

ENERGY ON THE PUBLIC AGENDA: CHANGES IN BOLIVIA WITH IMPACT ON ADJOINING COUNTRIES

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Abstract

This paper focuses on the rise of the energy issue in the relations of Bolivia with Argentina and Brazil during the first decade of the twenty first century from a comparative viewpoint. In this context, the nationalization of Bolivian hydrocarbons decreed by Evo Morales on 1 May 2006 became a central point of the analysis in that it became a target and a political tool of the Movement for Socialism party (MAS). It proposes to investigate, on the one hand, the actions derived from this Decree within Bolivia and, on the other, the similarities and differences that have arisen in the negotiation processes and their results in the Argentine-Bolivian and Bolivian-Brazilian ties.

Keywords:

Argentina; Bolivia; Brazil; Hydrocarbons; Agreements

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Introduction

On 18 December 2005, Bolivian society went to the polls in a context marked by uncertainty, the advancement of social movements that questioned the prevailing economic and political model and the constant tension between continuity and change that is characteristic of all presidential elections. In this race, Evo Morales, leader of the Movement for Socialism (MAS), won against seven other political forces with 53.74% of the votes, leaving behind the system of government coalitions that had characterized democracy for more than two decades¹.

This absolute majority victory was a significant sign that much of the population welcomed a government programme that was highly critical of the neoliberal period, excluding the state from controlling the production system and the lack of care paid to social demands, whose triggering axes were poverty and inequality (Government Programme MAS-IPSP, 2005). Unlike the proposals of the traditional political parties, the MAS project focused on revaluing the role of the state, seeing it not only as a major player in the process of 'rupture' with the past but also as the main driver of a more distributive and inclusive socio-economic model. In order to fulfil this commitment, 100 days after his stay in power, Morales decreed the nationalization of Bolivian hydrocarbons through the stock recovery of the Yacimientos Petrolíferos Fiscales Bolivianos (YPFB), a company that, on behalf of the state, was responsible for the entire national energy chain for decades².

The nationalization of hydrocarbons was not a measure taken at random. Quite the opposite, Decree 28.701 "Heroes of Chaco" is part of the social demands that hatched in the Gas War - October 2003 - and one of the priorities of the MAS political programme, namely to gain control of a sector that is strategic within a poorly diversified economy so that income could be allocated to the country's economic and social development (MAS-IPSP Programme, 2005: 14). Due to the fact that Bolivia's

¹ Apart from the MAS, the political parties contesting the elections were: Nueva Fuerza Republicana (NFR), Unión Social de los Trabajadores (USTB), Unidad Nacional (UN), Movimiento Indígena Pachakuti (MIP), Movimiento Nacionalista Revolucionario (MNR), Frente Patriótico Agropecuario de Bolivia (FREPAAB) and Poder Democrático y Social (PODEMOS).

² This company was created in 1936. According to Gordon & Luoma, an issue inherited from the Chaco War – a conflict of the first half of the 1930s that opposed Bolivia to Paraguay- was "understanding the importance of the role of the state in the development of the country's hydrocarbon resources, of which 85% are now in the Chaco region" (2008: 92). With the founding of the YPFB belief in the economic and symbolic significance of the energy resources under state control was reaffirmed.



hydrocarbon production has historically focused on feeding external trade, the nationalization was a turning point in the connection with transnational corporations involved in the exploitation of energy and adjoining states such as Argentina and Brazil, whose consumption is supplied largely by Bolivia.

Based on the above, this paper starts from the idea that at a time of high international prices on commodities, including energy, as was the first decade of the twenty first century³, Evo Morales sought to comply with a dual aim through the nationalization of hydrocarbons: to increase the weight of the state in the sector, particularly in terms of tax collection, and plan different social policies to address the needs of the poorest and most vulnerable population groups. Thus, control of the national energy industry became the driving force for consolidating the political project of MAS at home, while in the external agenda it revitalized the role of the YPFB in existing energy contracts. Accordingly, this paper intends to unravel a series of questions that are intrinsically related: What are the most significant aspects in the nationalization of Bolivian hydrocarbons? How will this decision impact on the Argentine-Bolivian and Bolivian-Brazilian ties? And in connection with the previous point, what were the key similarities and differences in the negotiations undertaken by Argentina and Brazil?

