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How important are national companies for oil and gas sector performance? Lessons from the Bolivia and Brazil case studies

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HIGHLIGHTS

- We analyze the influence of the regulatory framework in the growth of production.
- We analyze the influence of the regulatory framework in investment dynamics.
- We compare the regulatory frameworks for Brazil and Bolivia.
- We compare the importance of public and private companies in hydrocarbons in Brazil and Bolivia.

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ABSTRACT

Control of natural resources, especially oil and gas, has been a major issue in the consideration of underdevelopment. In the present commodity boom, some Latin American economies are reforming their resource exploitation regimes, especially those issues linked with foreign capital share. The purpose of this report is to analyze these changes in the Bolivian and Brazilian oil and gas sectors in order to answer such questions as: Which property system combining public and private capital is the most suitable? Which regulating framework can guarantee a sustainable increase in output and investment? Our analyses lead to the conclusion that the regulatory framework can establish a particular ownership structure that is considered favorable for improving the performance of oil and gas sector, but the internal dynamics and the historical trajectories of enterprises will also be determining factors that interact with the given regulatory framework, generating mixed results.

1. Introduction

In the recent literature on development strategies, the role assigned to public and private companies (especially multinationals) has departed from terms proposed by the Washington Consensus. Several factors have contributed to this.

On one hand, there are the recent proposals close to institutionalism and neo-structuralism, which see a more active role by public institutions as a key factor in influencing economic development (Bardhan, 2005; Deraniyagala, 2001; Iglesias, 2006; Rodrik, 2001).[1] The role of institutions is also revealed in some studies as being a key element in avoiding the notorious “natural resource curse”. This is more relevant in the context of the commodity boom, which is encouraging the growth of many developing countries and the implementation of development strategies based on natural resources.

On the other hand, since the early years of this century, some papers have been questioning the effects of foreign direct investment (FDI). Several authors have raised the need to review Washington Consensus policies for attracting FDI, which they see as not favoring the achievement of certain development objectives (Gligo, 2007; UNCTAD, 2003). In many cases, investments received by developing countries during the 1990s went to the purchase of public enterprises.

Review of the FDI regulatory framework is particularly important in the natural resource sector, which became a crucial sector in many of the development plans adopted by various governments. During the 1980s and 1990s, most Latin American countries opened their natural resource sectors to foreign capital. In some cases this also meant the privatization of existing public enterprises (as in Argentina and Bolivia), generating a significant increase in FDI inflows. These privatizations generated a vast

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[1] It should be noted that there are differences among authors regarding the role assigned to public institutions. Overall, two main approaches can be highlighted: one which considers that a more active role by public institutions should ensure the efficient performance of markets but never replace them, and another which considers that government intervention must go beyond leading the investment and technological innovation of some production sectors.

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literature around public firms, seeking in most cases to justify such privatizations by demonstrating the weaknesses of public companies (World Bank, 1995). The papers also covered problems with national oil companies (NOCs), citing the lack of autonomy in decision-making and populist distributive policies as strong inefficiencies in these firms (Hertog, 2010).

Despite these approaches, the simultaneous questioning of FDI results and industrial policies has generated some recent moves toward re-nationalization (Bolivia) and attempts to modify the regulatory framework affecting foreign capital (Ecuador, Brazil, Venezuela). But even the most radical of these reforms does not suggest a return to the public monopoly closed to private capital. Instead, a situation arises in which NOCs regain greater control and policy space in response to international oil companies (IOCs). This has materialized especially in changes to the ownership structure, and to the mechanisms that regulate and coordinate the participation of public and private companies (mainly multinationals) operating in the sector. These approaches have been accompanied by studies that compare public companies in order to identify “good practices”, transcending the more ideological discourse in defense of or against public companies (Medinaceli, 2009).

These reforms suggest questions such as: What model of ownership structure combining public and private equity capital is best? Or: What coordination mechanisms are necessary to ensure the achievement of objectives in terms of sustained growth in output and tax revenues?[2] Obviously, there is no single answer to these questions, due to the influence of the particular structural conditions of each economy. However, it is possible to identify some key elements from the analysis of certain experiences that contribute to the debate. The statistical evidence suggests that the existence of a strong public company does not in itself guarantee the dynamism of the sector or the entry of foreign capital. Thus it is necessary to take into account the different paths followed in recent years in the hydrocarbon sectors of Mexico (Table 1), Brazil, Venezuela, or Bolivia. All of these nations have an NOC, as well as varying degrees of foreign capital share. What is needed are in-depth analyses that explain the dynamics of each country.

