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SOME CONSIDERATIONS ON THE RECENT REFORMS REGARDING HYDROCARBONS IN MEXICO

During the closing quarters of 2008 and 2009 several federal laws and regulations regarding the oil and gas regime in Mexico were amended and issued.[1] These dealt in the main with matters pertaining to the transportation, storage, distribution and first and subsequent sale of hydrocarbons as well as with the special procedures that must be followed by the state-owned oil company Petróleos Mexicanos and its subsidiaries (hereinafter PEMEX) when entering into all contracts and agreements with private entities and persons as required for it to efficiently carry out its major productive activities, that is to say, those reserved to the "State-owned petroleum industry" as specified in the Regulatory Law of Article 3 of Article 27 of the Constitution regarding the Oil Sector, as amended and added to on November 28, 2008 (hereinafter the Oil Law")[2]

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[1] The phrase "2008 and 2009 oil reform" will be understood to mean all the amendments and additions to the existing laws and regulations and the issuance of new laws and regulations applicable to the oil sector, that were passed during the period running from November 28, 2008 to September 22, 2009, as listed herein below, which became effective on the day following their publication in the Official Gazette of the Federation (OGF).

Regulatory Law of Article 27 of the Constitution for the Petroleum Sector, amended and added to on November 28, 2008 (hereinafter the Oil Law).

New Regulations of the Regulatory Law of Article 27 of the Constitution for the Petroleum Sector, published in the OGF on September 22, 2009 (hereinafter the Oil Regulations).

New Law of Petróleos Mexicanos published in the OGF on November 28, 2008 (hereinafter PEMEX Law)
New Regulations of the Petróleos Mexicanos Law, published in the OGF on September 4, 2009 (hereinafter PEMEX Regulations).

New Law on Sustainable Energy, published in the OGF on November 28, 2008.

New Law on Renewable Energies and the Financing of Energy Transition published in the OGF on November 28, 2008.

New Law of the National Oil and Gas Commission published in the OGF on November 28, 2008.

Law of the Energy Regulatory Commission as most recently amended on November 28, 2008.

Amendments and additions to Article 33 of the Organic Law of the Federal Public Administration, published in the OGF on November 28, 2008.

Additions: a fourth paragraph to Article 3 of the Federal Law of State-owned Entities; a third paragraph to Article 1 of the Law of Public Works (Spanish acronym: LOPSRM), and a third paragraph to Article 1 of the Law on the Public Sector Procurement (Spanish acronym: LAASSP), published in the OGF on November 28, 2008.

[2] "Article 3 of the Oil Law.- The oil industry comprises:

I. The exploration, exploitation, refining, transportation, storage, distribution and first sale of oil and the products obtained from refining oil;

II. The exploration, exploitation, production and first sale of gas, as well as the transportation and storage that are essential and necessary to connect [the stages] of exploitation and production, and

Excluded from the provisions of the foregoing paragraph is gas that is associated with carbon deposits, whose exploitation and processing will be regulated by the Mining Law, and
Added paragraph, OGF June 26, 2006

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There has been a heated debate on whether some of the activities that were reserved to the State-owned oil industry were or were not privatized as a result of the above mentioned amendments (hereinafter the Oil Reform). There are currently constitutional controversies pending resolution that were filed as a result of the Oil Reform, in particular as regards the regulatory framework, by the Mexican legislators of the left, that is, by those who opposed the reforms.

According to the statements of purpose of the Oil Reform, the main reason for this reform was to make the energy sector more efficient[3] without depriving the Mexican State of exercising control on hydrocarbons, in order to attain sustainable development of the energy sector and preserve national security in energy matters. That is, to diversify power sources and exploit them to the utmost in the long term range in order to protect the

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III. The production, transportation, storage, distribution and first sale of those oil and gas derivatives that may be used as basic industrial raw materials which constitute basic petrochemicals that are listed herein below:

1. Ethane

2. Propane

3. Butanes;

4. Pentanes,

5. Hexane

6.Heptane

7. Raw materials for the production of carbon black

8. Naphtha, and

9. Methane, when deriving from hydrocarbons obtained from deposits located in the national territory and used as a raw material in petrochemical industrial processes.
Amended section, OGF November 13, 1996.
Amended article OGF May 11, 1995."

