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## Congress Overwhelmingly Approves Legislation To Reform State-run Oil Company Pemex

In what many consider a historic step toward changing Mexico's antiquated petroleum sector, the Congress approved legislation to overhaul the state-run oil company PEMEX. The measure was approved overwhelmingly in both houses of Congress in October, although there was some dissent within the ranks of the center-left Partido de la Revolucion Democratica (PRD). Some members of the PRD broke with their moderate colleagues because of opposition to a provision that allows PEMEX to hire private and foreign companies for key activities in the oil sector. Another key change that allows the company more control of its revenues received overwhelming support. But some critics say the reform plan, which was diluted from President Felipe Calderon's original proposal, is insufficient to help reverse Mexico's declining production. President Calderon first offered plan in April. The proposal to overhaul PEMEX had been in the works since April of this year, when Calderon first introduced his plan to Congress. At that time, the plan met strong opposition, with legislators from opposing parties concerned that the proposal potentially violated the Mexican Constitution (see SourceMex, 2008-04-30). Even with those concerns, Calderon pushed for the Congress to vote on the legislation to reform PEMEX in a special session during the summer months. Legislators rejected that proposal, saying they needed more time to consider an initiative with such far-reaching implications for the country (see SourceMex 2008-07-09). As legislators were considering the various proposals for PEMEX reform, a faction of the PRD along with allies from the Partido del Trabajo (PT) and Partido Convergencia por la Democracia (PCD) pushed to have Calderon withdraw his plan altogether. This group, which was allied with the PRD's ex-presidential candidate Andres Manuel Lopez Obrador, opposed any form of private participation in PEMEX (see SourceMex, 2008-07-16).

Sensing an urgency to implement reforms to help PEMEX become a more viable company in the face of a sharp decline in reserves of crude oil, legislators used the start of the fall legislative session to hammer out an initiative to overhaul the company (see SourceMex, 2008-08-06 and 2008-09-24). In drafting the proposal, the Congress worked to modify Calderon's original plan to make it conform to sections of the Mexican Constitution that designate petroleum as the patrimony of all Mexicans. This would mean limiting, but not excluding, the private sector. "No one disagrees with the participation of the private sector," Sen. Graco Ramirez, a member of a moderate faction of the PRD, said in early October. "Even the PRD recognizes that service contracts can be carried out by other companies." The PRD party leadership and a majority of members also got behind the modified proposal developed by the Senate energy committee (Comision de Energeticos). "This is not a measure that would privatize Mexico's oil industry, and, therefore, we're going to support it," said PRD president Guadalupe Acosta Naranjo. But the faction of the PRD that backed Lopez Obrador's position was not happy with the proposal and vowed to fight reforms, even to disrupt the voting process when the plan came up for a vote in the Senate and in the Chamber of Deputies.

There was also a difference of opinion in the PCD, one of the PRD's allies in the center-left coalition Frente Amplio Progresista (FAP). PCD Sen. Dante Delgado fully backed Lopez Obrador's position, while the party's national vice president Jose Luis Aguilera Rico criticized the former presidential candidate for not considering all sides of the argument on PEMEX reforms.

Senate makes key changes to original proposal The Senate energy committee made several changes to Calderon's plan that made the proposal acceptable to all parties. The committee removed a plan backed by Calderon and members of his governing Partido Accion Nacional (PAN) to help finance PEMEX operations through the Bolsa Mexicana de Valores (BMV) and the country's retirement accounts (Administradoras de Fondos de Retiro, AFOREs).

