

A banner with a green background and white text that reads "LATAM COVID-19 TASK FORCE". The banner is set against a background of overlapping geometric shapes in shades of purple, green, and white.

LATAM COVID-19 TASK FORCE

LATAM COVID-19 Task Force – Actions Affecting Energy and Infrastructure Projects in Latin America [Update 3]

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AUTHORS

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The outbreak of COVID-19 is causing disruption across the world. Willkie has been endeavoring to provide our clients, colleagues and friends with current information, insights and analysis of the challenges and issues that companies are facing globally. As part of those efforts, we have asked our colleagues at law firms in Latin America to join us in creating a **LATAM COVID-19 Task Force** to help us provide current information, insights and analysis on a range of issues facing companies navigating this crisis in Latin America and Spain and to share their thoughts and views on it.

Introduction

The LATAM COVID-19 Task Force has assembled a series of questions addressing the following topics that we hope provide useful information about the countries included in this client alert:

- (a) actions taken by governments and private parties in the covered countries in response to the COVID-19 crisis which may, directly or indirectly, affect energy and infrastructure projects in those countries;
- (b) the status of markets in the covered countries which may be of particular relevance to energy and infrastructure projects; and
- (c) measures adopted by governments in the covered countries which may provide energy and infrastructure projects some relief or compensation for the adverse impacts of the COVID-19 crisis.

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The questions and responses from the members of the LATAM COVID-19 Task Force have been organized in accordance with the categories below. Both the questions and the responses can be accessed by scrolling down to the relevant section of the memo or by selecting the title of each category below.¹

- A. Government Measures and the Effect of the COVID-19 Crisis on Government Functions**
- B. Status of Markets and Current Market Problems**
- C. Force Majeure and Excused Non-Performance**
- D. Prospective Developments**
- E. Brief Observations of the Willkie Latin America Team**

Since we have asked the same questions about events and developments in multiple countries in the region, we hope that the collective feedback will provide some basis for comparison across the region and some insight into potentially developing trends in responses and actions.

Future Updates to this Client Alert

The LATAM COVID-19 Task Force has updated the responses periodically to reflect the evolving situation across the region. You can access all of Willkie's COVID-19 publications at our [COVID-19 Resource Center](#).

Questions and Feedback

We look forward to having an active conversation with you and hearing about any concerns and questions you may have which you can direct to LATAMCovid19@willkie.com.



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¹ NOTE: The responses to these questions may include hyperlinks to certain websites that may be blocked by your company's network and may require that you access the link from a separate system.

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LATAM COVID-19 Task Force Members

The following law firms participated in this client alert of the LATAM COVID-19 Task Force:

<u>Country</u>	<u>Law Firm</u>	<u>Point(s)-of-Contact</u>
Argentina	Marval O'Farrell Mairal	Hernán Slemenson , Pablo S. Cerejido
Brazil	Lefosse Advogados	Paloma Lima , Eduardo Carvalhaes , Felipe Boechem
Chile	Barros & Errázuriz	Francisco De la Barra Gili , Pablo Guerrero Valenzuela
Colombia	Brigard Urrutia	Jaime Robledo Vásquez , Sergio Michelsen Jaramillo
Costa Rica, El Salvador, Guatemala, Honduras	BLP Legal	Julio Castellanos
Ecuador	Pérez Bustamante & Ponce	Juan Manuel Marchán , Diego Pérez-Ordoñez , Gianella Gallegos-Santos , María Francisca Gallegos-Anda , Patricio Quevedo-Vergara
Mexico	Mijares, Angoitia, Cortés y Fuentes, S.C.	Martín Sánchez , Horacio M. De Uriarte , Patricio Trad Cepeda , Francisco Lascrain
Peru	Rebaza, Alcázar & De Las Casas	Felipe Boisset , Alberto Rebaza , Luis Miguel Elias , Ana María Sánchez
Spain	Pérez-Llorca	Ivan Delgado , Fausto Romero-Miura
Uruguay	Guyer & Regules	Nicolás Piaggio , Corina Bove , Cecilia Orlando
Venezuela	D'Empaire	Fulvio Italiani

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**LATIN AMERICAN ENERGY & INFRASTRUCTURE PROJECTS
COVID-19 ACTIONS TRACKER**

A. Government Measures and the Effect of the COVID-19 Crisis on Government Functions

- 1. Are you seeing government emergency decrees and other measures requiring the temporary suspension, delay or other disruption in the start or continuation of construction of energy and infrastructure projects or in the operation of existing projects?**

Country	Answer
Argentina	The Argentine Executive has ordered (a) a general lockdown for the City of Buenos Aires, Buenos Aires Metropolitan Area and other cities with a high number of COVID-19 cases and (b) social distancing measures for the rest of the country. These measures will be in place, for the time being, until June 28. Energy projects (including, oil, gas, electricity and energy infrastructure projects) and works related to energy projects are considered “essential”, and thus excluded from the general lockdown. However, restrictions to transport, mandatory health protocols, and other measures, continue to have a significant impact on the construction of energy and infrastructure projects.
Brazil	No. We have seen general governmental measures that are affecting several businesses, including infrastructure projects (e.g. quarantine). However, we have not seen any measures specifically targeting energy and infrastructure projects.
Chile	No, there have been some measures approved but not directly related to energy and infrastructure projects. However, we are currently under a nationwide Constitutional Emergency State of Disaster where certain rights and liberties can be limited by local authorities (including mobility and business operations). As a result, there have been specific actions taken in different areas of the country, such as prohibitions on gatherings of more than 50 persons in the same place, limitations on transit through districts and having mandatory quarantines in certain areas, which have disrupted the normal operation or construction of energy and infrastructure projects.
Colombia	<p>Yes. Although the State of Emergency declared by the president on March 17, 2020 came to an end on April 17, 2020, the mandatory nationwide quarantine has now been extended until July 15, 2020. The emergency measures and mobility restrictions implemented so far amid the COVID-19 pandemic may delay the completion of energy projects which are being developed but are not yet operational, particularly when they are not directly related to the operation of the existing electric energy public utilities. In addition, with respect to the transport and infrastructure sectors, several government agencies have issued resolutions or other instructions suspending certain activities under the contracts those government agencies have in place and invited the relevant contractors to negotiate the scope of such suspensions. For further detail, please refer to the following link: more information.</p> <p>However, seeking to promptly reactivate infrastructure projects, on April 15, 2020, the Colombian Government issued Decree 569 of 2020 stating, among other things, that: (i) the general rule is that any infrastructure for the provision of public transport services will remain operative (unless the Logistic and Transport Center orders its suspension) and (ii) civil works can continue to be performed during the term of the public health emergency declared by the Health Ministry, provided that the contracting entity verifies that such works are being performed in full compliance with the biosafety measures adopted by the Ministry of Health.</p>

