Giving it both barrels

The government has made a promising start, but it may struggle to bring an historic reform to fruition

To mexicans, state ownership of their oil is a bit like gun ownership in the United States—steeped in history. So President Enrique Peña Nieto's proposal, unveiled on August 12th, to change the constitution to allow private investment in Mexico's oil industry for the first time since 1960, is a taboo-buster.

To clear the historic hurdles, he niftily dressed up the reform proposal as a return to the regime that prevailed after Mexico's patriotic hero, President Lázaro Cárdenas, seized the oil industry from foreign hands in 1938. Few will be fooled, however, into thinking that he shares Cardenas's nationalist convictions.

In fact his intention is nakedly economic. It starts from the premise that Mexico is running out of easy-to-access oil in the shallow waters of the Gulf of Mexico. Pemex, the national oil and gas monopoly, has neither the funds nor the expertise to take advantage of the shale and deepwater deposits that have proved so bounteous across the border in the United States. So it needs partners. The proposal leaves one big question unanswered, however: on precisely what terms will Mexico seek to attract private investment?

Mr Peña's immediate priority is to change the constitution to end a ban on private contracts in upstream oil and gas development. Downstream, he wants to end Pemex's monopoly in refining, shipping and petrochemicals, which bleed money. A reform of the electricity market is intended to enable private firms to generate power, though the grid will remain in the grip of the Federal Electricity Commission, the state behemoth.

Because of the sensitivities over ownership of oil, the government plans to offer investors a share in the profits of the oil and gas they produce, rather than the stuff itself. This caused disappointment. But the difference between profit- and production-sharing may be semantic, especially if the profits are based on the price of a barrel of oil, which—with some arm-twisting on accounting rules at the United States Securities and Exchange Commission—could count as reserves.

More worrying is the impression that Mr Peña will focus on the constitutional changes, while leaving discussion of the nitty gritty, such as what share of the profits companies will be offered, to secondary legislation in Congress, where it will be debated with less public scrutiny. Oil companies, burned before in countries like Venezuela, will be wary of anything that looks like a legal or political fudge. "The companies would be quite rational in saying we're not putting in a cent until we know we have a watertight contract," says Juan Carlos Boué, of the Oxford Institute for Energy Studies.

It may therefore be a while before the reforms boost oil and gas production, which has fallen sharply over the past decade. “With the absolutely best framework it will be two to three years before Big Oil will be able to evaluate a commercial opportunity,” says George Baker, a Houston-based analyst focused on Mexican energy.

Before any of that, Mr Peña has his work cut out to change the constitution. His Institutional Revolutionary Party (PRI), its small coalition partners and the conservative National Action Party (PAN) have enough votes between them to muster the two-thirds majority needed in the upper and lower houses of Congress to change the constitution. They also dominate the state legislatures. However, the PAN favours a bolder approach to reform, involving royalty-paying concessions, and the PRI is stuffed with closet oil nationalists. To keep the PRI’s union supporters onside, officials say none of Pemex’s 151,000 workers, some of whom are spectacularly unproductive, will be laid off.

Meanwhile, the left-leaning Party of the Democratic Revolution is incensed that Mr Peña has stolen its icon, ex-president Cárdenas. His son, Cuauhtémoc Cárdenas, a doyen of the left, says Mr Peña simply intends to “strangle” Pemex.

A bigger threat to reform may come from the street. An army of left-wing nationalists loyal to Andrés Manuel López Obrador, who came second to Mr Peña in last year’s presidential election, plans to stage protests in Mexico City in coming weeks. Though Mr López Obrador no longer belongs to a big political party, oil could give him a powerful populist platform from which to create havoc.

In the face of such opposition, a video put out by Mr Peña’s office this week borrowing phrases from the 1930s to insist “The Oil is Ours” appears trite. More to the point, the president should explain why this reform will be different from some of the headline-grabbing privatisations of the 1990s, whose lack of transparency left a bad taste in people’s mouths. Given Mexico’s sinking oil production, Mr Peña’s proposals are undoubtedly a step in the right direction. But the more open the discussion about them, the better.

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