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Mexico Supreme Court Ruling Opposes Fuel Ethanol

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While the Mexican fuel ethanol market seemed poised to make a breakthrough, hopes have been dashed by recent market developments. On Jan. 15, the Second Chamber of the Mexican Supreme Court declared unconstitutional the modification of NOM-016-CRE-2016, this modification increased the maximum ethanol mix allowance from 5.8% to 10%. Distributors have 180 days (until mid-July) before the ruling goes into effect and ethanol blends higher than 5.8% are no longer permitted.

Not only is this a bad sign for the broader introduction of E10 blends into Mexico, but it also will cut down on the existing market, which is mainly confined to Northern demand centers such as Juarez and Tijuana, where it is economical to truck E10 blends across the border. This single judicial decision, taken in isolation, would not be a huge indication against ethanol in Mexico. However, in the current context of President Andrés Manuel López Obrador’s (AMLO) centralization of executive, legislative and judicial power, along with prevailing gasoline market conditions in Mexico, it is yet another negative signal for ethanol during AMLO’s *sexenio*. His six-year presidential term ends in December 2024.

If the decision to adopt ethanol over MTBE as the preferred gasoline oxygenate were based purely on the price difference between the fuels, then ethanol would be the economical choice.At the Gulf Coast, ethanol is currently trading at about 0.378 USD/liter while MTBE is trading at 0.524 USD/liter; MTBE prices have risen 13% year-over-year. Accounting for energy content, a 5.8% ethanol blend would still be economical vs. a 5% MTBE blend. However, this price comparison ignores the two main factors inhibiting ethanol’s expansion into Mexico: a lack of existing ethanol infrastructure and MTBE’s long-held status as the oxygenate of choice for Pemex.

Pemex held a vertical monopoly on Mexico’s oil and gas market for 78 years until AMLO’s predecessor, Enrique Peña Nieto, started to liberalize the upstream and retail markets in 2016. Pemex still dominates the vast majority of existing oil and gas infrastructure in the country due to this legacy, and new entrants to the retail market must invest in new infrastructure or work with Pemex to supply their retail stations. Unlike MTBE, which can be transported and stored in the same pipelines and tanks as gasoline, ethanol must be transported and stored separately until final blending occurs near retail stations. While there has been some investment in ethanol terminals and storage facilities, there are currently only six of these sites in a country with more than 11,700 retail stations. In addition, the government’s hostility to foreign investors in the energy market and ethanol’s adaptation will discourage the large-scale investments in ethanol infrastructure needed to facilitate its widespread adoption in Mexico.

MTBE has been used in Mexico for decades by state-run and unagile Pemex, so there is little impetus to change to a new gasoline additive. In late 2019, Pemex requested 972 million pesos (~50 million USD) to develop ethanol infrastructure in the 2020 government budget, but ultimately received zero pesos explicitly for ethanol in the final budget. They will receive about 260 million pesos (~14 million USD) in “climate-change related activities,” but none of these line items mentioned ethanol infrastructure.

AMLO, a fierce populist, strongly defends and supports Pemex. The company was born out of patriotic nationalizations in 1938 in the wake of the Mexican Revolution, so it is a useful political tool for the nationalist president. AMLO has scared investors with his talk of reviewing oil exploration contracts with foreign companies for ‘corruption’ and appears to be content with Pemex operating at an incredible $35 billion dollar loss for 2019. He has also doubled down on Pemex's money-bleeding refining business, approving plans to construct a new $8 billion refinery in his home state of Tabasco while Pemex's existing five refineries struggle to operate above a 40% utilization rate.

The head of Pemex and the CRE (Energy Regulatory Commission) are AMLO loyalists, along with most of the ne year in office. By 2021, he will have nominated four of the eleven sitting Supreme Court justices, in addition to many nominations of lower courts. AMLO's policies are met with little resistance from the other branches of government and so the lack of support for ethanol demonstrated by this administration does not bode well for its adoption. executive branch of government; AMLO's MORENA party, which he founded in 2014, has quickly centralized Mexican political power. Along with its majority in both legislative chambers, MORENA is gaining significant sway in the judicial system. The administration has begun implementing judicial reforms and AMLO nominated three Supreme Court justice after just o