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	In the case of electric energy projects, the Energy Vice Minister clarified through Circular 4009 of 2020 that the construction of electric energy projects was included within the exception of preventive mandatory self-isolation that was suspended until April 27 by Decree 531 of 2020. Nevertheless, this exception applies only to cases in which the construction of such infrastructure is necessary for guaranteeing the integrity and the continuity of the provision of the electric energy public utility. Hence, the Circular opens strong doubts regarding the viability of continuing with the construction of all projects.
Costa Rica	No specific energy and/or infrastructure government emergency decrees have been adopted by the Costa Rican government. However, a disruption in the start, continuation and operation of construction of energy and infrastructure projects could be caused by the National Emergency Decree and further quarantine regulations recently approved.
Ecuador	No. Even though certain operational and mobility restrictions were approved, these limitations do not directly apply to the so-called strategic sectors, which include energy, primary infrastructure, electricity, water resources, telecommunications, mining, oil, and basic industries such as forest resources and the petrochemical industry. In fact, the restrictions have been partially lifted and the presidential State of Emergency will expire mid-August, although certain prevention measures and social distancing general provisions will remain in place.
El Salvador	No specific energy and/or infrastructure government emergency decrees have been adopted by the Salvadoran government. However, a disruption in the start, continuation and operation of construction of energy and infrastructure projects could be caused by the National Emergency Decree and further quarantine regulations recently approved.
Guatemala	No. Government measures establish that the production, distribution and commercialization of electric energy are essential and must not be disrupted. Infrastructure projects may continue development and operation as well. However, the Congress approved Decree 15-2020 on May 21, 2020. This decree establishes that it is prohibited to suspend the electricity service to end users who have difficulties paying their monthly bill. The decree was vetoed by the President and challenges to the decree were brought immediately before the Constitutional Court, but the Congress decided to move forward and publish the decree. Therefore, it is currently not possible to suspend service to end users due to non-payment. End users who cannot pay the monthly invoice must sign payment agreements lasting a period of up to 12 months.
Honduras	No specific energy and/or infrastructure government emergency decrees have been adopted by the Honduras government. However, a disruption in the start and continuation of construction of energy and infrastructure projects could be caused by the National Emergency Decree and further quarantine regulations recently approved. However, the National Emergency Decree 005-2020 and Decree 21-2020 states that energy operating companies can continue on their regular operation because they qualify for an exception included on the above-mentioned decrees that allow them to continue operating.
Mexico	Yes. On May 29, 2020, the Ministry of Health, the Ministry of Economy, the Ministry of Labor and Social Welfare and the Mexican Social Security Institute issued a decree establishing specific technical guidelines for the reopening of economic activities in order to reactivate the economy in the context of the COVID-19 pandemic (the “Guidelines”). Within the description of “essential activities” under the above-mentioned Guidelines, there is a list of sectors considered essential for the fundamental functioning of the economy as well as a list of activities whose suspension may have irreversible effects on the economy, among which there are some related to infrastructure and energy. If activities to be carried out in connection with energy or infrastructure projects fall within the scope of “essential activities”, such activities are permitted to continue in accordance with the restrictions established by the Guidelines. Also, activities related to the “conservation and maintenance of critical infrastructure that ensures the production and distribution of essential services” are permitted to continue subject to the restrictions established by the Guidelines. For further information, please refer to the link below: http://www.macf.com.mx/wp-content/uploads/2020/06/ClieAlert_Laboral_Junio01_ing.pdf On April 29, 2020, the National Center of Energy Control (“CENACE”) issued a decree establishing certain measures with the purpose of ensuring the reliability of electric energy supply during the COVID-19 pandemic. Such measures include, among others, the

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	<p>suspension, as of May 3, 2020, of pre-operating tests in connection with (i) wind and photovoltaic power plants that are in the process of reaching commercial operation and (ii) power plants which have not yet commenced their pre-operating test. This would allow the energy sector to focus on maintaining the electric energy supply and avoid flaws in the system during the COVID-19 pandemic; however, since the terms and conditions on how these measures will be implemented are unclear, the technical and economic impact of such measures is still uncertain. The above-mentioned will be in force throughout the duration of the COVID-19 pandemic. On June 22, 2020, the Federal Antitrust Commission (“COFECE”) filed a suit at the Mexican Supreme Court stating that the measures introduced by CENACE violated the fundamental principles of free competition.</p> <p>For further information, please refer to the link below: http://www.macf.com.mx/wp-content/uploads/2020/05/ClientAlert_energy0605_inglesPDF-1.pdf</p>
<p>Peru</p>	<p>Yes. Certain emergency decrees have been enacted in recent months. Please note, however, that the production and provision of energy is considered an essential activity since it is linked to a public utility and, therefore, the Peruvian government guarantees the generation, transmission and distribution of energy to all customers. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Urgency Decrees https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-estado-de-emergencia-nacional-po-decreto-supremo-n-044-2020-pcm-1864948-2/ https://busquedas.elperuano.pe/normaslegales/prorroga-del-estado-de-emergencia-nacional-declarado-mediant-decreto-supremo-no-051-2020-pcm-1865180-2/ https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-naciona-decreto-supremo-no-064-2020-pcm-1865482-3/ https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-naciona-decreto-supremo-n-075-2020-pcm-1865780-1/ • Ministry of Energy and Mining’s Resolutions https://cdn.www.gob.pe/uploads/document/file/569045/RVM_001-2020_VME.pdf https://cdn.www.gob.pe/uploads/document/file/593839/RM_N_111-2020-MINEM-DM.pdf <p>Please note that, according to a Supreme Decree recently enacted by the Peruvian government, a gradual and progressive reactivation of economic activities has been approved. The economy reactivation policy has been prepared in accordance with a strategy developed by a multisectoral working group and has four phases for its implementation. The policy will be constantly evaluated as per the National Health Authority’s recommendations.</p> <p>Phase 1 will begin later in May 2020 with the prioritization of the infrastructure sector and, more specifically, the Projects contained in the National Infrastructure Plan for Competitiveness, the projects structured by the <i>Autoridad para la Reconstrucción con Cambios</i> for sectors impacted by the <i>Niño Costero</i> phenomenon, 56 transportation and telecom projects, and 36 sanitation, agricultural, real estate and social infrastructure projects.</p> <p>The competent authorities in charge of the projects above-mentioned shall issue health protocols to monitor workers’ health. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Supreme Decree https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-la-reanudacion-de-actividades-ec-decreto-supremo-n-

