "Los Ramones" in its three phases. Mr. Rodríguez represents power generation companies (IPP, Cogen plants and renewable energy projects) in Mexico and in Central America. He represents: more than 10 MCS and incentivised contracts with Pemex; right of way acquisition of over 3,000km for pipeline and transmission lines; more than 16 natural gas distribution companies; more than 1,500 gasoline stations; an LNG facility in the Gulf of Mexico; and product refining terminals.

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Raúl Fernando Romero Fernández, Senior Associate at RDA, has participated in strategic projects on distribution, transportation and storage of hydrocarbons. He successfully developed and negotiated the agreements of the First Operative Natural Gas SWAP in Mexico, as well as the customs strategy. Mr. Romero developed and negotiated contracts for the first private ethane pipeline in Mexico. He also had an outstanding participation in the execution of TSA, O&M and EPC and in the general contractual scheme of all three phases of "Los Ramones" pipeline and Transoceanic Project. He played a key role in the negotiation and preparation of incentivised agreements and hydrocarbon purchase agreements.

He has successfully executed NAESB agreements for power generating companies and independent power producers (natural gas distributors and industrial clients) in Mexico. Mr. Romero has developed and executed contracts of regulated activities for power generating projects such as combined cycle and Cogen projects. He has led companies on bidding processes before CFE, the Federal District government, and Pemex.

## RDA RODRÍGUEZ DÁVALOS ABOGADOS

Rodríguez Dávalos Abogados ("RDA") is a specialised law firm with more than 20 years of accumulated experience, and with national and international regulatory and commercial expertise in the energy industry. RDA has highly skilled attorneys and consultants with practice not only in the Oil, Gas, and Power Industries, but also in Corporate Law, Mergers and Acquisitions, Banking, Finance, Foreign Investment, Procurement, Government Contracts and Public Works, Commercial Matters, Industrial Property and Rights of Way ("ROW"). The firm's overall projects represent national and foreign investments of over USD\$5.5 billion.

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