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Q&A ARGENTINA OIL & GAS

Clifford Chance lawyers talk Argentina hydrocarbons M&A, outlook

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Argentina's oil and gas landscape has undergone important shifts in recent years, with both large and small M&A deals being announced or finalized.

One of the biggest transactions is the US$1.2bn acquisition by Vista Energy of Petronas E&P Argentina, expanding the former's Vaca Muerta shale oil footprint.

The announced involves small player Crown Point Energía acquiring conventional assets jointly held by hydrocarbon heavyweights Tecpetrol, YPF and Pampa Energía.

Transactions come in a context of large, battle-hardened local firms sharpening their focus on Vaca Muerta and away from the conventionals sphere.

To discuss hydrocarbons dealmaking in Argentina, BNamericas conducted an email interview with members of global law firm Clifford Chance's oil and gas group: partner and head of the group, David Sweeney, counsel Joclynn Marsh (Houston), and partners Steven Fox and Olivia Higgs (London) and Carla Ruggero and David Brinton (New York).

Clifford Chance advised Vista Energy on the Petronas deal, which closed earlier this year.

BNamericas: Clifford Chance advised Vista Energy on its US$1.2bn purchase of Petronas E&P Argentina. For lawyers, what are some of the challenges with large and seemingly complex oil M&A transactions?

Clifford Chance oil & gas group: Large and complex oil M&A transactions present several challenges. One of the primary issues is the cross-border nature of these deals, which can involve navigating the legal frameworks of multiple jurisdictions, including jurisdictions with developing and sometimes unpredictable legal systems.

Secondly, structuring deals to achieve the most favorable possible tax treatment for buyer and seller can present a significant challenge, particularly if the parties come from different jurisdictions with disparate tax approaches. Currency controls and repatriation restrictions can also adversely affect the economics of the deal, requiring sophisticated strategies to manage these issues effectively.

The structuring of purchase price payments, especially if an earn-out or other deferred payment mechanism is involved, or if some or all of the purchase price is to be financed with debt or paid in equity, can present further complications. Lastly, risk allocation associated with prior and continuing operations requires careful consideration.

Environmental matters can pose substantial legal risks in the oil and gas industry. Issues such as spills and leaks can lead to costly legal disputes, necessitating proactive risk management and insurance strategies. Lawyers can often spend significant time negotiating detailed indemnities allocating environmental risks.

Aside from the actual deal mechanics, the agreements governing the operation of the underlying assets can be quite complex and involve not only concessions, production sharing contracts and other host government contracts but also joint operating agreements with any number of private parties holding participating or operating interests in the underlying assets. These agreements can contain various investment and funding obligations, governance rights and transfer restrictions, all of which need to be carefully analyzed and considered and can often involve tricky issues of interpretation.

Those legal matters are all set against the backdrop of the industry itself, where the volatility of commodity prices, which are influenced by, among other things, geopolitical tensions, governmental objectives and uncertainties surrounding the energy transition, can complicate asset valuation and operational and financial forecasting.

BNamericas: Apart from the Vista-Petronas deal, Argentina's hydrocarbons sector has seen other M&A transactions close recently and there have been reports of other international firms looking to offload assets. What could be some of the reasons for this?

Clifford Chance oil & gas group: With a new government embarking on a deregulation initiative and the economy exhibiting greater stability, Argentina has emerged as an appealing destination for fresh energy sector investments. The combination of the improved investment climate and the relaxation of foreign exchange controls has allowed existing oil and gas investors – some of whom have been "stranded" in Argentina for a considerable period – finally to monetize their investments through partial or full exits.

Moreover, with increasing energy demands in Argentina and South America more broadly, highly productive oil and gas producing properties in the Vaca Muerta play are commanding higher prices.

The successful development of Vaca Muerta requires substantial investment in infrastructure, particularly in transportation and processing facilities. This trend is expected to continue as production grows. Argentina's principal political factions view the development of the Argentine hydrocarbons industry as a crucial instrument for stabilizing the economy and the country's overall fiscal situation.

President Milei has taken significant steps to create an investor-friendly environment with the establishment of the Rigi (incentive regime for large investments). The Rigi provides tax concessions, foreign exchange advantages, and other incentives for substantial investment projects in certain sectors, including the energy sector. This framework is designed to assure stability for large-scale investments, and, critically, provides protections against future burdensome regulatory changes to agreed tax, customs and foreign exchange incentives and dispute resolution mechanics for 30 years.

BNamericas: Linked to this, we've observed a trend of well-established local players exhibiting appetite for Vaca Muerta assets being offloaded. What could this tell us about the strategy of the buyers?

Clifford Chance oil & gas group: Local players, such as YPF, Vista Energy, Tecpetrol, Pluspetrol, Pan American Energy, and Pampa Energía, are currently leading the Rigi initiative and seem to have a strategic advantage. These firms possess a profound understanding of the geological and operational intricacies of Vaca Muerta, which is essential for maximizing efficient production.

Moreover, belief in the Rigi initiative and willingness to invest in the critical infrastructure necessary for Argentina to realize its aspiration to become a major producer will ultimately drive a cost advantage for these players. Local firms are also adept at managing Argentina's regulatory, fiscal, and political challenges. A robust, on-the-ground understanding of and ability to harmonize the legal and financial goals of both local and national regulators can result in a competitive advantage.

As Argentina aspires to become a regional LNG and oil exporter, it seems that these firms are strategically positioning themselves to secure upstream supply and associated transportation and processing infrastructure for future LNG and oil projects. This would seem to align with the interests of domestic and international hydrocarbon buyers seeking reliable and sustainable sources.

BNamericas: Finally, what impact could the current global economic uncertainty have on hydrocarbons sector dealmaking activity or do sellers and buyers tend to take a longer-term view?

Clifford Chance oil & gas group: The current global economic uncertainty significantly impacts dealmaking activity in the hydrocarbons sector. Views on global commodity prices always drive a spread between buyers and sellers, which can actually increase M&A activity. However, a spread that is too large complicates the valuation process and drives buyers and sellers too far apart to reconcile through cash consideration alone, often leading buyers to demand discounts or contingent pricing mechanisms to mitigate risk. Additionally, higher interest rates and tighter credit conditions can dampen deal appetite, particularly for leveraged buyers who face reduced access to capital. Accordingly, investors may adopt a more cautious approach to manage risk exposure.

Despite these challenges, many participants in the hydrocarbons sector maintain a longer-term perspective. Oil and gas assets typically have a multi-decade life cycle, making short-term price fluctuations less critical to the long-term return on investment. Unconventional resource plays like Vaca Muerta have the potential to couple that with the relatively short capex to cash cycle times that the industry has seen in places like the US Permian Basin.

Furthermore, the prioritization of secure, domestic energy sources by governments and companies supports sustained long-term investment in the sector. Some buyers also perceive hydrocarbons as a cash-generating bridge to fund their energy transition strategies, viewing them as essential to their broader energy portfolios.

In emerging markets like Argentina, local buyer activity may increase as global players retract. Increased upstream investment will likely spark interest in midstream and downstream infrastructure, which will require major capex investment but offer the potential for stable, long-lived returns. Overall, while valuation gaps and financing challenges may pose obstacles, the sector's inherent long-term nature encourages continued dealmaking, although with a more cautious and strategic approach.

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