



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate C - Asia and Latin America
Latin America

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TRADE C.3/LDCI

Note for the file

Subject: Argentina- Repsol expropriation: meeting with Repsol on 6 March 2013

Participants: M. Jorgensen, L. de la Cruz Iglesias (C.3) and C.W. Lopez Jall (Director of International Organisations and European Affairs of Repsol).

Scene Setter

Repsol continues its active campaign, including by its participation in various events relating to investment (LSE seminar last week) and preparing papers on the future of EU investment protection policy.

On Monday 4 March, the Argentinean Press announced that the Government and Repsol were finalising an agreement according to which both sides would participate in a new company to exploit the Vaca Muerta field and Repsol's committed to invest its payment in the country. Repsol would close all its legal challenges against Argentina and YPF. This announcement was denied by Repsol's spokesperson immediately.

It is expected that the accounts of YPF for last year (to be approved in March) will show that the expropriation did not yield any positive results. Production of YPF has decreased as compared to the time before the expropriation. In addition, Argentina is having problems in getting other foreign companies (e.g. Chevron) to commit to invest in the project. The expropriation has also had the effect of discouraging much needed FDI into Argentina.

Report

Press announcement of agreement between the Argentinean Government and Repsol

Lopez Jall confirmed Repsol's line that there are no negotiations ongoing.

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The government attempts to deal with an increasingly difficult situation, and took this opportunity to criticise Repsol's management of YPF (mentioning that, under the imminent agreement, Repsol's President Antonio Bufrau would be excluded from the project on request of Argentinean Government). Lopez Jall ignored sources of such "detailed" misinformation (note that press articles refer to discussions being facilitated by respective Argentinean and Spanish Ambassadors in Madrid and Buenos Aires). He referred to

declarations by Spanish Foreign Minister Margallo on ongoing discussions, noting that Repsol is not engaged in any such discussion.

Regarding the meeting between Cristina Fernandez and the CEO of la Caixa (main stakeholder of Repsol, 13% share), which the Argentinean press has depicted as a signal of an upcoming agreement, Lopez Jall argued that this visit was not made on behalf of Repsol (la Caixa holding other businesses such as natural gas) and that the expropriation was not the subject of discussions.

Legal situation Argentina

Lopez Jall explained that formally Repsol remains the holder of the 51% share expropriated since the expropriation will only be official once the Argentinean "Tribunal de Tasacion" takes a decision on the level of compensation (2 years to do so).

Lopez Jall confirmed that Repsol will continue legal proceedings against Argentina under ICSID and national tribunals. Regarding ICSID proceedings,

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Lopez Jall confirmed that Repsol's interest remains in negotiating a realistic compensation with the Argentinean Government. Repsol is aware of the cost (USD 3,000 a day for the arbitrator!) and length of ICSID proceedings (minimum 3-4 years). In addition, even after obtaining an award in these proceedings, there is no guarantee of its execution by Argentina. Argentina has failed to execute any award in ICSID so far, arguing that such award had to be "confirmed" by Argentinean courts according to Article 54 of ICSID, something that never happened.

EU action

Matthias Jorgensen (MJ) referred to COM support to Repsol since the beginning but also underlined that the fact that the issue was now subject of a judicial procedure imposed certain limits. COM continues to pursue the issue in the OECD Investment Committee (next meeting taking place on 17-21 March).

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MJ also referred to the fact that COM was pushing the "investment agenda" in its FTAs in general and the need to ensure legal certainty for investors in Latin America in particular. He referred to the focus of the EU-CELAC leader's statement on a stable environment for investment and respect of international rules. MJ also referred to the commitment of Mercosur and the EU to exchange market access offers by the end of the year, but underlined that investment protection was not part of this negotiation.

MJ invited Repsol to be appreciative of COM efforts and to have realistic expectations on what could be achieved in the short run and the kind of pressures that could be exercised on Argentina.

Lopez Jall expressed understanding for COM's limitations and mentioned the possibility of Repsol's readiness to hold another meeting between a high level executive of Repsol and Commissioner KDG if this could be useful.

Economic situation of Repsol

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Repsol's lobbying campaign

Lopez Jall referred to his participation in a seminar on investment protection organised by the LSE last week. In addition, a similar event is being prepared with CEPS (Centre for European Policy Studies). Repsol is also preparing a paper on the EU policy on investment protection with the view of presenting it to the EU institutions by the end of the month. Lopez Jall invited the COM to comment on a draft. He also agreed to send us any relevant information/ documents related to this discussion.

Follow up

Nothing new for our line in OECD and elsewhere, since Repsol refutes being negotiating with Argentina.

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