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PEMEX Contractor, Mexico’s Largest Bank at Center of Major Financial Scandal

by Carlos Navarro

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A massive case of fraud and mismanagement is at the center of a financial scandal involving a private contractor for the state-run oil company PEMEX, Mexico’s largest bank, and powerful individuals with connections to the conservative opposition Partido Acción Nacional (PAN).

The controversy centers on Oceanografía, a company based in Ciudad del Carmen in Campeche state, which has provided offshore oil services to PEMEX subsidiary Exploración y Producción (PEP) for more than four decades. The company, whose majority owner is entrepreneur Amado Yáñez Osuna, is under investigation of fraud and money laundering. In the most recent case, the company is alleged to have fraudulently obtained millions of dollar in loans from Mexico’s largest bank Grupo Financiero Banamex (GFB).

While it appears that Oceanografía was bending financial rules during at least a portion of its 40-year partnership with PEP, the company’s questionable practices appeared to fly under the radar. The situation did not come to light until Banamex’s parent company, US-based Citigroup, filed a complaint with the Mexican federal government about a very questionable and fraudulent loan. The complaint alleges that Oceanografía requested credit of about US$400 million using as collateral projected future payments from PEMEX. The problem is that those supposed PEMEX payments were the result of falsified paperwork and were not based on a contract for pending work.

The seriousness of the allegations prompted President Enrique Peña Nieto’s administration to intervene. The Procuraduría General de la República (PGR) and the Comisión Nacional Bancaria y de Valores (CNBV) opened investigations into this particular loan and Oceanografía’s financial practices, while the Secretaría de Hacienda y Crédito Público (SHCP) assumed control of the oil-services company.

Investigators are looking into the activities of the company as well as those of Yáñez Osuna and his associates, including his wife Verónica González Yáñez, Francisco Javier Rodríguez Borgio, Óscar Rodríguez Borgio, and Martín Díaz Álvarez, among others.

The government has barred Oceanografía from entering into any new contracts with the Mexican government or any state-owned company, including PEMEX, pending the results of the ongoing investigation. The directive means that, for all intents and purposes, the company has ceased to operate, since Oceanografía obtained its revenues almost entirely from PEMEX contracts. Between 1999 and 2013, the company won more than 160 competitive bids, worth more than US$2 billion, for such services as inspection, monitoring, maintenance, rehabilitation of wells, food concessions, housing, and transportation.

The SCHP assigned the unit in charge of seized property (Servicio de Administración y Enajenación de Bienes, SAE) to determine how much banks, investors, and employees are owed. This is an unprecedented task for the SAE, whose duties have consisted primarily of auctioning smaller
properties such as vehicles. One of its first tasks is to distribute about 200 million pesos (US$15 million) in back pay to employees.

**Wide repercussions**

In comments to reporters, Finance Secretary Luis Videgaray promised that the government would help ensure "an ordered recovery of financial assets of the various creditors" of Oceanografía.

"From a public opinion perspective, the workers are most important, but on the other side the government needs to be sensitive to investors, because their treatment could affect sentiment about Mexico," analyst Jorge Chabat of the Centro de Investigación y Docencia Económicas (CIDE) said in an interview with Bloomberg news service.

Some observers pointed out that Oceanografía had engaged in questionable financial practices for many years. Banamex is apparently not the first victim of Oceanografía’s shady practices. The oil-services company is also said to have defrauded Dutch financial institution Rabobank, US-based PNC Bank, the Mexican soccer league (Liga MX), the Instituto Mexicano del Seguro Social (IMSS), the workers housing fund (Instituto del Fondo Nacional de la Vivienda para los Trabajadores, INFONAVIT), and the Dutch shipbuilding company De Hoop.

Oceanografía has also been the target of 30 lawsuits in US federal courts since 2001, mostly for failure to pay for use of equipment or facilities. In one case filed in 2011, Louisiana-based Diamond Services filed legal action to recover delinquent payments for the use of one of its ships for several years. "Yáñez not only failed to pay rent, but he used the ship as a guarantee to obtain three loans totaling US$3.6 million," said the Mexico City daily newspaper Reforma.

"The more I read about this company, the more I’m convinced that we are dealing with a bunch of crooks who became wealthy through corruption, theft, and lies," columnist Leo Zuckermann wrote in the Mexico City daily newspaper Excélsior on March 11. "The history of Oceanografía reflects a style of 'simulated' business practices, where so-called business entrepreneurs, motivated by greed, see an opportunity to increase profits exponentially through their political connections."

**Banamex also under investigation**

The investigation by the PGR and CNBV is also examining what role officials at Banamex might have played in the fraud. On top of that, US financial investigators are also probing the case, including requesting Citigroup to provide information about the operations of its Mexican banking affiliate, particularly in light of the move by the US financial-services company to reduce its earnings for the fourth quarter and for the full year in 2013 following the discovery of the Banamex fraud. Among those sending subpoenas to Citigroup are the US Federal Deposit Insurance Corp. (FDIC) and the US Attorney’s Office for Massachusetts.