The aim of this paper is to analyze the experience of two Latin American economies, Brazil and Bolivia, which have shown different outcomes in the regulatory framework of these activities, particularly in regard to their ownership structures. Our analysis seeks to relate these structures with the results achieved so far in two fundamental aspects of the sector: the productive and fiscal dimensions. This paper is not intended to raise a comparison of the two countries, because strong differences exist between them in terms of economic history and structure. Rather, our purpose is to consider two cases that are representative of the most salient trends in the regional landscape. One of these cases, Brazil, is representative of countries which during the 1990s reformed their regulatory framework to put an end to the state monopoly (overall or as part of the production chain), but where the former NOC still has a dominant position in the sector. The Brazilian case is particularly interesting because of the continued strengthening of Petrobras, the sustained growth of production, and the expectations generated following the pre-salt discoveries. Thus, the Brazilian case allows us to identify key regulatory mechanisms that have sustained control by the NOC while oil and gas production has increased. The other case under analysis is Bolivia, which is representative of countries that fully privatized their NOC in the 1990s but more recently re-nationalized them. In these cases, governments have introduced significant regulatory changes in an attempt to regain greater control over the exploitation of their natural resources, considering the role of the NOC as a key factor. Along with this factor, our choice of Bolivia also responds to the need of selecting a country with a small and less internationally relevant NOC, but where that NOC has a strong impact on national economic activity. Such small NOCs appear minor from the perspective of international energy relations, but they are truly significant from the perspective of national economic policies. Given these characteristics, the Bolivian case helps illustrate the scope and limitations of re-nationalized small NOCs operating in primary exporting countries.

In short, given the historical and structural differences across economies, we consider it impossible to provide a “universal answer” to questions raised about the type of ownership structure model or regulatory framework most appropriate to the exploitation of oil and gas reserves. But we also believe that the analysis of these two proposed case studies, as representatives of two different models, may offer interesting contributions to the debate on the recent development strategies adopted by several countries in the region.

2. Regulatory framework: importance of public and private companies

Despite the large differences in the configuration of their energy sectors, both Bolivia and Brazil introduced similar changes into their regulatory framework (RF) during the 1990s. Under the strong trend of economic liberalization, changes typical of the Washington Consensus were established in both countries, ending the state monopolies in oil and gas activities and opening the sector to private and foreign capital. However, developments in the sector have proved very different in the two countries. Next we will examine concrete changes that have occurred, and how these changes have been applied to two cases that reflect different realities, each of them very representative of natural resource-producing economies. These changes concern the general aspects of sector policy in the oil and gas industry.[3] The specific regulations for each market (oil and gas), however, are different.

2.1. Bolivia

During 1992–2005, Bolivian industry was opened entirely to external involvement; the Bolivian NOC, known as YPFB, went on to play only a marginal role, while foreign companies such as Repsol-YPF or Petrobras took leading positions. With its 2006 nationalization decree[4] Bolivia introduced a new strategic shift in the RF. With this change, Bolivia tried to reverse some aspects of the liberalization process and to build a regulatory alternative that would enhance the role of the YPFB, which subsequently recovered as a subject of reference in the sector. However this has not meant

[2] This goal is offered only as an example that suits our current focus; others are also pertinent to energy policy, having to do with industrialization, energy diversification, distribution of oil revenues, and so on. All refer to a discussion of development strategies beyond the scope of this article. In this paper, we have chosen the increase of production as a key objective to be taken into account in the analysis of different ownership structures. In addition, it is a target present in the legislation of the countries analyzed because it is considered a necessary condition for the achievement of others, as mentioned above.

[3] The market-specific regulations for oil and gas are different. A concrete analysis of the differences between the two will take place in future analyses. By focusing specifically on the role of companies, we had in this case to analyze general aspects of the industry.

[4] On 1 May 2006, Bolivia established the so-called nationalization decree, DS 28701, requiring all foreign firms to adapt their performance to new, more fiscally demanding operating contracts, to be signed within 180 days and which provided that a monopoly in distribution of the gas be given to the state oil company YPFB. Despite talk of nationalization, this did not involve the elimination of private property in the area, but only the nationalization of two operating companies, Chaco and Andina, as well as the Transredes distribution network, two refineries, and CLHB, which is focused on storage and pipeline management (Ramírez Cendrero, 2012).