[3] In order to achieve this, the actions taken included giving broader authority to: (i) the Ministry of Energy, as head of the sector regarding regulatory matters, planning in the short, medium and long range terms, programming, and coordination, incorporation; (ii) the Energy Regulatory Commission in matters regarding the technical regulation, supervision, oversight and inspection of public and private entities engaged in the production, storage, transportation and distribution of hydrocarbon derivatives through pipelines. In addition, the National Commission of Hydrocarbons was created, as the authority with powers in matters of regulation, supervision, oversight and technical inspection of public entities engaging in the exploration and exploitation of hydrocarbons. Collegiate entities were created in charge of planning and scheduling specific activities for the sustainable use of energy in all stages from exploitation to consumption, and to oversee the efficient energy transition to renewable energy sources (clean energy) that will contribute to slow down climate change and other environmental impacts. Furthermore, practices of corporate governance, responsible and sustainable operations, transparency and risk management, administrative streamlining and productivity prevailing in the international market were incorporated into PEMEX.

Moreover, the National Hydrocarbon Information System was established, whose object is to: collect and update all the relevant information of the energy sector, including: (i) the proven, probable and possible reserves per field, type of fluid and associated original volumes, including the studies for their assessment or quantification and certification on the basis of the information provided by the National Hydrocarbon Commission; (ii) the existing permits, assignations, authorizations and declarations of public interest in force; (iii) verifications and inspections; (iv) technical opinions that provide evidence of the existence and serve as grounds to maintain oil reserve zones, as well as (v) geological information.

The foregoing in the understanding that the Ministry of Energy will establish the mechanisms and criteria to allow the general public access to the information and documentation, as set forth in the Federal Law of Transparency and Access to Public Governmental Information.

country from depending on foreign sources of energy that would place it in a weakened position, since the party who has control over fuel and energy sources may paralyze a country at any time.

In this regard the Mexican President, PEMEX and the federal legislators of the right and center right have stated that: (i) the new framework applicable to permits and contracting to undertake some of the activities pertaining to oil and gas is legal and constitutional; (ii) it does not entail the privatization of any activity reserved to the state, (iii) the regulations issued during the last quarter of 2009 have followed principles of consistency by harmonizing secondary regulations with the substantive laws on the matter in order to give operational effect to the reforms that have been made since 1995, mainly to achieve the purposes of said reforms as soon as possible without squandering resources.

In the past there was a debate on the scope, constitutionality and legality of the more than 8 Multiple Service Contracts (hereinafter MSC) entered into by PEMEX between 2001 and 2008 for the construction of the Cadereyta Refinery, as well as for the exploration, exploitation and production of natural gas in the Burgos Basin. At present both the Oil Law and its regulations (hereinafter the Oil Regulations), the new law for PEMEX and its subsidiaries (hereinafter the PEMEX Law) and the PEMEX Law regulations (hereinafter the PEMEX Regulations) contain chapters that systematize the provisions that governed the various matters since 2001, and contemplate the possibility not only for PEMEX to enter into this type of contract, but even into agreements with a wider scope, that provide for risks and the transfer of profits to private enterprises, which in the opinion of some, resemble more closely the risk contracts that had been forbidden since 1960.

Furthermore, it should be noted that the new regulations allow PEMEX to conduct one or more public contract awarding procedures when required to better undertake its main activities regarding production, provided that (i) title and control over hydrocarbons resides in PEMEX; (ii) the consideration is paid in cash, is reasonable, certain and transparent; (iii) no clauses are agreed upon that allow the private entity to participate in profits deriving from the production, exploitation or any other type of trading of hydrocarbons in general, (iv) PEMEX must establish the technical safety mechanisms so as not to transfer strategic activities, direct profits obtained from such strategic activities, nor the fixed assets built under said contracts to private entities.

