

PERSPECTIVES

THE SHORTAGE OF FUELS IN MEXICO – MANAGING CRISIS AND COMPLIANCE

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On 1 December 2018, Andres Manuel Lopez Obrador (popularly known as ‘AMLO’) took office as president of Mexico after being defeated in two previous presidential campaigns. One of AMLO’s principal campaign promises was that he would end the carcinogenic corruption in Mexico, generated by the previous governments.

During several years, criminal gangs popularly known as ‘Huachicoleros’ (and the stolen product known as ‘Huachicol’) have long targeted the pipelines that run through Mexico transporting refined products, from refineries to distribution points. The Huachicoleros tap into a pipeline, siphon gasoline and diesel and resell it, all under the blind eye of allegedly

corrupt officials of Pemex, the state-run energy company, local authorities and security agencies.

The Huachicoleros apparently receive sensitive information from Pemex’s officials that help the Huachicoleros tap the pipeline, and allegedly corrupt officials omit to report any technical sign of an illegal tap, such as a decrease of pressure in the pipeline or differences between the product sent into the pipeline and product received at the distribution centre. Local authorities and the securities agencies allegedly provide protection to the Huachicoleros.

This network of allegedly corrupt officials and Huachicoleros has generated an illegal market of fuels that authorities estimate costs Pemex, and thus Mexico, more than US\$3bn every year. To fight these



criminal bands, in the final days of December 2018, AMLO ordered a shutdown of Pemex's pipelines that feed the country with refined fuels. This shutdown caused a shortage of fuels in several areas of Mexico for as long as for three weeks. Even today, the situation has not been resolved in certain areas.

AMLO's decision to shut down the pipelines, causing widespread shortage in several areas of the country, was generally welcomed by the population, who saw it as necessary to stop the theft of fuels. However, the overall strategy of the government to reduce fuel theft have raised several red flags of corruption such as those outlined below.

Lack of law enforcement. The government has not announced the commencement of legal

proceedings against all of the Pemex officials who for years have allegedly allowed the theft of fuels. Government efforts have been focused on finding and destroying the illegal taps, but have not advanced to enforcement of criminal and administrative sanctions against the corrupt officials who allowed these crimes over the years, including Pemex officials, local law enforcement and other authorities that decided to ignore the problem.

Enforcement against the Pemex union has also been lacking. The union has more than 200,000 members and has been controlled by Carlos Romero Deschamps since 1996. This leader was mentioned by Forbes Magazine as one of the most corrupt Mexicans of the year 2013. Romero has

been implicated in various scandals while head of the union, including the so-called Pemexgate case in which the union was found to have diverted 500m pesos to the 2000 presidential campaign of PRI candidate Francisco Labastida. He has also been criticised for his ostentatious lifestyle, including giving a limited-edition Ferrari to his son and picking up the tab for his daughter's lavish wedding.

The lack of supervision and control over the product transported by the pipelines, allowing the Huachicoleros to make numerous illegal taps, is difficult to imagine without the possible participation of the Pemex union, which may have provided the technical knowledge to tap the pipeline, insider information such as possible security operatives or looked the other way instead of reporting lost product.

Soon after AMLO launched his crusade against the Huachicoleros, and the possible participation of the Pemex union in the theft of gasoline was raised, Romero obtained a judge order ('Amparo' or *Habeas Corpus*) that prevents the authorities from arresting Romero to face charges related to the alleged cooperation of the Pemex union with the Huachicoleros.

There cannot be a real strategy against corruption without exemplary sanctions brought against offenders, and preventive actions taken to avoid similar situations arising in the future.

Shady purchase of tanker trucks. In order to avoid shortages in several regions of the country, Pemex

first had to guarantee supply in those areas affected by pipeline closure, guarantee supply after closure, by means of distribution with tanker trucks, and not the reverse, close the pipeline and then try to normalise the supply with pipes. Since the need for tanker trucks arose, the federal government has spent approximately US\$92m to purchase 571 new tanker trucks that will deliver fuel to states where supplies have been scarce since the pipeline was shut down.

As a general rule, all governmental purchases must be made through a public and open bidding process. Without any explanation or comment, simply citing the urgent need to address fuel shortages, the government bypassed the usual public bidding process and purchased tanker fuels by direct award to an unknown suppliers of tanker trucks.

In addition to the absence of public bidding, the tanker trucks did not comply with the technical and safety regulations required for the transportation of petroleum products on Mexico's roads. Once the press revealed this situation, the Ministry of Transport changed the security standard, to adapt it to the tanker trucks purchased, allowing the trucks to roam freely on Mexican roads.

Following the direct purchases, the Mexican Association of Ethics and Compliance Professionals (Asociación Mexicana de Profesionales de Ética y Cumplimiento, or 'AMPEC') among other professionals organisations, issued a press release in which advised the federal government to be extremely cautious during the execution of these 'panic' purchases,

as were not necessarily transparent government spending.

The decision to skip a bidding process and expedite a change to transport security standards sends the wrong message about an apparent lack of commitment to transparency and to obtaining the best prices in the market available to the government.

Alejandro Hope, a security consultant in Mexico City, recalls the war on drugs launched by President Felipe Calderon after he took office in 2006. It was popular at first, but then the bodies started piling up – and Mexicans started to wonder if their government knew what it was doing. AMLO has opted for “an epic crusade instead of a permanent, systematic effort to end gasoline theft,” said Hope, as reported by Bloomberg. “They’ve focused their strategy on closing supply and stopping the commercial network, but not on taking apart the groups that control theft.”

Fuel distribution presents several compliance challenges, such as those described here. The most relevant insight from this shortage of fuels is that was created by action to fight corruption inside Pemex and in various state and municipals governments; but such actions to fight corruption should be executed without affecting citizens.

In recent days, the Mexican government has announced its investigation into several companies involved in the resale of Huachicol, and the dismissal

of some Pemex officials involved in the support given to the Huachicoleros. Many actions are pending, but in the end, all actions taken in order to fight corruption must be welcomed, revised and improved.

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Is still too early to tell whether this new government will apply the best international practices to fight corruption – practices tested and proven in private industry or in other countries. One thing is certain: AMLO’s government is going in a different direction than the previous government regarding its strategy to fight corruption, with a strong and direct tone-at-the-top from AMLO. **RC**



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