

Houston, November 28, 2014

Market Comment 052

FOOTBALL ANALOGY (PART II)

Rewriting Mexico’s Energy History since 1976

IN AN EARLIER REPORT, we cited a Mexican industry executive whose favorite sport is American football,¹ and who, at an energy conference in Tampico sponsored by Grupo Milenio, comically compared the tier of uncertainty about the energy reform to the strategy of a team that punts the ball to gain field position.

The present report was suggested by several readers who responded with fresh observations about how the concepts and terminology of football could be applied to moments in Mexico’s energy history—a history marked more by false starts than by clean ones.² And with so much new text being written on the energy blackboard of the Peña Nieto administration, it will be especially useful to be watchful for punts and false starts.

Contents

INTRODUCTION	1
BACKGROUND: Football terminology	1
DISCUSSION: Retelling Mexico’s energy history	3
José López Portillo (1976-82)	3
Miguel de la Madrid Hurtado (1982-88)	4
Carlos Salinas de Gortari (1988-94)	4
Ernesto Zedillo (1994-2000)	5
Vicente Fox Quesada (2000-06)	5
Felipe Calderón (2006-12)	6
Enrique Peña Nieto (2012 -)	7
New playbook	7
Change of Umpires	7
Change of Rules	7
OBSERVATIONS	8

INTRODUCTION

In this report, we continue the analogy by employing additional concepts from American football, such as drive, touchback and fumble. The energy ambitions, successes and setbacks of the six presidential administrations in Mexico since the mid-1970s may be seen in a new understanding. Anyone from business, government, academia or journalism who is being drawn into the energy policy and investment scene in Mexico needs a working knowledge of the policy and institutional measures that have been taken by successive presidential administrations in living memory.

BACKGROUND: Football terminology

As with any sport, there is a specialized vocabulary and unique concepts of competition and sportsmanship. The meanings of many of the terms here listed may be extended, metaphorically, to the realm of Mexican energy.

¹ http://en.wikipedia.org/wiki/Canadian_football. The size of the field and some rules of Canadian football are different from those in American football.

² http://en.wikipedia.org/wiki/False_start

OBSERVATIONS

- 1) The changes in market designs for the oil and power sectors do not seem to indicate a change in heart that would be represented by an embrace of market-driven solutions. On the contrary, the new designs favor state-driven solutions in which Pemex and CFE will continue to be the central figures on the field of play.
- 2) Between 2014 and 2024 yet another energy reform will have taken place, one in which the government chooses not to punt.
- 3) If major IOCS express their concerns about the legal, institutional and regulatory uncertainties in the current scheme and its model contracts by choosing not to participate in public tenders for deepwater exploration blocks, another reform will be needed by 2017.
- 4) A clue as to what will have to be done is found in an observation by energy savant Javier Estrada: "In Mexico, the term '*La Nación*' generally corresponds to what, in the U.S., is called the 'Public Interest.'" Thus, the State (represented by elected officials and career officials), vested with fiduciary responsibility to the Nation (that is, the Public Interest), chooses to lease commercial rights to mineral deposits to qualified parties, state-owned enterprises as well as others. In that way, title to production is clearly and cleanly conveyed in the lease at the specified out-going metering point (net of water, gases and sediment).
- 5) In contrast, at present, the conception of an oil company as a contractor who performs a service carries with it legal uncertainty about commercial mineral interests and, in parallel, uncertainty about the conveyance of title to net production. Said differently, at present, the contractor will not be granted—explicitly, at least—a mineral interest under the terms of a lease. Instead, the contractor will be paid, as if on a piece rate, like a garment worker, for each barrel that happens to come out of the ground in his contract area.
- 6) A different approach will be needed to eliminate the legally and conceptually flawed notion that hydrocarbon reserves belong to the Nation (the topic of a separate report).

George Baker
Publisher

will permit the contractor to be paid in kind or in cash for the value of a share of production. The government is clearly trying to do a work-around of the prohibition of a standard, commercial lease; but the fact of the need for a work-around is evidence that the legal architecture is still under construction.



BAKER & ASSOCIATES, ENERGY CONSULTANTS

*Management consulting
Industry, policy and regulatory reports*

A management briefing is available on the topics covered in this report.

(832) 434-3928 (text/cell)

Mailing Address:

Box 271506

Houston TX 77277-1506

*To learn about our reporting,
consult the title lists, by year or category, on
<http://www.energia.com>, or write to us at*

INFO@ENERGIA.COM