The nationalization of hydrocarbons: politics & energy, a complex binomial

The report of the World Trade Organization (WTO) in 2010 dedicated a special section to the trade of natural resources. It describes natural resources as "stocks of materials that exist in the natural environment that are both scarce and economically useful in production or consumption, either in their raw state or after a minimal amount of processing" (Report WTO, 2010: 5). This definition suggests the strategic feature of nature's goods in general, especially when it comes to energy resources. Within the group of non-renewable products, natural gas is considered to be the fuel of the twenty first century in that it has a number of positive factors, such as positive global indices in levels of reserves/production; it is cleaner than coal and other petroleum-based products; it has an efficient combustion in the generation of electricity and its use is very important in the production of basic petrochemicals, among others (Ríos Roca, 2013: 16-18).

Compared to other regions of the world, natural gas reserves in Latin America and the Caribbean are not significant since they represent only 3.8% of world reserves. However, this figure takes another meaning when evaluating the actions of governments in the sector. As advanced by Linkohr, Latin America is one of the regions where power and politics have a special connection. This does not mean ignoring the existence of this relationship in other parts of the world, but it must be stressed that in the case of Latin American countries, energy is significant when it comes to politics (2006: 90-91). This argument can be clearly seen in Bolivia where, after the collapse of the tin industry in 1985, "gas became the most important natural resource of the country" (Gordon & Luoma, 2008: 89) and therefore the main source of government

³ On this matter see the research conducted by Acquatella, et. al. (2013), *Rentas de recursos naturales no renovables en América Latina y el Caribe: evolución y participación estatal, 1990-2010* for the seminar CEPAL *Gobernanza de los recursos naturales en América Latina y el Caribe: desafíos de política pública, manejo de rentas y desarrollo inclusivo*.



revenue. As expected, thereafter the exploitation of hydrocarbons has been central, with varying connotations, when making decisions on political and economic matters.

As happened with its neighbours, Bolivia was not without its own neoliberal wave in the nineties and YPFB was one of the first public companies to be in the hands of foreign operators during the first presidency of Gonzalo Sanchez de Lozada (1993-1997). According to Campodonico, Bolivia, together with Argentina and Peru, became leaders on the privatization of their energy industry in South America. While recognizing that each country had specific features, their respective governments reformed the legal framework to encourage foreign investment in the upstream and downstream sector (2007: 40-42)⁴. Furthermore, Sanchez Albavera & Altomonte argue that the energy reforms carried out in Latin American countries during this period were 'similar' in their origins and motivations. There was widespread belief that the state-led management model was agonizing - many state enterprises were in a serious financial situation due to the debt crisis of the eighties - and that the supply and demand game would make the industry efficient (1997: 29).

The YPFB trans-nationalization was made possible by Capitalization Law 1544 of 1994 and the 1689 Hydrocarbons Law of 1996, which laid the legal basis for going from "a state vision of the oil and gas economy, which was in force for 60 years, to one of total privatization" (Villegas Quiroga, 2004a: 74). The capitalization of YPFB resulted in three operating units established as joint stock companies: Chaco and Andina - responsible for exploration and production- and Transredes, which brought together the transport capacity. Therefore YPFB, an emblematic company for Bolivian society, went through a process of dismemberment that limited its action to the provision of hydrocarbon to export markets (Villegas Quiroga, 2004a: 76). It should also be added that its capitalization - justified in the pursuit of economic growth and welfare of the population - had no positive impact on national socio-economic indicators. On the contrary, statistics show that from an overall perspective, the policy of openness and economic liberalization had favoured the construction of a poorer and more unequal society (Nogales Iturri, 2008). At the end of 2005, *i.e.*, coincident with the first electoral triumph of Evo Morales, moderate poverty reached 60.6% of the population; extreme poverty affected 38.2% and the Gini coefficient was 0.60 (UDAPE, Statistical Information: s/f). These data are similar to the information provided by the Economic Commission for Latin America and the Caribbean (ECLAC). After two decades of neoliberalism, in 2004 63.9% of Bolivian society was mired in poverty, which was much higher in rural areas, affecting 80.6% of the population. Nationally, indigence stood at 34.7% and in rural areas it emulated the behaviour of poverty, that is, had higher rates (58.8 of the total population). As for inequality, the statistics showed a Gini coefficient of 0.56 for the same year⁵.