Nevertheless, although the reform clarifies the matter, it cannot in fact be denied that contractors, either Mexican or foreign, shall have ample leeway in determining the manner and terms under which the oil and gas will be exploited and marketed under the relevant contract or contracts, since due to the nature of their purpose (the construction and operation of fixed assets): (i) they are long-term contracts; (ii) the private entity provides and, if required, subcontracts for the supply (including importation) of all material, human, and financial resources required to achieve the purpose of the contract (concentration of risk, financial and professional opportunities in one single external contractor on which PEMEX would depend), and (iii) confer upon the contractor extensive operational and decision making powers. For example any controversies relating to the

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work program are submitted for resolution to a working group made up of representatives of both parties and in the event a decision is not reached by a majority, they are submitted to resolution by experts.

Listed herein below are the basic legal and regulatory requirements that must be met by the contracts entered into by PEMEX with private entities:

- Compensation amounts must be specified at the time the contract is executed, it being understood that additional compensation may only be included if this benefits PEMEX: (i) due to a shortened period of time in carrying out the works required; (ii) due to new technologies provided by the contractor, or (iii) from other circumstances attributable to the contractor that inure in greater profits or productivity for PEMEX or provide better results from the works or the service.

- Compensation amounts may be subject to determination, adjustment or indexation according to: (i) the volume or value of the reserves; (ii) the production value; (iii) the production capacity, or else (iv) the price of oil and gas in the international market.

- The contracts may contain clauses allowing the parties to make changes in the projects, particularly to multi-annual projects, as a result of: (i) the incorporation of technological advances, (ii) variation in the market prices of the supplies and equipment required by the works; (iii) new information gained during the time works are in progress, or (iv) an improvement in the efficiency of the project.

- The contracts may provide for: (i) penalties to be applied as a result of negative impacts on environmental sustainability and for the failure to meet time requirements and quality standards; (ii) mechanisms for the prevention and resolution of controversies under Mexican law and to be brought before Mexican courts and arbitrators, except in the event of legal acts of an international nature; (iii) an obligation binding on the contractor of adhering to PEMEX's industrial safety norms, of submitting information on this matter as required by the Ministry of Energy, the National Commission on Hydrocarbons and the Energy Regulatory Commission, as well as the obligation of the contractor of being bound by the provisions issued by the afore mentioned entities.

- The contractor may finance the works or services and recoup its investment by means of the agreed upon consideration.
- Contracts may be awarded directly, by limited invitation to bid or public bidding, depending on the requirements, timeliness and complexity and magnitude of the project, these aspects to be defined by the provisions issued by the Board of Directors of PEMEX, because since the 2008 and 2009 oil reform it was provided that public contracts to carry out PEMEX productive activities of a substantive nature would be governed solely by the PEMEX Law and the provisions that may be issued by its board of directors, without having to be subject to the general regime applicable to the remaining federal agencies and instrumentalities as

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contemplated in the Public Sector Procurement Law (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público, Spanish acronym LAPPSSRMM)* and the Public Works Law (*Ley de Obra Pública y Servicios Relacionados con las Mismas, Spanish acronym: LOPPSSRMM)*, since the legislature considered that the high degree of specialty, complexity, magnitude and importance of the works and services of the State Oil Industry justified this regulatory and administrative autonomy to ensure the energy and financial safety of the country.

This special regime for the awarding of contracts provides that awarding will take place as a general rule by public bidding, and exceptionally by limited invitation and direct awarding, as contemplated in the (i) LAASSPP; (ii) the LOPPSSRMM, and (iii) the PEMEX Law.

