LATIN AMERICA ADVISOR

A DAILY PUBLICATION OF THE DIALOGUE

www.thedialogue.org

Friday, June 22, 2018

FEATURED Q&A

Will Temer's Decree Boost Brazil's Mining Industry?

Brazilian President Michel Temer earlier this month signed a decree to overhaul Brazil's mining regulations. // File Photo: Agência Brasil.

Q Brazilian President Michel Temer on June 12 signed a decree overhauling the country's half-century-old mining code, effectively bypassing Congress after it failed to approve similar changes last year. The new rules direct a share of royalties to municipalities that do not have mines but are affected by the transport or presence of industrial facilities related to mining. It also allows mining licenses to be used as guarantees for loans, generating credit lines and drawing investment to the sector, among other changes. To what extent will the changes benefit Brazil's economy and its mining sector? What stakeholders stand to gain or lose the most, and what is missing from the code that should be there? What kept Brazil's Congress from making changes to the mining code?

A Jana Nelson, former Brazil desk officer at U.S. Department of State: "The decree that modernizes the 50-year old mining code is a welcome move by the Temer government. It implements stricter environmental controls and allocates a higher percentage of compensation royalties to municipalities that are affected by mining activity, even though they are not producers. Brazil's coalition-based political system requires a lot of earmarks and trade-offs between numerous parties in order to pass legislation through Congress. The Temer administration has little political capital to spend and even less money to earmark, meaning congressional action on administration priorities, such as the mining code, is not possible. That is why Temer had to approve the reforms by decree. Those who stand to lose most are the producing municipalities, which will be allocated less royalties. After the

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Venezuela has failed to hold accountable those responsible for human rights violations, including extrajudicial killings, the Office of the United Nations High Commissioner for Human Rights said in a report.

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The country's finance minister said the tax would apply to companies such as Netflix and Uber.

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Mexico's Central Bank Hikes Interest Rates

Mexico's central bank, led by Alejandro Díaz de León, raised its benchmark interest rate to 7.75 percent. The hike came at policymakers' last meeting before the country's July 1 presidential election.

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Díaz de León // File Photo: Notimex.

POLITICAL NEWS

Rule of Law 'Virtually Absent' in Venezuela: U.N. Rights Office

Venezuela has failed to hold accountable the perpetrators of human rights violations, including hundreds of questionable killings, cases of torture and arbitrary detentions, the Office of the United Nations High Commissioner for Human Rights said in a report released this morning. The report documents what it calls "credible, shocking accounts of extrajudicial killings in the course of purported crime-fighting operations carried out since 2015." Between July 2015 and March 2017, the office of Venezuela's attorney general had recorded the killings of 505 people during such operations, known as "Operations for the Liberation of the People," the U.N. rights office said. "Witness accounts suggest a pattern: raids in poor neighborhoods conducted to arrest 'criminals' without a judicial warrant; the killing of young men who fit the profile, in some cases in their homes; and finally security forces tampering with the scene so that the killings would appear to have occurred in an exchange of fire," the rights office said in releasing the report. Accounts by victims raise questions about whether the operations were actually meant to fight criminal groups, or whether they actually served as a way for the government to "showcase alleged results n crime reduction," the office said. "The failure to hold security forces accountable for such serious human rights violations suggests that the rule of law is virtually absent in Venezuela," U.N. High Commissioner for Human Rights Zeid Ra'ad Al Hussein said in a statement. "For years now, institutional checks and balances and the democratic space in Venezuela have been chiseled away, leaving little room to hold the state to account. The impunity must end." Zeid recommended that the U.N. Human Rights Council create an inquiry commission to further probe the situation in Venezuela. The country's government has not granted the U.N. Human Rights Office access to the country despite its repeated requests, the office said. Zeid added that there is "a strong case" for the International Criminal Court to get more deeply involved in Venezuela. The report released today by the U.N. Human Rights Office also described dire circumstances with regard to health care and a lack of food in Venezuela. "Families are having to search for food in rubbish bins. By some measures, 87 percent of the population of Venezuela is affected by poverty, with extreme poverty at 61.2 per cent and 1.5 million people having fled the country since 2014," said Zeid. The report adds that at least 280 people have been "arbitrarily deprived of their liberty" in Venezuela for expressing political opinions, for exercising their human rights or because they were seen as a threat to the government. The U.N. report was compiled following approximately 150 interviews and meetings with Venezuelans, including with at least 78 victims or witnesses, in addition to information from a variety of sources, the rights office said. The report was released today before dawn in Venezuela, and there was no immediate public comment on it from Venezuela's government, the Associated Press reported.