These indicators show that the privatization of the energy industry focused on strengthening hydrocarbon production for the foreign market without income from commercialization, or at least most of it, being reinvested in the country. Under the slogan that repositioning the state against transnational energy traders was a 'historical

⁴ Among the most important general reforms, the following stand out: reducing the percentage of royalties to be paid by the multinationals, the relaxation of investment conditions, the no obligation to share the findings with the state, and the liberalization of the fuel market.

⁵ These data correspond to the CEPAL Database and Statistic Publications (CEPALSTAT), where statistics and indicators per country can be consulted interactively. Available at: http://estadisticas.cepal.org/cepalstat/WEB_CEPALSTAT/Portada.asp. Accessed on 17/04/2015.



imperative', on 1 May 2006 Evo Morales, accompanied by ministry officials and representatives of social movements - and a large deployment of the Armed Forces in the San Alberto field in Tarija - decreed the nationalization of hydrocarbons, stating:

"The much awaited day has come, a historical day for Bolivia to resume absolute control of our natural resources [...] No more looting by international oil companies" (Clarín: 02/05/2006).

From the overall analysis of Decree 28.701 "Héroes del Chaco", the following considerations emerge: First, its most salient provisions are aimed at laying the groundwork for YPFB, which from now on will be acting on behalf of the state – to have a higher manoeuvrable capacity, offsetting the place of foreign companies in both the upstream and the downstream sector. To this end, at least 51% of the shares of the companies resulting from the process of trans-nationalization of the nineties (Decree 28,701: 01/05/2006) was recovered. In practical terms, this was achieved by paying compensation – either by agreement or request - to companies affected by the measure.

Secondly, as a sign that Morales' nationalization did not exclude the participation of foreign investment, energy operators were given 180 days to comply with the provisions of the Decree and sign new contracts, otherwise they would be barred from continuing the activity. Accordingly, international agents should respect the requirement mentioned above and comply with Hydrocarbons Law 3058 that was passed during the brief tenure of Carlos Mesa Gisbert (2003-2005) following the resignation of Sanchez de Lozada. That law had ensured a higher percentage of revenues from the sector than Hydrocarbons Law 1689 (1996). While the latter reduced taxes for transnational companies from 50% to 18% on royalties and participations (Gandarillas Gonzales, 2008: 72), Law 3058 set again this percentage, i.e. 50% of the value of production as a result of the sum of 18% of royalties and of 32% of the Direct Tax on Hydrocarbons (IDH). The IDH is of great importance in economic and socio-political terms because income is shared among producing departments, non-producing ones and the General Treasury of the Nation. The government allocates the balance to municipalities, universities, the Indigenous Fund, and the Armed Forces, among others (Law 3058: 17/05/2005)⁶.

The 44 signed contracts had in common the fact that YPFB ensures a levy of 50% of production value and retains ownership of the deposits and production at control point. Foreign companies continue to be part of the exploitation of gas fields as 'remunerated contractors' due to YPFB's inability to conduct proprietary trading (Zaratti, 2013). The companies assume the costs of activities as well as risks, but benefit from the clause 'recoverable costs', which cover items such as staff costs, materials, transportation, depreciation of fixed assets, insurance, and foreign exchange differences, among others. These costs vary according to the contract and are percentages that YPFB

⁶ It must be added that during the transition period – up to the signing of contracts between YPFB and international companies – energy operators must also pay 32% of the value of production for the additional participation of YPFB in the fields. In 2005, the certified production of natural gas was over 100 million cubic feet per day (article 4 Decree 28.701).



reimburses to transnational operators (Medinaceli Monroy, 2010: 26). In the words of Molero Simarro *et. al.*, existing contracts

"rarely pose a risky scenario for foreign companies [because] they continue to exploit the concessions on deposits with proven and probable reserves they already knew about, and also with markets assured by the state" (2012: 167).

Thirdly, the writing of the Decree shows that the nationalization of hydrocarbons was a goal in itself but also a tool to make viable a set of decisions and actions that are part of MAS' government programme. If, as Linkohr argues, in Latin American countries the control of energy resources enables political actions, this nationalization largely confirms that assertion. It suffices to see the areas the government has allocated the bulk of the revenue derived from the external gas trade.