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	<p>080-2020-pcm-1865987-1/ https://www.gob.pe/institucion/produce/noticias/143672-gobierno-reanuda-gradual-y-progresivamente-actividades-economicas https://www.elperuano.pe/noticia-%C2%A1reactivacion-economica-todo-sobre-reanudacion-actividades-cuatro-sectores-economicos-95319.aspx https://rpp.pe/politica/gobierno/coronavirus-en-peru-gobierno-estas-son-las-actividades-economicas-que-se-reanudaran-en-la-fase-1-noticia-1262813</p> <ul style="list-style-type: none"> • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Corporativa.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/ALERTA%20LABORAL%204%20MAYO%20%282%29.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Laboral%20-%20Lineamientos%20%281%29.pdf • Health Ministry https://www.gob.pe/institucion/minsa/informes-publicaciones/543249-lineamientos-para-la-vigilancia-de-la-salud-de-los-trabajadores-con-riesgo-de-exposicion-a-covid-19 • Ministry of Energy and Mining https://www.gob.pe/institucion/minem/normas-legales/558867-128-2020-minem-dm https://www.gob.pe/institucion/minem/normas-legales/558870-129-2020-minem-dm • National Infrastructure Plan for Competitiveness https://www.mef.gob.pe/contenidos/inv_privada/planes/PNIC_2019.pdf • <i>Autoridad para la Reconstrucción con Cambios</i> http://www.rcc.gob.pe/ <p>Please note that the Peruvian Government and the Public Procurement Authority have recently enacted certain regulations to promote the reactivation of public and private investment. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20Reactivaci%C3%B3n%20%281%29.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-Reanudaci%C3%B3n%20gradual%20de%20actividades%20econ%C3%B3micas.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20%20-%202018.05.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20%20-%202020.05%20%282%29.pdf <p>Furthermore, the Peruvian Government has recently approved the start of the second phase economy reactivation policy. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Supreme Decree
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	<p>https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-la-fase-2-de-la-reanudacion-de-a-decreto-supremo-no-101-2020-pcm-1867300-2/</p> <ul style="list-style-type: none"> • RAD Blog <p>http://rebaza-alcazar.com/blog/alerta-corporativa-aprueban-decreto-supremo-que-aprueba-la-fase-2-de-la-reanudacion-de-actividades-economicas-dentro-del-marco-de-la-emergencia-nacional/</p>
Spain	<p>There have already been measures imposing the temporary suspension of the business activities in general, except for the so-called essential activities. Within such essential activities we find, amongst others, energy activities. Consequently, the operation of existing projects is not currently suspended, but the construction works of energy and infrastructure projects were temporarily suspended as a consequence of such general interruption between March 30, 2020 and April 9, 2020. Since April 10, 2020, the construction works have been resumed.</p>
Uruguay	<p>All construction activity was suspended for two weeks, starting on March 24 until April 3, 2020. Moreover, on April 6, the construction sector started their ordinary holiday until April 10. Following the end of such holiday, on April 13, 2020, construction activities resumed according to a protocol developed by the Construction Chamber, the Union and the Ministry of Labour. Up to date, the restarting of activities and the implementation of the protocol has been generally successful.</p>
Venezuela	<p>Yes. A decree declaring a state of emergency (the “State of Emergency Decree”) and a nationwide quarantine was ordered by the government, which has suspended most business activities, except for certain essential sectors. The State of Emergency Decree and the nationwide quarantine have been extended until July 11, 2020, and may be extended for additional periods of 30 days.</p> <p>The list of essential sectors does not expressly include construction of energy and infrastructure projects. Thus, we are already experiencing suspensions, delays or disruptions in the construction of energy and infrastructure projects and we expect that these issues will continue to happen in the foreseeable future, even with the implementation of the “7+7 Plan” described below.</p> <p>The COVID-19 presidential commission announced that workers in the hydrocarbon, gas and petrochemical industries were not subject to the quarantine; therefore, those industries are operating on a regular basis.</p> <p>The government has gradually eased the nationwide quarantine by announcing the implementation of the “7+7 Plan” which consists of seven consecutive days of easing measures, followed by seven consecutive days of quarantine; the “7+7 Plan” started on June 1, 2020. The “7+7 Plan” covers nine sectors, including construction in general, which may operate within specific work schedules during the seven-day term and observing health and safety regulations.</p>

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2. If you are seeing such disruptions, is there a regime in place for obtaining permission to operate and move employees, equipment and goods?

Country	Answer
Argentina	Yes, there is a specific certificate for employees that carry out “essential” activities.
Brazil	We have not seen any disruption so far.
Chile	Yes. There are several mechanisms to obtain temporary permissions to operate and move employees, equipment and goods. Additionally, there are certain special considerations being taken in order to maintain essential basic services in place for the population, such as energy services. Furthermore, generation, transmission and distribution companies are obliged to maintain continuity of service, under penalty to be determined by the SEC (Electric and Fuel Agency).
Colombia	Certain events are exempt from the otherwise mandatory preventive isolation but there is no regime to obtain permits or approvals in that regard. Therefore, police may verify the compliance with exemptions on a case-by-case basis. However, note that employees of public utilities only need to bring a justification for their exempt activities. No further government permission is needed.
Costa Rica	Yes. Such permission can be obtained in order to operate and move employees, equipment and goods.
Ecuador	We have not seen any important disruption so far. Nevertheless, starting mid-August, the majority of public agencies in major cities will resume physical operations and that should expedite any backed up procedures.
El Salvador	Due to emergency regulations a mandatory nationwide quarantine is currently in force through at least until May 16, 2020. During the quarantine only the production and distribution of essential goods are allowed and only certain public employees are permitted to work. Therefore, obtaining any permission and the operation and movements of employees for the start, continuation or operation of construction of energy and infrastructure projects is not currently possible.
Guatemala	Permits to mobilize employees are processed by the Ministry of Economy. This is the only permit existing that deals with the management of employees, equipment and goods.
Honduras	As mentioned in Section A.1 above, energy operating companies may continue on their regular operation. In addition, special permissions may be obtained in order to operate and move employees, equipment and goods.
Mexico	We have not seen any disruption so far.

