Energy Policy 38 (2010) 2234–2244

Contents lists available at ScienceDirect

Energy Policy

journal homepage: www.elsevier.com/locate/enpol

The effects of energy co-governance in Peru ☆

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ARTICLE INFO

Article history:
Received 25 August 2009
Accepted 3 December 2009
Available online 21 January 2010

Keywords:
Public policy
Energy governance
Social conflict

ABSTRACT

Soon after the launching of the Camisea Gas Project, in 2000, Peru became a medium-range Latin American gas exporting country. Our central argument is that energy governance in this country has been shifting from a "hierarchical" to a "co-governance" mode. Accordingly, interactions among the State, the society and economic actors are now regulated in a horizontal and decentralized way, rather than a vertical and centralized one. This shift contributed to the success of the Camisea gas project and had a positive effect on foreign direct investments inflow in the energy sector (1). In addition, it has helped Peru reach energetic self-sufficiency, while improving its energy balance (2). Meanwhile, energy policy has welcomed a major participation of social actors, contributing to institutionalized arrangements between the State, the companies and indigenous communities and their NGO partners (3). Two theoretical conclusions can be drawn from this study. First, the State's role remains central in energy governance, thus invalidating the "hollowing of the State" thesis. Second, the co-governance mode helps to overcome the "resource curse" thesis.

1. Introduction

After Peru's discovery of huge natural gas fields in the Amazon, this Andean nation of 27.4 million people joined the group of middle-range hydrocarbon producers in Latin America and the Caribbean. But exploitation was postponed for almost two decades, because of social conflicts, opposing indigenous organizations and environmental NGOs, as well as a series of disagreements between the State and the operator, Royal Dutch Shell. When the Camisea project was finally launched, a new era started for Peru's energy governance. Indeed, since the end of Alberto Fujimori's authoritarian government, in 2000, offers for new oil blocks exploration and exploitation have soared under the successive governments of Alejandro Toledo and Alan García.

Political economy argues that the abundance of natural resources is often a curse for developing countries' economy (Auty, 1993; Karl, 1997). This thesis is based on the accompanying dependency on commodity price cycles and the budget rigidities introduced by public policies that are financed by such resources. The "curse" includes an external public debt assumed both when price increase becomes a cause of macro-economical disequilibrium, and when price decrease generates social conflicts and political instability. When the State is weak – when there is a lack of governing capacity or institutional stability – the resource abundance tends to undermine democratic institutions and processes. Recently, political scientists have tried to describe the "resource curse thesis" in terms of a general law and to establish a correlation between natural resources abundance and low levels of democracy, or even violent conflicts in developing countries (Ross, 2003; Le Billon, 2005/1999).

In contrast with such a description, this paper argues there is no reason to conclude that the "resource curse thesis" should be generalized in such a deterministic way. In fact, natural resource abundance can be managed for the benefit of both economic and social actors when the State assumes a central role in their interactions. Energy resources, rather, should be considered as a governance problem, since it depends on the regulation mode of the interplays between the State, the society and the economy that guide public policy related to energy production, consumption and export.

This concept helps to illuminate the evolution of the State's role under the growing influence of international organizations, local powers and NGOs, whilst taking into consideration the changes occurring at transnational, national and local levels in the agenda setting and policy styles (Pierre and Peters, 2000, pp. 84–90). It also accounts for various phenomena resulting from these changes, such as the growing interpenetration between private and public sectors, the stronger interdependency among institutions involved into collective action, the autonomy of social

☆The fieldwork for this research was made from 2006 to 2008, thanks to funding from FLACSO, the IADB and the French Institute for Andean Studies (IFEA) at Lima. A former version of this paper was presented at the 21st World Congress of Political Science at Santiago de Chile, July 2009. I wish to thank two anonymous referees for their comments on the paper and David Post for English language edits.

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0301-4215/$ - see front matter © 2010 Published by Elsevier Ltd.
doi:10.1016/j.enpol.2009.12.011

and political networks and the evolution of government's action capacity from control to steering (Stoker, 1998). Finally it permits us to see how interactions between the State, the society and the economy influence problem definition and opportunity identification, institutions role and consensus generation around values and traditions (Kooiman, 2002).

Authors such as Rhodes (1997, pp. 53–54) have interpreted changes in these interactions as the sign of a "hollowing" of the State, as illustrated by Margaret Thatcher's administration in the United Kingdom during the 1980s. This would result from the privatization of public action, the substitution of central and local governments by external agencies, the loss of competences from central governments in favour of international institutions and the loss of discretional powers from civil servants (particularly the higher ones), who now have to account for their acts and their administration.

Notwithstanding this interpretation, this paper will argue that energy co-governance cannot be identified with the "hollowing of the State". Although market orientated reforms, implemented since 1990s in Peru, are at the core of the current governance mode, the State remains a central actor for the regulation of interactions between the society and the market. The shift was not from a strong state to an absent state, but rather from hierarchical governance to co-governance. This actually means that interplays between the State, the society and economic actors are being more and more regulated in a horizontal decentralized mode, rather than a vertical centralized one.