Since 2007, fiscal resources have grown significantly thanks to a higher tax burden - Decree Law 28.701 and Law 3058 - and a favourable international context in energy prices, with the exception of 2009 due to the impact of the global financial crisis. In the period 2007-2013, oil revenues nearly quadrupled from US \$ 1,533 million to US \$ 5.5856 billion (YPFB Special Report: 06/08/2013). This had a direct impact on the evolution of the annual Gross Domestic Product (GDP), which in the same period rose from 4.56% to 6.78%, experiencing a slight decrease in 2009 (INE, Press Release, 04.23.2014).

This situation of greater economic well-being has allowed the Morales administration to deploy a set of social policies designed to alleviate poverty, inequality and shortcomings in the areas of health and education that are financed from the central government through resources from the General Treasury of the Nation and the IDH (Morales, 2010). Social policies are tools that governments implement "to regulate and supplement market institutions and social structures" (Ortiz, 2007: 6). While not new to this century, what indeed has changed is the design and the purposes that they pursue. Unlike the eighties and nineties when social policies had a purely charitable nature and sought to cover market failures, at present Latin American countries see them as part of the primary functions of the state because they bring economic growth to population groups who do not automatically benefit (Ortiz, 2007: 9).

Within these policies, the conditional cash transfer (TEC) programmes stand out, which are aimed at the poorest populations, where the benefits and conditions - the requirements to be met by the recipients - vary according to politics and country (Sauma, 2007: 5). Other policies must be added to this set, such as social pensions and labour inclusion and production programmes. The most important fostered by the MAS include the Juancito Pinto and Juana Azurduy Bonuses, the Universal Old Age Pension or Dignity Pension, the Zero Malnutrition Programme, and My First Decent Job.⁷ Their main differences, however, are the social protection strategies they pursue and the purpose behind the regulation. The following table summarizes these aspects:

⁷ Reference to these programmes is merely illustrative of the mentioned social policies. This does not mean ignoring the existence of other programmes that also seek to address issues related to poverty and vulnerability. Examples include the literacy programme *Yo sí Puedo* (Yes I Can), the professionalisation of



Figure 1: Social Policies

Social Programmes	Recipients	Strategies to adopt	Purpose of the regulation
Juancito Pinto Bonus	Children and Adolescents	Building human capabilities	Education: encourage school enrolment and retention
Juana Azurduy Bonus	Mothers and children up to two years of age	✓	Health: reducing maternal and child mortality
Zero Malnutrition Dignity Pension	Families with minors Bolivians over 60 who receive or not an income from the social security system	✓ Increasing and improving income	Nutrition: fighting hunger and poverty Long-term social security: expanding social protection
My First Decent Job	Young people from urban and suburban areas with low income	Building human capabilities	Labour inclusion: to facilitate insertion and expand the number of jobs

Source: Own calculations based on data from Morales (2010); Plurinational State of Bolivia - Ministry of Planning and Development-UDAPE (2011).

It should be emphasized that programmes in Bolivia are not an isolated event but have a parallel in multiple policies currently being developed in Latin America and the Caribbean. Some of them have been in force since the early years of this century and even since the nineties. Examples include the Previdência Rural Program – Rural Welfare Programme (1993, Brazil); the Pensión Mínima de Vejez - Old Age Minimum Pension (2001, Peru); Más Familias en Acción - More Families in Action (2001, Colombia); Chile Califica - Chile Qualifies (2002, Chile), and Jóvenes con Oportunidades - Youth with Opportunities (2003, Mexico)⁸.

When analysing the results of such social policies in Bolivia, one finds that they are preliminary in nature but are, at the same time, associated with reducing poverty and inequality. The latest official data from the Analysis of Social and Economic Policy (UDAPE), which provides technical assistance to the government – indicate that in the 2005-2011 period, moderate poverty increased from 60.6% to 45% and extreme poverty dropped from 38.2% to 20.9%, the whole Gini coefficient declined from 0.60 to 0.46 (UDAPE, Statistical Information: s/f). The ECLAC statistical information also reflects an even more significant falling movement. By 2011, the poverty rate was at 36.3% of the population and indigence stood at 18.7%. In turn, the Gini coefficient was 0.47⁹.

interim teachers, community incentives, the school breakfast programmes, etc. See “Programas de Transferencias Condicionadas en Bolivia: Bono Juancito Pinto, Bono Juana Azurduy” (2011). Available at: <http://www.rlc.fao.org/es/prioridades/seguridad/ingreso6/documentos/Presentaciones/Paises/BOLIVIA.pdf>. Accessed on 13/11/2014.