The following list contains some of the circumstances under which exceptions to the public bidding requirements will be made as provided in the PEMEX Law:

- Special cases in which direct contract awarding may take place:

  Those involved directly with *the remediation of oil spills, the emission of toxic or hazardous gases, irregular oil spills* or any other event that places at risk the workers, the population, the environment or the facilities used by PEMEX or its subsidiaries, events that are the result of accidents, sabotage, theft, or other malicious acts and other events that require immediate action;

  The retaining of the services of certifying public officers, experts and of counsel in judicial or administrative proceedings, and

  In the event of the supply of spare parts or services relating to the installation, maintenance or conservation of industrial equipment by the original manufacturer of the equipment or machinery in order to maintain its warranty.

  Special cases in which invitation to bid is restricted to at least three persons:

  Contracts for the purpose of developing technological innovations relating to the corporate purposes of PEMEX and its subsidiaries and

  Engineering studies, consultancy, advisory, research and training services.

  We will have to wait to see whether these exemptions will be applied with prudence and restraint, if not, they will have as a result that highly questionable agreements will be executed by claiming that they fall within the scope of such exemptions.

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In addition, PEMEX will be able to resort, in public bidding procedures, to various methods to analyze and assess bids, including mechanisms for preliminary assessment and for subsequent discount bids, and stages for price negotiation, such as the undertaking of promotional action in the market that does not affect the impartiality, honesty, transparency and results of the relevant contract awarding process, in order to obtain the maximum financial benefit for PEMEX.

- No maximum legal term is provided for, and therefore terms will be determined taking into account the characteristics and requirements of the project.

- Since the contracts are multiple-year contracts, they may be structured as Pidiregas.[4]

We applaud the fact that just a few months after the publication of the PEMEX Regulations, the Board of Directors of PEMEX has already issued provisions governing contracts relating to substantive activities concerning production. Who has not experienced the frustration produced by laws that are enacted but cannot be implemented due to the lack of the relevant regulatory framework? But in addition to this proactive attitude, we believe that in the publication contained in the Official Gazette of the Federation on January 6, 2010 the PEMEX Board made a significant effort to honor the provisions of the Constitution, the Oil Law and its Regulations as well as those contained in the PEMEX Law and its Regulations, by establishing normative criteria for documentary requirements that we believe do not go beyond the scope of such statutes. In particular the criteria mentioned are meant to serve as guidelines in the procurement process, and in the drafting, awarding and execution of contracts, taking into account the following: (i) adequate risk management and protection in all the stages of the project that is to be implemented under a contract: (ii) clear determination of the responsibilities of the private enterprise or contractor, on the one hand, and PEMEX or any of its subsidiaries, on the other; (iii) transparency and utmost publicity; (iv) equality in the opportunities, requirements and assessment criteria afforded those that participate in the procurement process; (v) promotion of competition among participants to obtain maximum earnings; (vi) simplified processing procedures; (vii) expedite procedures; (viii) institutional controls according to the amount, complexity and duration of the relevant substantive project; (ix) proper cost-benefit grounds for the manner in which the contract is awarded or of the clauses of the contract, consideration, incentives, as well as any adjustments or amendments and cancellation of the same, according to the financial model and also to the analysis of the technical, environmental and social aspects involved; (x) payment of documented and warranted expenses to participants in procurement procedures that have to be cancelled; (xi) re-use of papers, studies or activities relating to prior contracts, and (xii) technical and financial variables that might be taken into account to establish the financial model for contracts for works and services in the exploration and development of crude oil and natural gas fields.

[4] Projects financed by third parties that are recorded as public debt by the government.

