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Argentina Nationalizes Subsidiary of Spanish Oil Company Repsol

By Andrés Gaudín

On April 16, the administration of Argentine President Cristina Fernández de Kirchner decided that the state should retake control of its oil industry, transferred in the 1990s to the Spanish multinational Repsol. The executive sent Congress a bill proposing the expropriation of 51% of the oil company's shares. Before being acquired by the Spaniards, the company was known as Yacimientos Petrolíferos Fiscales (YPF) and was then renamed Repsol YPF.

The bill called for expropriating only the shares of the company held exclusively by Repsol, which would reduce the Spanish company's interest in the company to just under 6%. Of the expropriated shares, 51% will remain in the hands of the state, and the remaining 49% will be owned by the 10 provinces that make up the Organización Federal de los Estados Productores de Hidrocarburos (OFEPHI).

When she made the announcement, President Fernández anticipated possible criticism, saying, "Argentina is the only Latin American country that does not control its natural resources." She then explained the significance of the first article of the bill and threw out a veiled warning to companies in the sector. The article in question declares that "the achievement of oil self-sufficiency, as well as the exploitation, industrialization, transport, and marketing, is in the public interest," a stipulation that goes beyond the activities of Repsol YPF and will serve to regulate all companies that operate in the country.

"The model chosen is not that of nationalization, because we continue preserving the structure of a corporation (sociedad anónima)," said the president, going on to explain why the bill establishes the "syndication" of shares between the state and the OFEPHI provinces. In technical language, syndication is an agreement among shareholders to act jointly to manage a corporation. "This is to make sure that the interests of the nation and those of the provinces will not be separated," she said.

Well-planned takeover

From the moment the president mentioned the word "expropriate," what followed was a carefully choreographed sequence. The president was still speaking when officials arrived at YPF headquarters with the intervention decree and a list of persons who were given 15 minutes

to vacate the building. Within 20 minutes, Minister of Planning Julio de Vido arrived, named as the receiver. At the same time, on Wall Street, company stocks went from being up 7% to falling almost 19%.

In Madrid, the Repsol home office complained that its property had been "confiscated," and the conservative administration of President Mariano Rajoy threatened to apply its own sanctions and to ask the European Union (EU) to do the same. The following day, credit-rating agencies Fitch and Moody's lowered YPF's rating, and Standard and Poor's warned that it was considering doing so.

In Argentina, the political opposition reacted with few criticisms—more and more moderate as the days went by—which the rightist media was unable to capitalize on, even though the two major multimedia conglomerates (Clarín and La Nación) tried to provoke a political crisis. Two weeks after President Fernández's announcement, and even though Congress voted almost unanimously to approve the bill to renationalize the oil industry, La Nación continued using the phrase "the YPF confiscation" in the title of all its news stories on the issue.

Externally, the measure was supported by all regional bodies, with the exception of the Organization of American States (OAS), which did not comment, and by all Latin American countries, except Chile, which also did not comment, and Mexico, which expressed its opposition—not surprising given that the Mexican state oil company PEMEX holds a 9.5% stake in Repsol.

The European Union (EU) bureaucracy expressed its opposition but rejected the Spanish request to discontinue negotiations on an agreement with the Southern Cone Common Market (MERCOSUR) because Argentina is a MERCOSUR member country. The EU thus let it be known that it would not apply the sanctions demanded by Madrid. Neither the World Trade Organization (WTO) nor the G-20 expressed an opinion, and the US State Department referred to the matter obliquely, mentioning the need for Argentina "to normalize its relationship with the international financial and investment community."

The Spanish government was left alone, with its threats and its drama, formally entering an economic recession and with growing street protests against the violent cuts being applied in social areas.

On April 20, Spain decided to suspend its purchases of Argentine biofuels, soy, and oils. The decision was more political than economic, as it will not affect Argentina, which can absorb the biofuel production and has a demand for the other products (soy and oils). For Spain, however, the measures will boomerang. European biofuel is not only more expensive but also not plentiful enough to satisfy increased demand, there is no global soy supply, and the only country with the ability to supply oil in bulk is, specifically, the one Spain is punishing.

On April 22, Madrid modified its confrontational stance, and Minister of Foreign Relations Juan Manuel García-Margallo softened his remarks before his EU colleagues. "Spain does not dispute

Argentina's energy sovereignty," he said, calling for "a good dialogue as we have always had." He did not speak of "retaliations" and said only that "we expect Argentina to agree to negotiate a fair compensation."

During the privatization of state-owned assets, the government of then President Carlos Saúl Menem (1989-1999) was not concerned about protecting sovereign rights, regulating activities, or, in the case of oil, establishing clearly that YPF was a strategic resource. Repsol ceased explorations, devoted its activities exclusively to extracting and exporting, as if it were dealing with a simple commodity. After the Spanish administration took over, YPF production was based on extracting resources existing before 1998, discovered under state ownership.

Spanish company accused of redirecting YPF earnings to other projects

Specialist Ricardo de Dicco said that from 2003 to 2011 the company invested in only eight wells, whereas, in the 1980s, the state-owned YPF had reached a yearly exploration average of 117 wells. After YPF was privatized, the state was absent, until, in 2011, hydrocarbon imports became a US \$9 billion drain on the current account. Thus the seriousness of the matter was noted, and the idea of renationalization began to mature.

In an article in the Argentine daily *Página 12*, economist Alfredo Zaiat said, "The country lost its energy self-sufficiency and had to import fuel to feed a cycle of unprecedented growth, both in duration and magnitude. This showed the failure of the energy model of deregulating and privatizing a strategic economic sector."

The Spanish multinational paid US\$15.2 billion for its stake in YPF. Zaiat said that, since the purchase, the company's productive strategy has been principally extractive, without investing to recover or maintain reserves, "violating the logic of the oil business, which is to extract resources and replace reserves through investments to maintain the value of the company."

Zaiat said that Repsol redirected "the funds obtained from depleting the YPF wells" toward its global expansion in Alaska, Brazil, the Gulf of Mexico, the Caribbean, and northern Africa (Algeria and Libya). The Spanish company's growth in other markets was made possible with capital obtained from YPF profits.

Zaiat then gave data illustrating the business Repsol carried out with the Argentine oil company. "Being a company with little global relevance, it took on debt on to pay the US\$15.2 billion, and, from 2001 to 2006, it distributed cash dividends of US\$8.2 billion. In just six years, it had recovered almost 55% of what it had paid. In the next four years, the transfer of earnings totaled US\$5.1 billion. The US \$1.2 billion the company earned last year cannot be taken out of the country because the government will not allow it. Since it took control of YPF, Repsol distributed US\$13.3 billion to its shareholders. With the inclusion of the US\$1.2 billion in earnings that were retained, this amounts to almost what it paid to acquire the former state oil company. It is what textbooks call depredation of natural resources."

In the coming months, the Argentine government will have to determine how much it will pay to retake control of its oil company. It will not be easy to reach an agreement, because Repsol sets the value at more than US\$10 billion, which Argentina does not accept and which does not coincide with the figures that the company presented to the New York Stock Exchange (NYSE).

Those papers, filed at the end of 2011, indicated liabilities of US\$8.4 billion, the same as it was worth on the stock exchange after its persistent drop, beginning in early January. That is, its value would be zero, the same as Aerolíneas Argentinas in 2008, when the state decided to renationalize it following its gutting by Spanish companies Iberia and Marsans. Argentina made a symbolic payment of 1 euro, and the companies and the Spanish government had to accept it without protest.