⁸ I recommend consulting the CEPAL database, which contains dozens of social programmes operating in Latin American and Caribbean countries in the areas of Conditional Transfers, Social Pensions and Labour and Productive Inclusion Programmes. Available at <http://dds.cepal.org/bdptc/>. Accessed on 18/04/2015.

⁹ CEPAL Database and Statistical Publications (CEPALSTAT). Available at http://estadisticas.cepal.org/cepalstat/WEB_CEPALSTAT/Portada.asp. Accessed on 17/04/2015.



In short, the nationalization of hydrocarbons understood as an objective and policy tool presents positive aspects and questions to resolve. Considering the circumstantial limitations, the Morales administration undertook the state recovery of YPFB, seeking to place the state in control of the energy income but without letting go of foreign investment as guarantor of the exploration and exploitation activities. As mentioned earlier, the high international prices during the first decade of the twenty first century and the payment of higher taxes than in the nineties generated growing revenues and a steady increase in the GDP and FDI, highly concentrated on the oil and gas activity to the point that in 2012, it accounted for 62.9% of the total FDI that entered the country (BCB, 2014: 22). This economic boom was useful for MAS' goals of establishing a more distributive model. The poverty and inequality levels responded positively to the many social programmes that have been put into operation. However, they did not directly solve these problems, especially because the revenues supporting them are volatile. Integral actions that fall within a national development strategy are required. In addition, these measures have some shortcomings, particularly the conditional transfer policies. As programmes with little experience, there are difficulties in implementing them. There is lack of complementarity and coordination between the actors and the different levels of government, weaknesses in their monitoring and assessment and incompatibility between the information systems of the central government and rural municipalities (Morales, 2010: 6).

On the other hand, this cycle of growth and economic stability following the nationalization has reaffirmed the country's dependence on the exploitation of energy without added value. Advances in the industrialization of the sector are still not significant and there are notorious delays regarding the expansion and modernization of refineries operating in the country (Zaratti, 2013). These are no minor points if the government wants to work on a vision of economic development in the long term that goes beyond an economy anchored in the extractive economy.

Argentina and Brazil: regional partners against nationalization

Nationalization as a political tool was also part of Bolivia's external agenda. In a country where the foreign trade of hydrocarbons sets the direction of the economy, the Morales administration had to use its bargaining power to agree on new rules in the sector without losing investments or markets. In this context, the governments of Argentina and Brazil, which are top destinations for Bolivian exports, had to renegotiate the terms of hydrocarbon imports and exports. This indicates that the energy issue plays an important role in the relations Bolivia maintains with these two neighbours. However, its rise in the bilateral agendas and its subsequent treatment had more differences than similarities.

From March 2004, Argentina's government began to experience a major energy crisis that manifested itself in difficulties in domestic supply and problems to meet natural gas exports to Chile, agreed in the mid-1990s. Faced with this critical situation, the government of Nestor Kirchner (2003-2007) asked his Bolivian counterpart Carlos Mesa Gisbert for the temporary secondment of natural gas to mitigate the negative consequences of the lack of self-sufficiency. On 21 April 2004, the two leaders signed a purchase and sale agreement in Buenos Aires for an initial volume of 4 MMm₃ per day for a period of six months, which was subsequently renewed twice until 31 December



2006 for an amount of 7.7 MMm₃. On the one hand, this agreement opened a new era of rapprochement in bilateral relations due to the import and export needs of each of the actors involved. On the other hand, it was an indication of the errors committed by the Argentine governments since the nineties in the treatment of energy, considering that natural gas represents over 50% of the national energy matrix. The purchase of Bolivian hydrocarbon resurfaced a project that had been launched by the Argentine government in 2003: the construction of the pipeline in north-eastern Argentina (GNEA). This infrastructure project was intended to transport Bolivian natural gas to the provinces in the region that do not have access to it (Federal Agreement for launching the pipeline in north-eastern Argentina, 24/11/2003). As expected, former President Gisbert explicitly endorsed the project as it would help increase sales and thus the country's tax revenue. However, the marketing of energy in Bolivian-Brazilian relations today did not ascend unexpectedly and was motivated by a national energy crisis scenario. Efforts to market natural gas began in the seventies after the first oil shock, which enhanced the strategic nature of energy in the state agenda, but did not result in definitive agreements. The arrival of Petrobras in the nineties to San Alberto and San Antonio mega fields was crucial at the beginning of the export of natural gas to Brazil, particularly because the company had information about the existence of reserves to supply the main cities of the country (Villegas Quiroga, 2004a: 89-94). In 1996, YPFB and Petrobras signed two agreements: a natural gas purchase and sale for a period of 20 years, with a projected daily sending of 30.08 MMm₃¹⁰ and another for the construction of a bi-national gas pipeline (natural gas purchase and sale contract between Petrobras and YPFB, 16/08/1996, Villegas Quiroga, 2004b: 41-42). The latter, whose inauguration was in 1999, connects the Bolivian gas fields with south-eastern Brazil, from São Paulo to Porto Alegre. The Cuiabá pipeline that feeds a power station in the State of Mato Grosso derives from this pipe.