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<p>Peru</p>	<p>Yes. The Peruvian government issued a list of essential companies allowed to continue operations. Such companies and their employees have to obtain a special permit to move personnel, equipment and goods. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Proceeding to obtain special permits to operate and to move employees https://www.gob.pe/8783-solicitar-permiso-especial-de-transito https://www.gob.pe/institucion/mindef/noticias/142117-desde-manana-entra-en-vigencia-nuevo-pase-vehicular • Ministry of Energy and Mining's Resolution https://busquedas.elperuano.pe/normaslegales/aprueban-el-protocolo-para-la-implementacion-de-medidas-de-resolucion-ministerial-n-111-2020-minemdm-1865552-1/ https://www.gob.pe/institucion/minem/informes-publicaciones/462266-listado-de-empresas-electricas-a-que-hace-referencia-el-articulo-7-de-la-rvm-n-001-2020-minem-vme • RAD Blog relating to labor measures adopted by the Peruvian government http://rebaza-alcazar.com/blog/alerta-laboral-du-covid-19/ https://rebaza-alcazar.com/blog/alerta-laboral-publican-protocolo-para-transitar-durante-el-periodo-de-aislamiento-social-obligatorio/ http://rebaza-alcazar.com/blog/alerta-laboralactividades-que-podran-reiniciar-labores-en-la-fase-1-de-la-reactivacion-economica/ <p>Please note that, according to a Supreme Decree recently enacted by the Peruvian government, a gradual and progressive reactivation of economic activities has been approved. The economy reactivation policy has been prepared in accordance with a strategy developed by a multisectoral working group and has four phases for its implementation. The policy will be constantly evaluated as per the National Health Authority's recommendations.</p> <p>Phase 1 will begin later in May 2020; however, no new regulation relating to employees' special permits has yet been enacted. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Supreme Decree https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-la-reanudacion-de-actividades-ec-decreto-supremo-n-080-2020-pcm-1865987-1/ https://www.gob.pe/institucion/produce/noticias/143672-gobierno-reanuda-gradual-y-progresivamente-actividades-economicas https://www.elperuano.pe/noticia-%C2%A1reactivacion-economica-todo-sobre-reanudacion-actividades-cuatro-sectores-economicos-95319.aspx https://rpp.pe/politica/gobierno/coronavirus-en-peru-gobierno-estas-son-las-actividades-economicas-que-se-reanudaran-en-la-fase-1-noticia-1262813 • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Corporativa.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/ALERTA%20LABORAL%204%20MAYO%20%282%29.pdf
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	<p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Laboral%20-%20Lineamientos%20%281%29.pdf</p> <p>A Supreme Decree recently enacted by the Peruvian government approved the gradual and progressive reactivation of economic activities. The economy reactivation policy has been prepared in accordance with a strategy developed by a multisectoral working group and its implementation has been divided into four phases. The policy will be constantly evaluated and adjusted by the National Health Authority's recommendations.</p> <p>Phase 1 began on May 2020, prioritizing the infrastructure sector, specifically, the projects of the National Infrastructure Plan for Competitiveness, the projects of the <i>Autoridad para la Reconstrucción con Cambios</i> for sectors impacted by the Niño Costero phenomenon, 56 transportation and telecom projects, and 36 sanitation, agricultural, real estate and social infrastructure projects.</p> <p>The competent authorities in charge of the above-mentioned projects will issue health protocols to monitor workers' health. For further information, please refer to the links below:</p> <ul style="list-style-type: none">• Supreme Decree https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-la-reanudacion-de-actividades-ec-decreto-supremo-n-080-2020-pcm-1865987-1/ https://www.gob.pe/institucion/produce/noticias/143672-gobierno-reanuda-gradual-y-progresivamente-actividades-economicas https://www.elperuano.pe/noticia-%C2%A1reactivacion-economica-todo-sobre-reanudacion-actividades-cuatro-sectores-economicos-95319.aspx https://rpp.pe/politica/gobierno/coronavirus-en-peru-gobierno-estas-son-las-actividades-economicas-que-se-reanudaran-en-la-fase-1-noticia-1262813• RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Corporativa.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/ALERTA%20LABORAL%204%20MAYO%20%282%29.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Laboral%20-%20Lineamientos%20%281%29.pdf• Health Ministry https://www.gob.pe/institucion/minsa/informes-publicaciones/543249-lineamientos-para-la-vigilancia-de-la-salud-de-los-trabajadores-con-riesgo-de-exposicion-a-covid-19• Ministry of Energy and Mining https://www.gob.pe/institucion/minem/normas-legales/558867-128-2020-minem-dm https://www.gob.pe/institucion/minem/normas-legales/558870-129-2020-minem-dm• National Infrastructure Plan for Competitiveness https://www.mef.gob.pe/contenidos/inv_privada/planes/PNIC_2019.pdf• <i>Autoridad para la Reconstrucción con Cambios</i> http://www.rcc.gob.pe
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	<p>Furthermore, the Peruvian Government has recently approved the beginning of the second phase of the economy reactivation policy. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Supreme Decree https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-la-fase-2-de-la-reanudacion-de-a-decreto-supremo-no-101-2020-pcm-1867300-2/ • RAD Blog http://rebaza-alcazar.com/blog/alerta-corporativa-aprueban-decreto-supremo-que-aprueba-la-fase-2-de-la-reanudacion-de-actividades-economicas-dentro-del-marco-de-la-emergencia-nacional/
Spain	<p>The operation of projects and the mobility of all related employees, equipment and goods have been subject to some restrictions during the state of alarm, which was extended through June 21, 2020, though essential activities, including power generation and related activities, have been permitted to continue throughout the state of alarm. However, Spain is currently in a de-escalation process, which means that most of the activities are resuming and all restrictions are being gradually lifted. The Government currently permits the movement of workers, goods and equipment in connection with the performance of work functions. In such cases, the business must issue a safe-conduct certificate that justifies such movement.</p>
Uruguay	<p>Re-commencing of activities in the construction sector came with a set of safety rules that all employers must implement to guarantee the safety of their employees. These rules, to which employers and employees are still adapting, eventually could create some distortions in the working environment, which may in the long run have consequences for the projects' operations (less productivity), for example, in the case of a worker with COVID-19 symptoms (or with the virus), certain measures adopted by the national sanitary authority must be met (for instance, excluding workers who were in contact with an infected person and requiring the building to temporarily close).</p>
Venezuela	<p>Under the State of Emergency Decree, generally, activities of employees, goods, and equipment related to essential activities remain allowed. There is not a special regime in place for obtaining special permissions, except for a regulation passed by the National Institute of Aquatic Spaces ("<i>Instituto Nacional de los Espacios Acuáticos</i>") to issue permits to move workers and equipment in open waters. We also understand that military authorities are issuing and requiring special permits for moving workers, equipment and goods related to essential sectors, and that sometimes the military authorities accept letters issued by the employers instead of the permissions issued by the military authorities, but there is not a special regulation on the matter. In addition, state and municipal authorities have passed local regulations approving specific rules on the matter, such as the Libertador Municipality in Caracas, which issues special permits known as "<i>mobility passes</i>" ("<i>pases de movilidad</i>").</p>

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3. Have national, regional and local governments adopted measures or responses to protect or assist energy and infrastructure projects either in operation or under construction? For example: (a) Has there been any exemption or relief from regulatory or legal requirements or restrictions applying to projects (e.g., general permitting requirements or environmental, health and safety requirements)? (b) Has any tax relief been proposed either in terms of tax filing and reporting or tax payments?