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In regard to the last item listed above, it is important to underscore that although the Oil Law, the PEMEX Law, the Oil Regulations and the PEMEX Regulations all contemplate the possibility of agreeing on remuneration incentives, on the basis of the variables therein contained, PEMEX must be very careful in justifying and applying them, in particular those that relate to: (i) attainment of the maximum volume; (ii) the obligations under the contract having to be satisfied with the income generated by each work area; (iii) PEMEX being able to establish any other variable as seen fit to give rise or create value for the substantive project; (iv) clauses that allow for joint exploitation of oil deposits extending for two or more adjacent work areas; and (v) the determination of specific periods and minimum investments for profitable exploration activities and the development of oil fields by PEMEX, as well as the conditions to continue with the activity of exploitation. The foregoing, in order to mitigate the risk of observations being issued by the *Auditoría Superior de la Federación* (the Mexican Office of the Comptrollership), which give rise to proceedings for administrative and patrimonial liability, as well as to debates on the constitutionality of its acts, in regard to equal opportunities and preservation of control over hydrocarbons. Not doing so may bring back to light the discussion on the execution of the so called "risk contracts" that have been banned in Mexico since 1960, which have been amply discussed by diverse sectors of Mexican society, mainly as a result of the "multiple service contracts" ("*contratos de servicios multiples")* and of the last oil reform introduced by the President of Mexico.

It is believed that the new regulatory framework applicable to the awarding of oil and gas contracts implies significant changes in the manner in which such proceedings formerly took place, and therefore PEMEX must disseminate information on this subject both internally and externally, in order to ensure better compliance as well as to reduce the possibility of being questioned by persons arguing that the awarding procedures are not transparent.

The Oil Reform was meticulous in regulating the activities involving the storage, transportation and distribution of liquefied petroleum gas (hereinafter LP Gas) which can only be carried out under a permit issued by the Ministry of Energy to private enterprises, in a form that is consistent with the Mexican legal framework, by establishing requirements that strive to avoid the negative effects produced by the oligopolies that arose as of 1995 in regard to the marketing and subsequent sale of hydrocarbons by the private sector. In this regard, it must be kept in mind that PEMEX was already subject to the law governing economic competition with respect to acts not included within the activities considered to be strategic. In other words, in order to prevent PEMEX or permit holders from taking undue advantage of consumers, a policy of economic competition was established that is consistent with other commercial activities, restricting illegal practices that limit, prevent or hamper the purchase and sale of goods and services that derive from or relate to hydrocarbons, such as those listed herein below:

- The sale of goods or supply of services that is conditioned to the purchase, sale or provisions of an additional and usually different or distinctive good or service;

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- The sale of goods or supply of services that is subject to the condition not to use, purchase, market or supply products manufactured, processed, distributed or marketed by a third party;

- The refusal to sell or supply to certain persons products that are normally available and are usually offered to third parties;

- The granting of discounts or incentives to purchasers under the condition not to use, acquire, market or provide products manufactured, processed, distributed or marketed by a third party;

- To subject a transaction to the requirement not to sell, market or provide to a third party the products that have been sold or the services provided;

- The failure to establish prices or sales terms for different sellers on an arms-length basis;

- Any others that are similar to those listed above;[5]

- PEMEX may refuse, in whole or in part, to carry out the first sale or to provide the services only when there exists a technical or commercial impediment, in accordance with the administrative provisions which are issued, within the scope of their respective attributions, by the Ministry of Energy or the Energy Regulatory Commission;[6] and

- *PEMEX is under the obligation of ensuring public access to contracts governing first sales and for the supply of services that are entered with third parties, through its web page,* as provided by the Federal Law of Transparency and Access to Governmental Public Information.[7]

Although compliance with these legal provisions is indeed advisable, since such compliance will improve the efficiency and operation of PEMEX, we would like to reflect on a few technical- legal and practical issues in regard to first sales.

It is obvious that the issues regulated coincide in essence with those for which provision is made in the Federal Law of Economic Competition as regards relative monopolistic practices, but should the events contemplated in the Oil Law and its Regulations materialize, they would not constitute monopolistic practices, since they involve strategic activities of the State that have been entrusted to PEMEX, as can be seen by reading article 28 of the Constitution, article 4 of the Federal Law of Economic Competition, as well as articles 2, 3, section I and 4 of the Oil Law.