Although the contractual motivations were different, namely the crisis in Argentina's case and a political decision in the case of Brazil, the 1996 and 2004 agreements consolidated a clear situation of exporter/importer 'dependency'. This commercial binomial was evidenced by: a) the role of gas in Bolivian exports to both countries. In Argentina and Brazil, this hydrocarbon corresponds to over 90% of total imports from Bolivia; b) Argentine purchases have had a rising trend in less than 24 months, from 794.790 Mm₃ 2004, and when the agreement was signed to 1,734.946 Mm₃ in late 2005 (IAPG, Statistical Information, s/f); c) the percentage of Bolivian natural gas consumed in Brazilian cities located southeast stands at between 50% and 100% (Carra, 2008).

Despite the surprise that the announcement of the nationalization caused, the government of Nestor Kirchner and Lula Da Silva lent it their support. They understood it as a sovereign decision and in face of it expressed their willingness to renegotiate the purchase-sale of natural gas under the current legal framework – Law 3058 and Decree Law 28.701- but seeking to ensure state and corporate commercial interests involved in the hydrocarbon import. As expressed in the Declaration of Iguazú, "energy integration [is] essential to regional integration [although] discussion on the price of gas should take place within a rational and fair framework" (Joint Declaration of the Summit of Puerto Iguazu, 04/05/2006).

¹⁰ Usually known as the Gas Supply Agreement (GSA).



When Decree 28.701 was announced, Argentina's energy context was in a quite unfavourable situation: the domestic consumption of natural gas grew about 12% between 2003 and 2005 but not the reserves, due to lack of upstream investments. They fell from 612.291 MMm₃ to 438.921 MMm₃ in the same period (IAPG, Statistical Information, s/f). In addition, Argentina had no impact on the phases of the Bolivian energy industry since hydrocarbon imports were the responsibility of international companies, especially Repsol, operating in Bolivia, that had participated in the privatization of Argentina's state company Yacimientos Petrolíferos Fiscales (YPF)¹¹.

For its part, Brazil offered a different picture. For the first five years of the twenty first century, natural gas played a reduced role in the national energy matrix, of around 9% (EPE, 2030 National Energy Plan, 2007). The power crisis the country went through in 2001 acted as a trigger and led the Ministry of Mines and Energy to foster the expansion of the domestic supply of natural gas (De DICCO, Deluchi & Lahoud, 2008, 1-4). To undertake this measure, the Lula administration was counting on the YPFB-Petrobras contract and in parallel decided to foster exploration and exploitation activities.

Unlike Argentina, whose reserves fell between 2003 and 2005, Brazil saw a slight improvement from 245.340 MMm₃ to 306.395 MMm₃ (ANP, 2013). Thus, in the face of Bolivia's nationalization, Brazil showed signs of reduced domestic consumption, rising reserves and Petrobras's presence in the energy industry of its neighbour. By 2005, Petrobras was operating 45.9% of total proven and probable gas reserves and monopolized refining activities after buying the Gualberto Villarroel (Cochabamba) and Guillermo Elder Bell (Santa Cruz) refineries in 1999 (2004a: 146-147 ; YPFB Technical Report, 01/01/2005).