Country	Answer
Argentina	(a) The Secretary of Energy has temporarily suspended the enforcement of penalties applicable to energy projects under construction (both renewable and conventional projects). (b) Not specifically with respect to energy or infrastructure projects.
Brazil	(a) Yes. From an environmental standpoint, many authorities have suspended procedural deadlines (e.g., to present evidence of compliance with certain environmental obligations (see item 4.c)). In the oil and gas industry, the Brazilian oil and gas agency put in place some flexibility measures regarding regulatory and contractual obligations, and has allowed companies to request a nine-month extension of the exploration phase. In addition, on June 23, 2020 the Brazilian energy regulator ANEEL granted final approval to a US\$3.1 billion bailout package for power distribution companies that have been suffering from drops in demand. (b) No. There have been some initiatives in connection with the relief of tax filing, reporting and payment obligations, but none of them specifically target the energy and infrastructure sector. The federal government and the Brazilian power regulator approved the following measures: (i) a discount of 100% on consumption up to 220 kWh/m, which will be funded with resources from existing sectorial accounts and additional resources from the federal government; and (ii) the anticipated transfer of resources allocated in existing reserves to power distributors and other market players. In the biofuels industry, the federal government has not implemented any of the tax measures previously under consideration in order to provide some relief to Brazilian ethanol producers (however, BNDES has offered some specific credit lines to biofuels producers).
Chile	(a) No. (b) Not directly. However, the Stamp Tax rates have been temporarily reduced to 0% with respect to the taxes accrued until September 30, 2020. This benefit applies to financing and refinancing of infrastructure and energy projects during this period.
Colombia	(a) Yes. Regulations have been enacted providing for, among others, the suspension of toll collection, environmental time restriction for the operation of airstrips, and special authorizations to operate cargo for supply of first necessity goods in private and public service ports. In the case of the electric energy industry, environmental regulations and provisions issued during this state of emergency have been designed to postpone administrative and judicial deadlines and to inform the public how to submit requests via the internet, among others. None have exempted or provide relief for environmental licensing applications. (b) Yes. Both at the national and municipal/district level. For further detail on the measures approved at a local level, please refer to the following links for more information <ul style="list-style-type: none"> Governors and Mayors have been authorized a reduction of local taxes

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	<ul style="list-style-type: none"> • Corporate Income Tax filing and payment deadlines have been postponed • Debit tax exemptions and VAT benefits have been approved • Tax relief measures for corporate bankruptcy proceedings have been approved • Tax relief measures for the Agricultural Guarantee Fund fees have been approved • Decree 772 of 2020 which adopts special measures regarding bankruptcy proceedings
Costa Rica	(a) No. (b) Yes. Regulations providing tax filing, reporting and payments relief have been adopted. For further detail, please see our COVID-19 resource center: https://www.blplegal.com/en/Media-Room-COVID19-Coronavirus-Central-America .
Ecuador	<p>(a) No. (b) No. However, certain tax relief measures have been proposed for specific taxpayers/sectors, including, among others, airline operators. On the other hand, a system that requires certain taxpayers to carry out monthly self-withholding at source on taxable income earned in each month has been implemented. This is applicable to, among others, companies that have the following types of contracts in place with the state:</p> <ul style="list-style-type: none"> • All contracts for exploration and exploitation of hydrocarbons; and contracts for complementary oil services, and crude oil transportation companies.
El Salvador	(a) No. (b) Yes. The Legislative Assembly approved the extension of the deadline to pay the Income Tax for the fiscal year 2019, to all taxpayers who provide the service of generation, transmission, distribution and commercialization of electric energy, and to telecommunications services, for a maximum of eight monthly installments, with the prior authorization of the General Treasury Directorate.
Guatemala	(a) No. However, on May 21, 2020, the Congress issued a decree (currently subject to legal challenges) that requires power distributors to continue supplying power despite customers' failure to pay even though the regulations previously in place allowed them to suspend performance. (b). No.
Honduras	(a) No. (b) Yes. Regulations that provide tax filing, reporting and payment relief have been adopted. For further detail, please see our COVID-19 resource center: https://www.blplegal.com/en/Media-Room-COVID19-Coronavirus-Central-America .
Mexico	<p>(a) Yes. Several federal governmental authorities have adopted measures whereby the suspension of statutory terms and deadlines has been approved in connection with the proceedings pending before them, including the Energy Regulatory Commission ("CRE"), the Ministry of Energy ("SENER"), the Ministry of Environment and Natural Resources ("SEMARNAT"), the National Center of Energy Control ("CENACE"), COFECE and the Federal Institute of Communications ("IFT") . Please see below for the corresponding client alerts prepared by our Firm:</p> <p>CRE and SENER: http://www.macf.com.mx/wp-content/uploads/2020/06/ClienAlert_Energy03061_ing.pdf</p> <p>SEMARNAT: http://www.macf.com.mx/wp-content/uploads/2020/06/ClienAlert_AM0306_ing.pdf</p>

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	<p>COFECE AND IFT:</p> <p>http://www.macf.com.mx/wp-content/uploads/2020/06/ClienAlert_Antitrust0206_ingles_2.pdf</p> <p>http://www.macf.com.mx/wp-content/uploads/2020/06/ClienAlert_Antitrust0106_ingles.pdf</p> <p>http://www.macf.com.mx/wp-content/uploads/2020/05/ClientAlert_Antitrust1205_ing-1.pdf</p> <p>CENACE:</p> <p>http://www.macf.com.mx/wp-content/uploads/2020/06/ClienAlert_Energy0406_ing.pdf</p> <p>(b) Yes. On April 20, 2020, certain tax relief measures were published in the Official Gazette of Mexico City approving the suspension of statutory terms and deadlines and granting certain tax benefits for taxpayers in Mexico City. For further detail, please see below for the corresponding client alert prepared by our Firm:</p> <p>http://www.macf.com.mx/wp-content/uploads/2020/04/ClientAlert_tax705_inglesPDF.pdf</p>
<p>Peru</p>	<p>(a) Yes. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • RAD Blog <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20Reactivaci%C3%B3n%20%281%29.pdf</p> <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20Reglamento%20para%20la%20ejecuci%C3%B3n%20de%20proyectos%20especiales%20de%20inversi%C3%B3n%20p%C3%ABlica.pdf</p> <p>Please note that construction activities are included in the first phase economy reactivation policy recently approved by the Peruvian government and, as a result, construction companies will have to implement the health protocols that will be issued by competent authorities. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Supreme Decree <p>https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-aprueba-la-reanudacion-de-actividades-ec-decreto-supremo-n-080-2020-pcm-1865987-1/</p> <p>https://www.gob.pe/institucion/produce/noticias/143672-gobierno-reanuda-gradual-y-progresivamente-actividades-economicas</p> <p>https://www.elperuano.pe/noticia-%C2%A1reactivacion-economica-todo-sobre-reanudacion-actividades-cuatro-sectores-economicos-95319.aspx</p> <p>https://rpp.pe/politica/gobierno/coronavirus-en-peru-gobierno-estas-son-las-actividades-economicas-que-se-reanudaran-en-la-fase-1-noticia-1262813</p> <ul style="list-style-type: none"> • RAD Blog <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Corporativa.pdf</p> <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/ALERTA%20LABORAL%204%20MAYO%20%282%29.pdf</p>