[5] Article 22 of the Oil Regulations
[6] Article 23 of the Oil Regulations
[7] Article 24 of the Oil Regulations.

It should be brought to mind that the definition of monopoly as contemplated by our legal system is determined by a list of activities that embody the assumptions for absolute and relative horizontal and vertical practices, and that the classification included in the oil reform refers to the latter.

Now then, the oil reform provides in the main for monetary sanctions in order to discourage the above mentioned practices. Our reflection in this regard rests on the fact that given the matter and enormous amounts of money involved, the monetary sanctions may not have a significant effect as a deterrent, and may even be considered by the parties involved as an external factor that should be assumed from the beginning, being fully aware that although the conduct is subject to monetary sanction, the legal act which gives rise to it may technically continue, since it is not expressly sanctioned by voiding it, as is the case with monopolistic practices.

Being fully consistent with the authority vested in the Federal Commission on Competition, the oil reform provides that the social and private sectors may petition the Commission to determine whether or not free competition exists in the market (art. 14 of the Oil Law)

Since with respect to issues involving monopolistic practices the procedure is governed by the Federal Law of Economic Competition and its Regulations, and that such procedure is not applicable in the case under discussion, the question would be whether the Federal Law of Administrative Procedure would suffice to supply any deficiency regarding procedure or it would be necessary to wait until regulatory provisions are issued to rule procedural matters in regard to these supposedly unlawful conducts (similar to relative monopolistic practices). We would just like to provide a few examples: (i) Can any interested party file a petition or is this possibility restricted solely to an affected party? The law governing economic competition does make a distinction, depending on the type or practice involved. Perhaps only the Energy Regulatory Commission, the National Hydrocarbon Commission or the Ministry of Energy will be the ones permitted to initiate proceedings *ex-officio* to apply sanctions, although we consider that this is unlikely; (ii) which will be the documents required to evidence the legal standing of the interested party, and (iii) what are the terms for enforcement. In our opinion, the Federal Law of Administrative Procedure would not suffice.

It is our belief that this issue must be addressed by the regulatory authorities. Otherwise, the applicable provisions will serve only as guideline policies.

Aside from the legal technicalities, there are the actual circumstances. The fact is that it would be unlikely that a person that is doing business with PEMEX, the only player in the market at that level, would be willing to dispute an illegal practice that is being conducted by the party that would undoubtedly continue to be its main client in Mexico.

Finally, whoever the person might be that is able to denounce these irregularities, the sanctioning authority must take into account the binding precedents established by the Supreme Court of Justice in regard to those provisions that do not specifically and

expressly provide for the illegal action subject to sanction and that only allow the sanctioning administrative authority to act in a discretionary manner. We refer to those containing the following wording: "any illegal practice that is analogous to the foregoing", which have already been declared to be unconstitutional, at least in economic competition matters.

Although the Oil Reform served to implement at the regulatory level the provisions required to provide operational freedom to undertake some of the activities involving oil and gas that had been contemplated in the law since 1995, it is clear that this last reform does not offer full unfettered participation of the private sector in the petroleum sector, since although the current law promoting full access won as regards the "privatization" of the activities involving exploration, the extraction of oil, natural gas and other hydrocarbons by means of MSC or other types of agreements that resemble risk contracts more closely, and also those such as the transportation, storage and distribution of oil derivatives subsequent to the first sale, through permits, the private sector continues to be excluded from first sales and refining, for the reasons listed below:

- Private oil companies that have entered into contracts with PEMEX in order to carry out oil extraction will have to deliver to PEMEX crude, it being understood that title over the crude will reside in PEMEX up until the first sale of the hydrocarbons and products of refining, restrictions that were in fact included in the draft of the oil bill submitted by the Federal Executive to Congress, and

- Oil refining continues to be restricted exclusively for PEMEX, according to Article 3 of the Oil Law, which seems to be a "PRI victory", who subjected its alliance with the PAN on the condition that the PEMEX workers' union, its partners and business remain untouched.