The differences in the contexts of Argentina and Brazil meant that the negotiation processes undertaken by both administrations had their own characteristics. Lacking influence in Bolivian production and exports, the government of Nestor Kirchner set about negotiating the price and the quantities of natural gas. As a first step, they signed a macro agreement with Evo Morales on 29 June 2006 which defined the contractual relationship until the end of that year and anticipated a future purchase and sale agreement under Decree 28.701. A value of \$5 million per million BTU was negotiated for the period between 15 July and 31 December 2006, with a commitment to send 7.7 MMm₃ per day. This amount had been agreed in a 2005 addendum¹² (Framework Agreement between Argentina and Bolivia, 29/06/2006). In that same meeting, the representatives set as a goal the signing of an agreement with a term of 20 years that predicted the gradual expansion of shipment, namely 7.7 MMm₃ per day from 2007 to 27.7 MMm₃ by day between 2010 and the end of the agreement. Such commitment exposed the need to undertake the construction of the GNEA in the absence of infrastructure between the two countries to transport the agreed quantities (Framework Agreement between Argentina and Bolivia, 29/06/2006). The contract between the two countries was signed on 19 October 2006, with YPFB and Energía Argentina Sociedad Anónima (ENARSA), which was created by government decision in

¹¹ YPF was created in 1922. The privatization process began in 1992 and a few years later the entire stake was acquired by the Repsol group (Gadano, 2013).

¹² The price issue was the subject of several meetings, since Evo Morales demanded a price of US\$ 6 per million BTU, which the government of Argentina could not afford.



December 2004, being responsible for the hydrocarbon purchase and sale (Contract between ENARSA and YPFB, 19/10/2006).

In the first term of Cristina Fernandez (2007-2011), the ENARSA-YPFB contract had to be adjusted through an amendment agreed on 26 March 2010 because neither company could meet its obligations, which prevented the trade link from proceeding normally. Due to difficulties inherent to the adjustment process after the nationalization, YPFB sent shipments lower than those agreed in October 2006 (La Razón, 26/09/2006) and Argentina's government delayed the start of the bi-national gas pipeline construction due to lack of funding. Therefore, the administrations of Fernández and Morales reviewed the weakest points of the agreement: the transportation capacity and supply and reception volumes. Where did this addendum lead to? According to existing possibilities, the implementation of a smaller infrastructure called Juana Azurduy Integration Gas Pipeline was negotiated to expedite the import of hydrocarbon. The pipeline was inaugurated in 2011 and was designed to join the GNEA once the Argentine government completes its construction. As a second step, ENARSA and YPFB officials changed the contracted daily production (CDC) to gradually add larger volumes of hydrocarbon. According to the addendum, a 27.7 MMm₃ CDC per day was predicted as from 2021 (Annex D First addendum to the ENARSA-YPFB contract, 26/03/2010). These changes have enabled a greater stabilization in the export of natural gas. The data provided by ENARSA show that as of the signing of the addendum, the amounts have increased every year from 1851 million MMm₃ in 2010 to 5690 MMm₃ in 2013¹³.

Negotiations between the governments of Morales and Lula were not expeditious as in the Argentine case because the continuity of the energy supply to a region of great economic dynamism - very dependent on gas - and the presence of Petrobras in Bolivian territory as a transnational operator were at stake. The sensitivity of the issue caused a reactionary stance on sectors like the company itself, the opposition political forces and much of society, who demanded the Brazilian State and Petrobras to be assertive when evaluating the requests of the Morales administration (Neiva Santos Magalhães, 2009). In particular, the Brazilian Social Democracy Party (PSDB) claimed vehement action without concessions from the Workers Party (PT), which was also criticized for its foreign policy performance in general and especially for its attitude towards the nationalization of Bolivian hydrocarbons.

"[...] It is vital that the authorities of the Federal Government clarify the consequences of the nationalization of PETROBRAS in Bolivia [...] The situation is very serious, Mr. President. The Brazilian government underestimated the crisis and has been behaving incompetently [...] PETROBRAS is a heritage of Brazil. We must care for this company" (Feijó -PSDB- Journal of the House of Representatives, 04/05/2006).

¹³ ENARSA, Evolution of purchases of natural gas from Bolivia. Available at <http://www.enarsa.com.ar/index.php/es/gasnatural/125-gas-de-bolivia>. Accessed on 19/04/2015.



[...] "The best picture of President Lula's erratic foreign policy was the Bolivia episode [...] Lula did not condemn Evo Morales, he justified the act and accepted the breach of contract" (Alckmin in PSDB Note, 06/05/2006).