ECONOMIC NEWS

Mexico's Central Bank Increases Interest Rates

The board of Mexico's central bank unanimously decided on Thursday to raise its benchmark interest rate by 25 basis points to 7.75 percent in its last meeting before the country's July 1 presidential election, El Universal reported. The Bank of Mexico's move—the first in three meetings—came in response to the depreciation of the peso, which recently hit its lowest level against the U.S. dollar in more than a year, according to The Wall Street Journal. The Mexican currency has weakened in part because of the U.S. Federal Reserve's move to raise interest rates earlier this month. Another major reason behind the peso's loss is the widespread uncertainty regarding trade tensions

NEWS BRIEFS

Another U.S. Embassy Employee in Cuba Contracts Mystery Illness

Doctors at the University of Pennsylvania confirmed that a U.S. Embassy employee in Cuba is sick with a mysterious illness, the Associated Press reported Thursday. The case brings the total number of affected workers there to 25 since 2016. Diplomats in Cuba have reported hearing bizarre noises in so-called "sonic attacks." The most recent confirmation comes after U.S. officials demanded last week that the Cuban government define the source of such health incidents, with symptoms similar to brain trauma, the AP reported. Cuba denies any involvement in the incidents.

Deforestation Accelerates in Brazilian Savannah: Environment Ministry

Deforestation in the Cerrado region, Brazil's savannah, increased to 7,408 square kilometers last year after a 43 percent fall in 2016, the Brazilian environment ministry said on Thursday. The savannah, which covers around 25 percent of the South American country, is almost entirely covered by tree formations. The region's vegetation is a key factor in Brazil's efforts to limit global warming, Reuters reported.

Samsung Pay Adds Itaú to List of Partner Banks in Brazil

Samsung Pay has added Itaú Unibanco to its list of partner banks in Brazil, Samsung announced Thursday. The agreement will allow holders of Itaú-issued credit cards to use Samsung's mobile payment system for transactions in the South American country. Samsung Pay now has partnerships with 11 Brazilian banks, the South Korean company said. Bradesco, Banco do Brasil and Santander also have such partnerships. Samsung Pay launched in Brazil in July 2016.

with the United States, El Universal reported. However, Banxico noted in a statement that the United States' new tariffs on steel and aluminum would have a "limited" and "short-lived" impact on inflation. Still, "some of the upside risks to inflation identified by the central bank have started to materialize," the statement said. The spike in international energy prices, alongside the weaker currency, may cause inflation to fall at slower rates than previously expected. Inflation was 4.5 percent in May, and Banxico's target is 3 percent, The Wall Street Journal reported.

BUSINESS NEWS

Chile's Government Eyeing E-Commerce Tax on Multinationals

Chile's government wants to impose an e-commerce tax for multinational companies like Netflix, Spotify and Uber, the country's finance ministry announced Thursday, La Nación reported. The move aims to even the field between multinational and other more traditional companies, Finance Minister Felipe Larraín said in a news briefing. "It's not fair that some [companies] that offer the same services pay taxes and others do not," he added. The plan is that these multinational giants—such as Airbnb, Amazon and AliExpress, according to Larraín—will pay income and value-added tax on their earnings, as well as import duties, unless their country of origin has a trade agreement with Chile, the minister said, according to Agence France-Presse. It is unclear how the taxes will be implemented, as these platforms do not have a physical presence in Chile, and some, such as Uber and Cabify, are still technically illegal while Congress is in the process of drafting legislation to regulate their services, La Nación reported. The finance ministry has been eyeing the idea of an indirect transaction tax or surtax via credit card, and Larraín expects that imposing such a tax could potentially amount to "hundreds of millions of dollars," AFP reported.

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Mariana Dam tragedy, however, it is unconscionable not to find a way to compensate the states whose rivers were taken over by mercury-laden clay. The reform is expected to increase investment in mining and in mining technology in Brazil. One of the changes in the code is to increase incentives in mining research and to improve the bidding process on mining rights, making it more transparent. These reforms were negotiated with the industry and are generally seen as positive in the business community."