- In fact the draft bill of the Oil Reform contemplated that the activity of refining continue to be part of the State-owned Oil Industry, the only novelty being the possibility of entering into service contracts in order to allow third parties to undertake refining operations, but as "maquila operators", while PEMEX would maintain title over the hydrocarbons and would take over the first sale of the oil derivatives.

  The foregoing was probably the result of the failure experienced by PEMEX when it entered into an MSC for the construction of the Cadereyta refinery with one single contractor, which failed to be cost-effective for PEMEX, since this project even implied absurdities such as the importation of cement and steel from Korea for its construction.

Once the constitutional controversies filed during the last quarter of 2009[8] have been finally resolved, which refer to some of the articles of the Oil Regulations, in

[8] Constitutional controversies 00097/2009-00 and 00098/2009-00 were filed this year against Articles 2, section IV, 21, 22, 23 and 28 of the Oil Regulations.

particular the article governing the contracts that PEMEX may execute with the private sector in order to better carry out the strategic activities that have been entrusted to it, we will inform you on the decision reached by the Mexican Supreme Court regarding whether such contracts do or do not comply with Mexican law, and, such being the case, the construction and application criteria PEMEX will have to take into account as to the awarding, execution, amendment and cancellation of such contracts.

In addition we would like to comment that according to the laws as presently in force, the private sector may, in addition to entering into the contracts referred to above, participate in the following eight activities that involve oil and gas:

- Franchise agreements or other marketing arrangements entered into by PEMEX and other Mexican individuals or legal entities that provide a clause for the exclusion of foreigners in their charter documents, in order to sell directly to the public or for self-consumption of gasoline or other liquid fuels derived from crude oil refining.

- The storage, transportation and distribution of LP gas, through pipelines, after it has been produced and sold by PEMEX, under a permit issued by the Ministry of Energy.

- The storage, transportation and distribution of methane that is a byproduct of hydrocarbons, after it has been produced and sold by PEMEX, under a permit issued by the Ministry of Energy.

- The recovery, storage, transportation and processing or delivery to PEMEX of gas that is associated with mineral carbon deposits, under a mining concession granted by the Ministry of the Economy and a permit issued by the Ministry of Energy.

- To sell to PEMEX or keep for self-consumption under a contract byproducts of basic petrochemicals[9] when obtained in the production of petrochemicals other

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[9] Article 3 of the Oil Law.- The oil industry comprises:

III. The production, transportation, storage, distribution and first sale of those oil and gas derivatives that may be used as basic industrial raw materials which constitute basic petrochemicals that are listed herein below:

1. Ethane

2. Propane

3. Butanes;

4. Pentanes,

5. Hexane

6.Heptane

7. Raw materials for the production of carbon black

than basic petrochemicals and the resulting profits of such activity represent 25% or more of the annual profits of the private enterprise involved. Should this profit represent less than 25%, the private enterprise may even market such products through third parties.

- To hold an interest or share in legal entities that are controlled by PEMEX, in which PEMEX has a share or interest or over which PEMEX has significant influence.

- Provide financing to PEMEX and/or its subsidiaries or else to invest in them by means of various financial instruments; and

- Supply hydrocarbon-generated electric power.

It can clearly be appreciated from the foregoing that there is a new window of opportunity, that is, the oil and gas market, for the private sector to do business that, when coupled with the energy transition to renewable resources, allows it to participate also in the international carbon bond markets.

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8. Naphtha, and

9. Methane, when deriving from hydrocarbons obtained from deposits located in the national territory and used as a raw material in petrochemical industrial processes.
Amended section, OGF November 13, 1996.
Amended article OGF May 11, 1995."