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Changes for the better

TOGY talks to Ali Hage, oil and gas partner at Veirano Advogados, about the strengths and weaknesses of Brazilian regulations and laws, as well as what areas regulators should address as the market develops further. Veirano Advogados is a law firm providing services for companies operating in the domestic oil and gas industry.

How has the regulatory and legal environment evolved regarding the oil and gas industry?

It's been such a valuable opportunity for the government to implement changes that would have been impossible in other situations. We have seen new laws being enforced. We have seen ethics and compliance become non-negotiable. Even if politicians or publicly owned companies don't agree with something in particular concerning efforts to avoid corruption, no one can be seen now as being against these directives.

Now it is much harder to make politically driven nominations to the management of state-owned companies. There are provisions for conflicts of interest and provisions on the minimal professional and academic credentials that people should have. I'm confident that these conditions have created the perfect environment for real change. It's something that will take a long time to mature, but I think the base work has been done.

The mentality has changed. The owners of some of the most profitable and largest companies in the country have been imprisoned. That has significantly changed the perception of executives in the sector. When we are negotiating contracts and compliance issues, everyone is worried about it. It's no longer something that you have to convince someone that you need in a contract. It's something that concerns everyone now.

What are the most pressing regulatory bottlenecks that need to be addressed in the oil and gas industry?

In the natural gas scene, it is definitely the bill of law produced following the "Gas to Grow" initiative led by the Brazilian government. However, discussions in Congress are halted, mainly due to a controversy over who is entitled to regulate commercialisation activities, which affects the states of the union. The states that are already regulating such activities don't want less control or new regulations that they weren't prepared for.

We have nine to 11 different states in talks about setting up or privatising their existing gas distribution companies. Their ability

to regulate the commercialisation of natural gas within their states will definitely impact privatisation models and respective gains with such processes.

We need to have more private gas distribution companies. Of course, the challenge is that their growth is likely to be linked to GDP growth in the country, so unless we have economic activity in the country, there will not be a lot of opportunity for them to grow substantially.

What is the status of the Repetro Customs regime in Brazil?

Repetro has been extended until 2040. A few improvements have been made, and the state regulations need to follow. It all makes a lot of sense, but of course, we are in a politically sensitive moment with a lot of different interests at play. In Rio de Janeiro, some politicians have used these changes as a bargaining token.

Has any progress been made in the process to grant environmental licences?

This is a real challenge. A lot of initiatives are focused on getting improvements implemented to expand on the knowledge of the basins and organise data in a way so that you don't have to start from scratch every time you start a licensing process. Regulatory agencies are looking into it, but we still have some questions that are more legal in nature.

Environmental regulation in Brazil is very strict. The licensing agent may be found liable for some mistake he or she makes in the

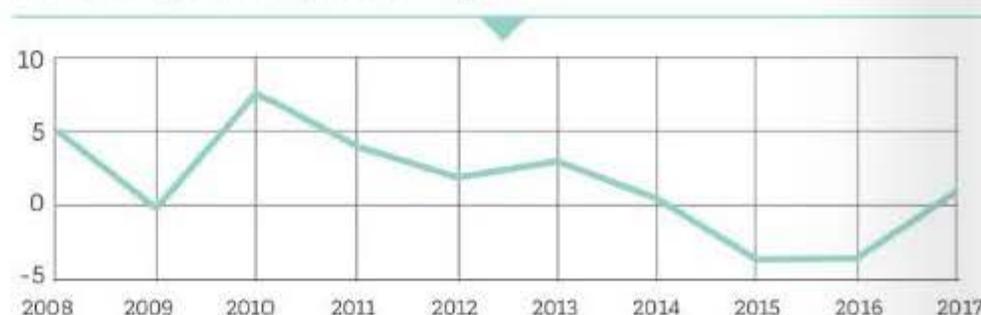
"We are in a politically sensitive moment with a lot of different interests at play."

licensing process. They need to be more protected from personal liability, otherwise they will continue to be overly conservative. There are discussions in Congress that aim to simplify that.

Has Petrobras been successful in its divestment process so far?

The divestment process is ongoing but facing legal challenges before Brazilian courts. There have been a series of injunctions to stop assets from being sold, but Petrobras has been mostly successful in cancelling or suspending such injunctions before superior courts. However, in a recent decision by the Brazilian Supreme Court, an injunction has been issued preventing Petrobras from disposing of controlling stakes in certain subsidiaries included within the divestment programme. That injunction has not yet been canceled. The problem with this battle of injunctions is that there is still a need for legal proceedings to run to discuss the merits, which can take many years. Even though Petrobras may be successful in getting rid of the injunctions, it will still have to fight for years in court, adding a layer of uncertainty to the process. ■

Brazil's GDP growth rate, 2008-2017 (%)



Source: World Bank