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	<p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Laboral%20-%20Lineamientos%20%281%29.pdf</p> <ul style="list-style-type: none"> • Health Ministry https://www.gob.pe/institucion/minsa/informes-publicaciones/543249-lineamientos-para-la-vigilancia-de-la-salud-de-los-trabajadores-con-riesgo-de-exposicion-a-covid-19 • Ministry of Energy and Mining https://www.gob.pe/institucion/minem/normas-legales/558867-128-2020-minem-dm https://www.gob.pe/institucion/minem/normas-legales/558870-129-2020-minem-dm <p>(b) No. Extensions have been granted only for taxpayers with an income of less than US\$6.5 million. However, it is expected that the Peruvian government will enact new regulations and amendments to the current tax regime, in order to help companies to overcome the COVID-19 crisis. For further information relating to tax matters, please refer to the links below:</p> <ul style="list-style-type: none"> • RAD Blog relating to special tax measures adopted by the Peruvian government http://mail.rebaza-alcazar.com.pe/uploadimages/files/BOLET%3%8DN%20TRIBUTARIO_DJ.pdf http://rebaza-alcazar.com/blog/alerta-tributaria-modifican-cronograma-de-vencimientos-para-la-declaracion-jurada-anual-del-impuesto-la-renta-y-del-impuesto-las-transacciones-financieras-2/ http://rebaza-alcazar.com/blog/alerta-tributaria-vencimientos-de-declaraciones-tributarias-y-plazos-de-atraso-aplicables-libros-contables/ http://rebaza-alcazar.com/blog/alerta-tributaria-se-adoptan-medidas-para-otorgar-liquidez-y-facilidades-deudores-tributarios-ante-la-declaratoria-de-emergencia-nacional/ http://mail.rebaza-alcazar.com.pe/uploadimages/files/BOLETIN_23_3_20%20%281%29.pdf http://rebaza-alcazar.com/blog/publicacion-semana-economica-impuesto-la-renta-empresas-podrian-evitar-pagos-cuenta-en-lo-que-resta-del-2020/ http://rebaza-alcazar.com/blog/alerta-tributaria-prorrogan-plazo-para-presentar-informacion-financiera-common-reporting-standard-sunat/
<p>Spain</p>	<p>(a) No. (b) Yes. At a national level, corporate taxpayers with a turnover below €600,000 (US\$647,940) in 2019 who are not part of a Corporate Income Tax (“CIT”) or Value Added Tax (“VAT”) consolidation group may defer the filing of their tax returns relating to national taxes that were originally due between April 15, 2020 and May 20, 2020 until May 20, 2020. This measure includes interim payments on account of CIT, withholdings of Q1 2020 and VAT of Q1 2020. In light of the threshold, we believe that this measure will have very limited applicability. Additionally, corporate taxpayers with a net turnover in the last 12 months below €6 million (US\$6.48 million) that are not included in a CIT consolidation group may choose to apply the ‘base’ interim CIT payment method for the year 2020. This method allows the interim payments to better correlate to the year-to-date economic result of the company, hence generally reducing the strain on the working capital of the taxpayer.</p> <p>At a local level, the majority of the regional and local tax authorities have approved a number of measures to extend the deadlines to make certain local tax filings. For further detail, please see:</p> <p>https://www.perezllorca.com/actualidad/coronavirus-covid-19/covid-19-normativa-fiscal/</p>

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<p>Uruguay</p>	<p>(a) No. With regards to health and safety requirements, companies have not been exempted from their compliance. Furthermore, companies must now comply with regulations related to preventing the spreading of COVID-19, including detailed communications to workers with the description of the symptoms, characteristics and risks of the disease, and ways to avoid the infection; providing hygienic supplies such as alcohol, soap, and others; ensuring that the working place has adequate working conditions; visible warning and reminder signs must be placed; organizing the workplace to ensure a minimum distance between workers; and a plan of action must be determined in the case of a worker getting infected. Also, and particularly in the construction industry, we included other measures in answer 2.</p> <p>(b) Yes, with regards to tax payments, the General Tax Office (“<i>Dirección General Impositiva</i>”), the tax authority in Uruguay, issued a resolution in which the due dates of tax payments were extended, from March 23, until March 27. More recently, the General Tax Office issued a resolution referring to the audit report that must be submitted jointly with the affidavits of certain taxes, determining that the period for their submission is extended until May 22nd.</p> <p>Moreover, a special payment and financing regime was established for corporate taxpayers (“<i>IRAE</i>”) with business activity whose annual income does not exceed 305,000 Indexed Units (which sums up to a total of UYU 1,372,896.5 – approx. USD \$31,716.019). The special regime allows them to make February and March 2020 payments of corporate tax and Value Added Tax (“<i>IVA</i>”), in six equal and consecutive payments, beginning in May 2020.</p> <p>Currently, a new law determines benefits for mono taxpayers, sole proprietorships and personal companies with up to ten employees, for payments to the Social Security Bank (“<i>BPS</i>”): i) exemption of 40% of the amount corresponding to the personal and employer contributions included in the Industry and Commerce regime corresponding to the actual or <i>de facto</i> contribution of the owners of sole proprietorships and partners of personal companies, provided that said entities have not had more than ten dependent employees in the month of March 2020. For this purpose, all employees must be considered, including those covered by the subsidies provided by the Social Security Bank and the State Insurance Bank; ii) exemption of 40% of the unified single-tax tax benefit; iii) exemption of 40% of the MIDES Social Monotax tax benefit; iv) the remaining 60% of the aforementioned contributions for the subjects included in the exemptions, will be paid in 6 consecutive installments starting in June of this year. The benefits provided will be applicable to the taxes accrued between March 1 and April 30, 2020.</p> <p>With regards to tax filing and reporting, in relation to the Personal Income Tax (“<i>IRPF</i>”), which taxes the activity and incomes of natural persons, the General Tax Office has issued a Resolution on March 30 in which it determined that, within a period of 60 days, an alternative digital mechanism can be used for the submission of affidavits (which are required for the payment of this tax). Thus it is allowed to submit a digital document containing a scanned version of the affidavit.</p> <p>Additionally, Uruguay has recently implemented electronic invoices. In this context, a registration of Authorized Suppliers (“<i>Registro de Proveedores Habilitados</i>”) and of electronic invoices is required, and they must fulfill certain requirements. The General Tax Office has extended the deadline for the fulfillment of those requirements, until June 1, 2020.</p> <p>For the agricultural sector, the passing of a law is being discussed by the Parliament, which sets forth a reduction of the Rural Real Estate “Tax (“<i>Contribución Inmobiliaria Rural</i>”) for certain taxpayers, determining a reduction of an amount of 18% for the year 2020. It only includes certain people (mostly owners or users of rural areas which are being exploited for agricultural purposes, and subject to certain limitations) and certain sections (departments) of the country.</p> <p>Recently, additional exemptions of several taxes (e.g., import custom taxes, value added tax, equity tax and corporate tax) have been granted to investments related to the construction of housing projects which fulfill certain requirements and to projects of significant economic and social dimension (they must be registered in the Social Security Bank, be of an important economic dimension, and submitted before December 2021); these exemptions were also extended to existing projects of national interest (such as projects that incorporate specific technical processes, increase exports of special national interest, generate a significant volume of employment, promote small businesses, contribute to the geographical decentralization of Uruguay, etc.) which were granted tax benefits prior to COVID-19.</p>
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	<p>In particular, the tax exemptions recently granted to investments related to the construction of housing and national interest projects include, among others: (i) a temporary exemption of payment of import customs and value added taxes for machinery, equipment and material to be used in the development of the projects, (ii) a temporary reduction of 15 to 40% of the Corporate Tax (depending on the value of the investment), and (iii) an exemption of Property Tax for periods from eight to 10 years. Please note that these projects must report their situation to a State Agency that supervises their development and which can remove those benefits at any time in the event that these projects fail to comply with the requirements to benefit from such special tax benefits.</p>
Venezuela	<p>(a) No. (b) There has been no relief for national tax filing or reporting, except for customs duties and VAT exemptions for the import of certain goods (e.g., face masks, COVID-19 test kits, hydrocarbon fuels and products for the treatment of gasoline, and materials and equipment related to certain water-supply infrastructure projects). At a local level, certain municipalities have extended the deadlines to file municipal taxes such as the Chacao, Libertador and Zamora Municipalities.</p>

