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From: LIIRA Minna (EEAS-PARIS)
Sent: 18 June 2012 17:20
To: KOUTOGLIDOU Alexandra (TRADE); RUBINACCI Leopoldo (TRADE); JORGENSEN Matthias (TRADE); CZARNECKA Ewa (TRADE); BROWN Colin (TRADE); ZAMBARTA Myrto (TRADE); BUSZ Marta (TRADE); LEBORGNE Aldric (EEAS-PARIS)
Cc: SPATOLISANO Maria Francesca (EEAS-PARIS); LACOSTE Diane (TRADE)
Subject: Meeting with REPSOL - / Mr. Gonzalo Aizpiri

Follow Up Flag: Follow up
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Dear all,

here a recap of the meeting between REPSOL/Mr. Gonzalo Aizpiri ("GA"), Director of Institutional relations and HoD Francesca Spatolisano on 13 June:

GA noted that Repsol recognizes ARG right to expropriate as long as within international and AR law. This is not the case here:
- Expropriation was discriminatory - only one shareholder's shares (51%) in YPF were expropriated, not others. ARG law foresees obligation to make a 100% bid for a company if gets more than 15%. [Other shareholders: local Petersen Group (who had 25%, of which 6.7% have gone to Repsol due to some unpaid loans, thus Repsol still a shareholder in YPF); rest of shareholders in NYCSE.]
- Prior, fair compensation has not been paid: On the basis of criteria set in ARG law for estimating the value of the company, the value of Repsol share of YPF (57%) would have been around 10.5 BUSD (100 % having been around 18 BUSD). And this despite the fact that the value of YPF had decreased by 60% during the last 6 months prior to the expropriation, due to the ARG Gov having retrieved licences from the company. ARG Gov however argues that the price is to be set by an arbitration body in the structure of the ARG Gov (i.e. not independent). They have also claimed that due to YPF debt and possible environmental damages, Repsol might need to pay ARG Gov money instead.

Deleted ARG Gov has been managing YPF since April 2012, when all ES personnel was removed. Instead, Repsol demands from the ARG Gov dialogue and fair compensation. Repsol has communicated to the ARG Gov that it invokes the ES-ARG BIT, which includes a 6-month cooling down period, to allow reaching an agreement. (Around 5 and ½ months still left of this period. Hence no arbitration proceedings have yet started by Repsol.) If no agreement is reached, the BIT foresees recourse to an arbitration court in front of the World Bank. There is no signal from ARG Gov that they want to discuss. Repsol could also bring ARG Gov to ARG constitutional court. There are also two class action suits in the US against ARG Gov, where other shareholders have already joined (since the requirement for 100% bid has not been respected).

GA's take on ARG Gov motives:
1) Need for cash of YPF in the short term: ARG is subsidizing heavily the final price of energy products. In the past, ARG was a net exporter of hydrocarbon products, but has become a net importer. Concurrently, consumption has increased significantly. ARG Gov thus needs a lot of money to subsidize imports.
2) YPF's share in recent Vaca Muerta discovery: ARG Gov wants to take control of this potentially huge resource. 25 BUSD / year is needed to exploit the resource. ARG Gov does not have the money and is courting international companies (including US companies. GA's take is that US companies are not going to disloyal, but e.g. Exxon is already operating in ARG, and easy for ARG Gov to misrepresent any new investment commitment by Exxon in ARG as support for ARG Gov).

GA argued that if there are no repercussions for ARG for its measures, others will follow suit (such as Venezuela, Ecuador). A main risk is that third countries' companies are tempted to gain resources in ARG; OECD needs to discourage other companies from taking advantage of this situation.

GA expressed gratitude for the vocal support expressed by the EU institutions, and the letter sent to the OECD Investment Committee Chair. He underlined that this is not a bilateral issue ES-ARG, but EU-ARG issue. It is a test case under the Lisbon Treaty for how effectively EU institutions can help protect EU investments.

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