The government was not a supporter of radical statements and opted to favour the use of diplomacy to negotiate with the government of Bolivia and YPFB executives. The negotiating process was complex because the aim went beyond the signing of a purchase and sale agreement as had happened with Argentina. It had the difficult task of defending the interests and safeguarding the achievements of Petrobras in upstream and downstream activities of Bolivia. Finally, the agreement between YPFB and Petrobras was signed on 28 October 2006, a few days before the deadline set by Decree 28. 701. The MAS argued that after the nationalization, Petrobras and other oil companies in the country were service providers to YPFB (Los Tiempos, 19/05/2008).

Instead, the board of the Brazilian company argued that the 2006 agreement was more like a production sharing contract because "according to the contract, company receives for its share of the sales and additional profit, besides costs. The risk of additional profit continues to remain with the consortium (formed by Petrobras, Repsol and Total), which, therefore, has the market risks. Accordingly, it is not a services provision contract "(Agência Câmara Notícias, 6/12/2006). Other points illustrating the distance from the ENARSA-YPFB Agreement are: a) the main objective - adjusting the exploration and production of Petrobras in Bolivia, especially in the San Alberto and San Antonio fields; b) – the assets belong to Petrobras until the end of the contract-; c) Petrobras investments are guaranteed and some of these may be considered in the provision 'recoverable cost '- (Petrobras Agency, 21/11/2006).

The price treatment and the sale of refineries Petrobras had acquired in the late nineties were negotiated at the beginning of Lula's second term. At the signing of the Act of Brasilia on 14 February 2007, Petrobras agreed to pay international prices for the so-called 'rich gas', i.e. hydrocarbon fractions such as propane, butane and natural gasoline included in the exports of Bolivian hydrocarbon (Act of Brasilia, 14/02/2007). The price of gas feeding the Cuiaba power station had a rise of US \$3 per million BTU. This sparked criticism from the opposition although the arrangement was positive for Brazil because it reinforced its status as a 'strategic partner' and received a lower amount than what Morales claimed - US\$5 less -, which, in turn, was lower than the price negotiated by Nestor Kirchner in 2006. The refineries were transferred to YPFB in June 2007 for the amount of US \$ 112 million. Morales publicized the recovery of the refineries as an achievement of the nationalization. However, the sale was a decision of the Brazilian company to concentrate its efforts - in terms of investment and resources -in the phases of exploration and exploitation that allow ensuring the delivery of natural gas to Brazil (Petrobras Agency, 26/06/2007).

Conclusions

The nationalization of Bolivian hydrocarbons in 2006, as a pillar of the process of redefining the link state-foreign investment, is a clear example of the synergy between politics and energy. By repositioning the state in a strategic sector of Bolivia's



economy, the MAS has fulfilled a goal that was present since its presidential campaign and transformed it into a political tool.

The official nature of the act could exert a higher tax pressure on multinationals operating in the country and a more centralized control of income generated by the commercialization of energy. Much of that revenue is allocated to the implementation of several social policies - conditional and non-conditional cash transfers – aimed at fighting poverty and inequality. The consulted statistics show that these programmes, by bringing the most vulnerable populations closer to several areas of social protection, have helped improve socio-economic indicators in general. However, since these policies are almost exclusively sustained by the export of a non-renewable resource, the government should be alert to the risks faced in terms of enforcement and/or continuity, when energy prices on the international stage decline.

In terms of exporter/importer relations, the cases of Argentina and Brazil have more differences than similarities, being analogous as to the context that led to the rise of the energy issue in their national agendas, such as the impact of Decree 28.701 and negotiations and results between their companies and the YPFB. The common elements were the situation of 'gas dependence' that has been forged over the years and the confusion following the nationalization regarding the interests at stake. Argentina, during the energy crisis, had little scope for action. The deficiency in the management of energy, manifested in the decline of reserves and the absence of a state company to intervene in the Bolivian gas production, could only ensure the signing of a contract of purchase and sale, which ENARSA had little chance of exerting pressure before a possible change in the rules. Despite the aforementioned criticisms, Brazil affirmed its place as the first partner in the Bolivian trade balance and managed to adjust the provisions of the nationalization to much of its objectives, since both the sustainability of hydrocarbon shipments and the interference of Petrobras in the energy industry of its neighbour could be preserved.

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