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4. Are you seeing an impact on key government functions that will delay projects or measures affecting projects? For example: (a) Reduced functions or operations of key government agencies or regulators of energy markets or infrastructure projects (e.g., ministries, systems operators, regulators, etc.)? (b) Delays in allowing importation of equipment? (c) Delays in permitting/regulatory actions/approval of environmental impact assessments? (d) Delays in tenders/auctions by government?

Country	Answer
Argentina	(a) Yes. Most of the key government agencies and regulators are not open to the public and have reduced their functions or operations. (b) Yes. Customs is detaching minimum personnel for import operations. Imports related to critical or essential activities are discretionarily prioritized. Essential activities are allowed to import but they may face delays with respect to more critical goods, such as medical equipment, drugs or sanitizer. (c) Yes. (d) Yes, many ongoing tenders have been suspended.
Brazil	(a) Yes. Due to the transition to remote work, some responses have been delayed, but in general government agencies and regulators have been able to operate at satisfactory levels. (b) Not yet. (c) Not yet. However, many environmental authorities have enacted regulations: (i) closing facilities or suspending customer contact; and (ii) suspending procedural deadlines. This might result in the piling up of work in the near future and result in response delays. (d) Yes, for example, the power generation bid rounds and two oil and gas bids rounds (17 th Concession Bid Round and 6 th PSA Bid Round) have been postponed indefinitely.
Chile	(a) Yes, due to the transition to remote work, some responses have been delayed, also most of the agencies have ordered the suspension of the terms associated to procedures before them. For example, the Environmental Assessment Agency (“SEA”) has ordered the suspension of certain procedures currently pending before the SEA (including the environmental assessment of the projects that have a pending citizen participation procedure, which is needed to start the construction and for obtaining other permits required for different stages of the construction phase). (b) Not yet. (c) Yes, as already explained in the response to question 4(a) above. (d) Yes, the National Commission of Energy has announced that the tender of electric supply of regulated clients will be postponed until November instead of May 2020. The main reason for this change is the national crisis started in October 2019, but the delay was confirmed after the country began suffering the consequences of COVID-19.
Colombia	(a) Yes, several government entities have issued decrees to limit ordinary functions to activities necessary to overcome the emergency. For further details please refer to the following link: more information ² . (b) Currently all import operations can be carried out normally. Furthermore, the Colombian government issued Decrees 457, 532, 593, and 749 of 2020 which aim to guarantee the availability of transportation, storage and logistical services for imported or exported goods. (c) Delays are expected since environmental authorities, in some jurisdictions, suspended the processing of applications, while others announced the suspension of on-site home inspections, thus creating even longer delays. Please note that these delays are expected nationwide, but processing times may vary from one environmental authority to another. (d) Yes. There have been several addenda to the upcoming auctions of the Mining and Energy Planning Unit, for the high voltage line projects determining that the auction will take place on June 18 instead of March 24. At the moment of this response, there have not been other addenda changing the date of auctions related to the electric energy sector.

² See SSPD Resolution 20201000009965 of April 1st, 2020.

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Costa Rica	(a) Yes. (b) Yes. (c) Yes. (d) Yes.
Ecuador	(a) Yes, since most public institutions were temporarily closed and employees were working from home, we experienced a decrease in the activity of key government agencies and regulators of energy markets and infrastructure projects. However, delays have been reduced since physical operations have been partially activated and will continue to be reduced until mid-August once physical operations are fully activated. (b) No. (c) Yes, since in-person services to the general public by public institutions have been temporarily suspended and public employees are working from home, we are experiencing delays in permitting/regulatory actions/approval of EIAs. (d) Yes, there were delays in tenders and auctions by the government. However, as explained above, delays have been reduced.
El Salvador	(a) Yes. (b) Yes. (c) Yes. (d) Yes.
Guatemala	(a) Yes. (b) Yes. (c) Yes. (d) Yes.
Honduras	(a) Yes. (b) Yes. (c) Yes. (d) Yes.
Mexico	(a) Yes. Please see response to question 3(a) above. (b) Yes. A significant number of our clients have received notices from their import contractors that are in breach under existing import agreements (e.g., a delay in the delivery of goods) alleging force majeure events due to the COVID-19 pandemic to justify such contractual breaches. (c) Yes. Please see response to question 3(a) above. (d) Yes.
Peru	<p>(a) Yes. The following links contain some relevant official press releases issued by Peruvian regulators related to the suspension of administrative deadlines. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Supreme Decree https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-dispone-la-prorroga-del-plazo-de-suspens-decreto-supremo-n-076-2020-pcm-1865826-1/ • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20%20-%202020.05.pdf • Official Press Releases For March 13, 2020 press release, please click: here http://www.minem.gob.pe/minem/archivos/Comunicado_dia7.pdf https://www.gob.pe/institucion/oefa/noticias/109812-comunicado https://www.gob.pe/institucion/oefa/noticias/111474-medidas-relacionadas-al-aporte-por-regulacion-y-fraccionamientos-en-el-marco-del-estado-de-emergencia-por-el-covid-19 https://www.gob.pe/institucion/oefa/noticias/111560-comunicado https://www.gob.pe/institucion/osce/noticias/110445-comunicado-n-004-2020-adecuacion-de-actos-en-la-plataforma-seace-en-el-marco-de-la-declaracion-de-estado-de-emergencia-nacional