A **Victor Brandão, government affairs consultant at Barral M Jorge:** "The fall in the price of iron ore in the international market, a decrease in Brazilian consumption of mineral goods in general and the biggest environmental accident in history have caused the last years two be the worst ever for Brazilian mining. In this sense, the Mining Code update was crucial for the industry to get a glimpse of a new future. The rule will end a long period of legal and regulatory uncertainties. However, in order for it to actually enter into force, it is necessary to assure the National Mining Agency of the material and human resources required to carry out its new institutional functions described in the code. In this way, the creation of the agency, the modernization of the code and the updating of the royalties collection were fundamental steps to establish a new paradigm for the investor. Currently, mining contributes 4 percent of Brazil's GDP, and the government expects it to reach 6 percent. One of the most positive changes is the need to comply with international standards for the calculation of resources and reserves. As a point of improvement, there is no prediction in the published text on the application and form of the auction, although the new decree makes the forecast of a prior public offer to evaluate the potential of the area for electronic auction. Finally, at the time the bill was being processed, there were dozens of proposals in Congress, and the mining code was considered among the least important."

A **Carlos Vilhena, head of mining and government relations at Pinheiro Neto Advogados:** "The decrees enacted on June 12 do not bypass Congress. One regulates the payment of royalties to municipalities that have no mining activity but are affected by mining infrastructure. This regulation was a requirement due to changes to the Royalties Act made last December. The second decree is a long-awaited update of the regulations of the Mining Code. The previous regulations date back to 1968. The idea behind this decree was to make the regulations coherent with the current wording of the Mining Code, which was significantly altered in the 1990s. It also brings clarity to a number of procedures, including environmental, tender procedures and the granting of title as financial guarantees. None of the provisions of the regulations are new, as a decree cannot change existing legislation or introduce new ones. The regulations merely make application of the law and procedure more clear. In this sense, the initiative is a positive one. Public and private sectors, as well as society in general have only to gain if the application of the law is made more efficient. Brazilian mining law could be made better, of course. Changes that would lead to a single title (as opposed to the two-stage system), less red tape, further security of title, among others, would be very welcome.

"The regulations merely make application of the law and procedure more clear."
— Carlos Vilhena

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Most of these, however, require a legislative process in Congress. Changes to the Mining Code did not happen last year due to the lack of political interest, influenced by timing and Congress' agenda at the time."

A Leonardo Pereira Lamego, environment and mining lawyer at Azevedo Sette Advogados: "Except for the recent increase in CFEM rates, it is expected that the ongoing update of mining law and the new National Mining Agency (NMA) will encourage the sector by establishing clearer rules, reducing speculation and expediting procedures. It is also expected to encourage technical-based decision-making and more legal certainty. The decree also requires the exploration reports to follow internationally accepted standards for statements of findings, which may foster foreign investments. The economy, society and the mining sector will benefit from the regulations, given the importance of mining to Brazil. The decree incorporated important environmental obligations related to mine decommissioning, tailings dam safety, remediation of the degraded areas and tailings reuse and exploitation. The new decree empowers NMA to declare the expiration or revoke titles due to reiterated non-compliance, mine abandonment and failure to comply with procedures and deadlines. It establishes competitive procedures so that interested parties may apply for the areas related to mining rights that were revoked and/or areas that became available. Speculators and title holders that do not intend to actually perform mineral activities may lose their titles. The municipalities negatively affected by mining activities shall receive a part of CFEM resources, whereas the union, mining municipalities and respective states will have their CFEM allocations reduced. Some were not included in the mining code regulation because there is a legal limit to the creation of rights and obligations by decree. Also, the decree does not regulate landowners' right to participate in the results of mining. The approval of a new code should be a priority. However, the elections, political turbulence in the last years and the unfolding of anticorruption operations have affected Congress' priorities."

> **"The economy, society and the mining sector will benefit from the regulations..."**
> **— Leonardo Pereira Lamego**

LATIN AMERICA ADVISOR
is published every business day by the Inter-American Dialogue, Copyright © 2018

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Latin America Advisor is published every business day, except for major U.S. holidays, by the Inter-American Dialogue at
1155 15th Street NW, Suite 800
Washington, DC 20005

www.thedialogue.org

ISSN 2163-7962

Subscription inquiries are welcomed at freetrial@thedialogue.org