Recent reports suggested concern among Citigroup officials about sloppy and outdated practices at Banamex and a resistance by officials of the Mexican affiliate to increase efficiency of operations. "Efforts by senior executives to tighten controls in Mexico were rebuffed by managers there for at least five years before the US bank found the local unit had suffered a US$400 million loan fraud last month," said Bloomberg news service, citing four individuals with direct knowledge of the situation.
One source said employees at Grupo Financiero Banamex have employed outdated practices, such as processing some documents by hand instead of using modern information systems that make it easier to detect flawed loans.

The company’s situation also affected the bond market, with US$335 million in defaulted bonds due in 2015 dropping sharply in value. "Now, those bondholders must contend with an administrative agency that has no clear mandate for resolving bondholder claims, no explicit timeline for relinquishing control of the assets and little experience in Oceanografía’s specialty of marine engineering and construction," said Bloomberg.

**What role did the PAN-led government play?**

The first document that offered evidence that Oceanografía enjoyed institutional protection came to light in 2005 via an executive summary produced for an internal-control document of the government’s foreign-trade bank (Banco Nacional de Comercio Exterior, BANCOMEXT). The document revealed that false invoices were created to guarantee loans.

"The press has cited this report many times as an example of how false invoices were used to guarantee loans, as happened with Banamex," columnist Raymundo Riva Palacio wrote in the Mexico City daily business newspaper El Financiero. "But there is much to this story. This is a clear case of a breach of federal law and a sign of the government cover-up."

The majority of the fraud occurred during the years when former Presidents Vicente Fox (2000-2006) and Felipe Calderón (2006-2012), both members of the PAN, were in office.

"The instructions from the federal government are clear. Every agency has to document all the irregular and illegal actions taken by Oceanografía during the [Calderón] administration and file the appropriate complaint," said Riva Palacio. "The IMSS and INFONAVIT have already uncovered false documentation and irregularities with worker contributions."

Riva Palacio wondered whether the directors of the two agencies, Daniel Karam and Víctor Borrás, knew about the problems. "Why did they not take action when they were in charge?" asked the columnist. "The unofficial response is that they did know about the problems, they informed their superiors, and nothing was done. For eight years, the federal government’s policy was to protect Oceanografía."

The suspicions of corruption extend beyond Calderón’s administration to the Fox administration. Manuel and Jorge Bribiesca Sahagún, sons of former first lady Marta Sahagún and stepsons of the ex-president, are under investigation to determine if they helped facilitate the favorable treatment of Oceanografía and whether they benefited financially from the arrangement. In February, the Chamber of Deputies announced the creation of a special commission to investigate what role, if any, the Bribiesca Sahagún brothers had in the Oceanografía case. This is not the first time that Fox’s stepsons have faced charges of corruption. Manuel and Jorge Bribiesca Sahagún were accused of receiving favorable treatment and using government contacts for personal enrichment (SourceMex, Feb. 22, 2006).

Another brother, Fernando Bribiesca Sahagún, is a member of the Chamber of Deputies, representing the Partido Nueva Alianza (PANAL). He is not under suspicion, but political observers wonder what stance he will take if the case comes to the full lower house. "We’ll have to see how
Francisco behaves [regarding the investigation] and whether his brothers come in defense of their friends at Oceanografía," columnist Jesusa Cervantes wrote in the weekly news magazine Proceso.

"The company gained prominence during the Fox years, and there were rumors that it was one of the springboards for the Bribiesca brothers, who entered the 'big leagues' as PEMEX contractors through Oceanografía," said Cervantes.

Fox has publicly denied that his stepsons had any role in the Oceanografía scandal. "Our family is calm. We have nothing to hide, and there is nothing to worry about," the ex-president said on March 2.

Other prominent PAN members have been mentioned in connection with the case, including César Nava Vázquez, a former party president and PEMEX legal counsel during the Fox government. He is said to have created the legal framework that allowed the Oceanografía’s scheme to operate. Another prominent PAN member under investigation for his role in the handling of PEMEX contracts is Juan Bueno Torio, former director of PEMEX subsidiary Pemex Refinación under Fox and currently a member of the Chamber of Deputies.

The name of former PAN president Gustavo Madero has also come up in connection with the case, but he is apparently not under investigation. "I am sure that the officials who ran PEMEX in the past 12 years, as well as the members of its board during that time, can provide the detailed information on the Oceanografía case," Madero said in a statement.

While the spotlight is on the PAN, other observers suggest that the corrupt culture under which Oceanografía thrived was prevalent long before the center-right party came to power.

"There is every indication that the fraud committed against Banamex was not an isolated case but a way of conducting business that succeeded for many years," columnist Enrique Quintana wrote in El Financiero.

"When the PAN took over the presidency, the party failed to develop any plan to combat corruption," said Pablo Gómez, a former federal deputy who writes a column for the Mexico City daily newspaper Milenio.

"The only changes the PAN made were to promote a law to open up government communications to the public—a step that was insufficient to address the huge battle against a corrupt state. And then the new governing party got itself caught in the web of state corruption," added Gómez, a former legislator for the center-left Partido de la Revolución Democrática (PRD). [Peso-dollar conversions in this article are based on the Interbank rate in effect on March 19, 2014, reported at 13.30 pesos per US$1.00.]