"The Constitution is very clear in this regard. It states that the nation owns the subsurface resources," said Sen. Francisco Labastida, who chairs the energy committee (Comision de Energeticos) in the upper house. "Those entities that are entirely Mexican, including AFOREs, do not represent the nation; they represent a group of workers." In the end, the committee settled on an alternative to funding PEMEX through the markets by allowing the company to sell "citizen bonds," which would pay dividends based on the performance of PEMEX. This proposal met some resistance from legislators from the PRD and the PT. The committee also nixed a proposal contained in Calderon's original plan that would have allowed production-sharing contracts. In addition, private companies will not be permitted to build and own refineries or participate in transporting oil within Mexico. The most important proposal by far was the move to give PEMEX financial autonomy and the flexibility to make its own decisions, rather than rely on the Secretaria de Energia or on the Secretaria de Hacienda y Credito Publico (SHCP) for direction. The energy committee approved a proposal to expand the PEMEX board of directors by adding four members, with the intention of fostering greater transparency and improving corporate governance. Supporters of the reforms also highlighted the provisions that allow PEMEX to hire private companies to conduct exploration and production activities, which give the company access to new technology and capital.

On Oct. 23, the Senate overwhelmingly approved the committee's proposal. But the vote was held at an alternate site rather than on a Senate floor to avoid Lopez Obrador's threats to disrupt the process. "Despite the opposition from Lopez Obrador, the national leadership of the PRD agreed to back the energy reform that was about to go to the Senate floor," the official news agency Notimex said on the day of the vote. Lopez Obrador turned his attention to the Chamber of Deputies, which was scheduled to vote on the issue on Oct. 28. The PRD leader requested a meeting with Deputy Cesar Duarte, president of the Chamber of Deputies, ahead of the vote to press his demand that the lower house drop the provision allowing private companies to participate in exploration and production activities. Duarte and other leaders agreed to the meeting. "There was no negotiation," said Duarte, a member of the Partido Revolucionario Institucional (PRI). "I simply complied with the request from some parties in Congress to hold this meeting. I think the meeting was important because it helped reduce tensions." Even so, a handful of PRD and PT legislators decided to take over the podium, causing some minor disruptions and a delay in the vote. In the end, the Chamber of Deputies overwhelmingly approved without changes the same legislation that was passed in the Senate. Lopez Obrador vowed to press ahead with his plans to organize nationwide protests against the plan approved in Congress. The PRD leader said he had also put together a legal team to bring the issue to Mexico's high court (Suprema Corte de Justicia de la Nacion, SCJN). Lopez Obrador said he also wanted to bring the issue to the international arena. "We want to exchange experiences with countries where the oil sector has been given away to private companies," he said.

Analysts say plan is inadequate to meet Mexico's needs. The reform has attracted criticism from analysts who say the changes are insufficient to attract the type of private participation that would help Mexico expand its reserves of crude oil. Pablo Hiriart, a columnist for the Mexico City daily newspaper Excelsior, described the changes as "bland gelatin." He placed the blame squarely on the shoulders of the PAN. "Because of fear of becoming isolated or suffering a defeat in Congress, the PAN backed a reform that does not solve our problems." "It's fairly apparent that, as an effort to address rapidly declining oil production and a lack of new discoveries, the legislation is not enough to reverse the ominous trends for Mexico's oil industry," Jeremy Martin, head of the energy program at the California-based Institute of the Americas, told Reuters. Even though the new law fell short of the changes the Calderon government originally sought, the president attempted to put a positive spin on the changes, saying the reforms were the best that could be hoped for. "[The reforms] allow us to reorganize the petroleum sector, promote economic growth, and expand our supply of affordable energy," Calderon said shortly after the lower house approved the changes. Energy Secretary Georgina Kessel said the reforms provide PEMEX with more flexibility to contract out work to private companies, which, in turn, could result in creating as many as 300,000 new jobs. Similarly, PEMEX director Jesus Reyes Heróles said the changes would help PEMEX become a more efficient company. "This is the start of a new phase of development that commits directors and workers to improve their efficiency and operate with greater transparency," said Reyes Heróles. Some analysts said the biggest achievement was the cooperation among the major parties in approving the reforms. "It's not the most desirable, but it's the most politically feasible reform," Enrique Bravo, a Latin America analyst for New York-based Eurasia Group, told the Los Angeles Times. "This is not a minor achievement."