Finally, in this paper we distinguish between two levels of co-governance. At an intentional level of co-governance, we shall analyze horizontal, semi-formalized and relatively flexible partnerships, oriented towards concrete but negotiable objectives (Kooiman, Op. Cit., 2002, p. 108). At a structural level of co-governance, we shall analyze the interdependences and interplays between the State, the society and the market, which blur the limits between these three kinds of institutional actors (idem: 111). Both the intentional and structural levels concern the making of energy policy and institutionalized arrangements between the State and the non-State actors.

The first part of this paper briefly recounts how the Camisea gas project was implemented and its consequences for foreign direct investments (FDI) and national rents. The second part shows that the shift to co-governance led to a self-sufficient and sustainable energy balance during the last decade. The third part explains how long-standing arrangements were made possible by institutional reforms opening the governance system to non-State actors in the framing of energy agenda and the monitoring of the upstream activities and transportation.

2. The shift to energy co-governance

2.1. The opening of the gas sector in Peru

The oil and gas industry modernization from the 1990s in Latin America and the Caribbean is generally associated with the "opening" of the sector to FDI. Peru is among the countries where the most radical reforms took place, since they led to the restructuring of the national oil company, Petroperu. The reform started in 1993 with Law 26.221 granting private companies access to refining and commercialization, while announcing the opening of downstream activities to foreign investment (Campodónico, 2007, p. 69). Thus, from 1992 to 1996, Petroperu lost its monopoly in these activities and became a simple operator associated with multinational companies, while a new local company, Perupetro, was in charge with promoting offers for new operations. This opening occurred in 2000, as Law 27.377 (the "actualization of the hydrocarbon law") increased the regular exploration period to 7 years, with exceptional authorizations possible for up to 1 years. In 2002, Law 27.624 granted a refund of general taxes on sales and all consumption taxes to exploration companies during this exploration phase. Finally, another reform was made in 2003 to reduce the State's participation from the hydrocarbon rent, from a 15–35% range to a 5–20% range.

In the gas sector the main legal reform was introduced in 2000, in order to explore and exploit Block 88, located in the Lower Urubamba region. This reform came soon after the signing of a "Memorandum of Peru's economic and financial policies (1999–2002)" between President Fujimori and the International Monetary Fund (IMF), which anticipated by a few months the intensification of oil and gas exploration and exploitation policy in this country. The launching of the Camisea gas project started with the signing of two distinct contracts for upstream and downstream activities.

Although the Camisea gas fields were discovered in the early 1980s, their exploitation was postponed for almost two decades.[1] There were two reasons for this delay. First, there was conflict between Royal Dutch Shell (operator of block 88 at that time) the Peruvian State. Second, indigenous communities and environmental non-governmental organizations (NGOs) resisted oil and gas exploration. This discovery led to a first round of negotiations between Shell and Alan Garcia's first administration. Nevertheless, Shell gave up the project and left the country once in 1988, for no agreement had been reached on the contractual modality between the company and the State. In 1996, Alberto Fujimori's government offered a 40 year license to a Shell and Mobil consortium. But, once again, Shell broke out the negotiation in 1998, because of differences over the gas price for national electricity production, export rights to Brazil, and the vertical integration forbidden by the Peruvian anti-trust law (Wise, 2007, pp. 317–318). Then the Dutch company definitely renounced the 400 million dollars they had invested during the exploration phase, since 1981.

Not long before 2000, in the troubled political context that would lead to Fujimori's fall (in November 2000), contracts finally were signed to make possible the initiation of the production phase. By February, a first contract assigned the gas and associated liquids exploitation for 40 years to a private consortium, lead by Pluspetrol Peru Corporation S.A. (Argentina) and composed of Hunt Oil (United States), SK Corporation (South Korea) and Tecpetrol from Peru (subsidiary of Techint, Argentina). By October, a second contract assigned natural gas and gas liquids transportation between Camisea and Lima for 33 years to the private consortium TGP (*Transportadora de Gas Peruana* S.A), conformed by Tecgas N.V. (subsidiary of Techint), Pluspetrol, Hunt Oil, SK Corporation, Sonatrach (Algeria) and Graña & Montero. By this time, Camisea's proven reserves were estimated around 8.1 trillion cubic feet (229.4 billion m^3) (Ministerio de Energía y Minas, 2000, p. 129). They comprised more than two thirds of Peru's proven gas reserves at the end of 2007.[2] Preceding the "gas boom" of the mid-2000, these contracts proved to have a strong impact on the domestic economy and local development.

[1] A full size map of the project location is available [November 2009] at the *URL*: http://www.camisea.pluspetrol.com.pe/images/mapa_riosg.jpg A full size map of Peru's exploration and exploitation blocks is available in: Ministerio de Energía y Minas (2008b).

[2] At this time, the country's natural gas proven reserves amounted to 11.82×10^{12} tcf (334.7 billion m^3) (Ministerio de Energía y Minas, 2008b).