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	<ul style="list-style-type: none"> • Relevant News https://gestion.pe/economia/coronavirus-comercio-exterior-infraestructura-y-otros-los-procesos-que-continuan-y-se-suspendieron-tras-anuncio-de-cuarentena-noticia/?ref=gesr • OSINERGIM's Supervision Protocol during the National Emergency https://www.osinergmin.gob.pe/seccion/centro_documental/PlantillaMarcoLegalBusqueda/Osinergmin-033-2020-OS-CD.pdf <p>Please note that the Public Procurement Authority has enacted certain regulations to promote the reactivation of Public Procurement. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-Reanudaci%C3%B3n%20gradual%20de%20actividades%20econ%C3%B3micas.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20%2018.05.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20Reanudaci%C3%B3n%20de%20recursos%20de%20apelaci%C3%B3n%20%281%29.pdf <p>(b) Yes. By virtue of the Urgency Decrees issued by the Peruvian government, cargo transport was not suspended; however, cargo companies have to comply with additional proceedings. Moreover, competent authorities are entitled to adopt the special measures relating to the entry to and exit from the country of goods. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Urgency Decrees https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-estado-de-emergencia-nacional-po-decreto-supremo-n-044-2020-pcm-1864948-2/ https://busquedas.elperuano.pe/normaslegales/prorroga-del-estado-de-emergencia-nacional-declarado-mediante-decreto-supremo-no-051-2020-pcm-1865180-2/ https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-nacional-decreto-supremo-no-064-2020-pcm-1865482-3/ https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-nacional-decreto-supremo-n-075-2020-pcm-1865780-1/ <p>(c) Yes. Please refer to the links indicated in (a) above. (d) Yes. Please refer to the links indicated in (a) above.</p>
<p>Spain</p>	<p>(a) Yes.</p> <p>(b) No.</p> <p>(c) Yes, given that administrative deadlines were suspended pursuant to the “Spanish Royal Decree 463/2020, of March 14, 2020, declaring the state of alarm in Spain to manage the health crisis situation caused by COVID-19” which led to delays in obtaining permits and regulatory processes. Notwithstanding the foregoing, the delays might improve within the following weeks, given that, as of June 1, 2020, the suspension of administrative deadlines was revoked.</p> <p>(d) Yes.</p>

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<p>Uruguay</p>	<p>(a) Yes, all government agencies have reduced their operations, some have implemented mechanisms of teleworking, and most have reduced their hours of attention to the public. The teleworking and electronic mechanisms were progressively installed, and reasonable delays occurred. (b) No, there are just regular delays in the import of equipment. Though Uruguay has closed its borders, import of commercial goods is not included in such measures. (c) These are naturally experiencing delays, as the offices of the National Department of Environment are not working as they normally do, but instead measures of teleworking are being implemented. (d) There are delays in tenders or auctions by the Government.</p> <p>The State Agency of Acquisitions and Contracting (“<i>Agencia Central de Compras y Contrataciones del Estado</i>”) is placing its focus on the acquisition of crucial elements that will be helpful for the public health situation.</p> <p>For this, the Government can enter into contracts without making a competitive process, such as a tender. Instead, it can directly contract. This is allowed by the Regulations of Accountancy and Financial Administration, which state that when there are proven, unpredictable reasons of urgency, or when it is not possible to conduct the tender or public auction or its implementation would affect the service; and when there is a notorious shortage of such goods or services; the Government can circumvent the requirement of a tender process. This must be controlled by the Accounts Tribunal (“<i>Tribunal de Cuentas</i>”) which is an independent body that controls all the Government’s expenses, and also by the Ministry of Economy and Finances (“<i>Ministerio de Economía y Finanzas</i>”), which has to certify the existence of the requirements, as well as the condition and price of the goods.</p>
<p>Venezuela</p>	<p>(a) Yes. (b) Yes. Although ports are considered an essential sector under the State of Emergency Decree and they are operating normally, it is possible that suspensions of operations of other government agencies could have an impact on the import of equipment. (c) Yes. (d) Not that we are aware of.</p>

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5. Are there any proposed or existing capital controls or tariffs that could affect the flow of capital or goods required for debt service, repatriation of funds and/or construction of projects?

Country	Answer
Argentina	Yes, although foreign exchange restrictions were in place before the COVID-19 pandemic. For more information, please refer to https://www.marval.com/publicacion/medidas-de-emergencia-para-la-transicion-13409&lang=en , where you can find a brief summary regarding the re-enactment of foreign exchange restrictions in Argentina as of September 2019 (please note that foreign exchange restrictions have been subsequently amended during the last semester).
Brazil	Not that we are aware of.
Chile	No. On the contrary, the government has imposed several tax benefits in order to promote and facilitate capital flows. Additionally, the Ministry of Public Works has publicly announced that it will promote public funding on infrastructure in order to reactivate the economy once the pandemic is over.
Colombia	No, foreign exchange transactions can proceed without restriction. The Colombian Central Bank has not adopted measures in relation to COVID-19 that tighten the foreign exchange regime.
Costa Rica	Not that we are aware of.
Ecuador	Not that we are aware of.
El Salvador	Not that we are aware of.
Guatemala	Not that we are aware of.
Honduras	Not that we are aware of.
Mexico	Not that we are aware of.
Peru	On May 9, 2020, the Peruvian congress enacted a law that suspends the toll collection in all the toll road concessions in Peru. Although the Peruvian government has not yet enacted any broad incentives (including tax incentives) that may have an impact on the flow of capital or goods required for debt service, repatriation of funds and/or construction of projects, we understand that the suspension of toll collections is the most relevant measure that could negatively impact toll road concessions in Peru.

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	<p>For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Toll Collection Law https://busquedas.elperuano.pe/normaslegales/ley-que-suspende-el-cobro-de-peajes-en-la-red-vial-nacional-ley-n-31018-1866203-1/ • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20Impactos%20COVID%2019.pdf • Relevant News https://canaln.pe/actualidad/coronavirus-covid-19-peajes-estado-emergencia-congreso-republica-insistencias-cuarentena-camiones-autos-n413238 https://gestion.pe/economia/peajes-congreso-congreso-aprueba-por-insistencia-ley-que-suspende-el-cobro-de-peajes-a-nivel-nacional-noticia/ https://andina.pe/agencia/noticia-congreso-aprueba-insistencia-suspension-del-cobro-peajes-a-escala-nacional-796347.aspx https://gestion.pe/economia/coronavirus-peru-afin-rechaza-suspension-del-cobro-de-peajes-durante-estado-de-emergencia-por-el-covid-19-nndc-noticia/?ref=gesr
Spain	Yes.
Uruguay	Not that we are aware of.
Venezuela	No. However, given the current economic and political situation, there is a significant shortage of foreign currency which in practice makes it very difficult for private sector companies to repatriate funds or to purchase foreign currency to comply with debt service or contractors.

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6. Are there steps being taken under bilateral or regional organizations, institutions or agreements that could help or hurt projects (e.g., Pacific Alliance (*Alianza del Pacifico*), CRIE/MER, bilateral agreements, etc.)?

Country	Answer
Argentina	Not that we are aware of.
Brazil	Not that we are aware of.
Chile	Yes. A group of banks led by IDB Invest will be launching a liquidity credit facility to assist Chilean power companies that have been suffering since the electricity price freeze enacted in late 2019. In addition, we are aware that the United Nations Economic Commission for Latin America and the Caribbean (“ECLAC”) has launched a COVID-19 observatory in order to present updated information on the policies adopted by each country in response to the current pandemic. International Renewable Energy Agency (“IRENA”) has also requested that governments grant a “green recovery” of the financial and environmental crisis by recommending several measures that the countries should establish in order to benefit the renewable energy projects.
Colombia	There have been no concrete mandatory measures adopted by bilateral or regional organizations, institutions or under agreements to which Colombia is a party or member that could help or hurt projects. However, we highlight the following measures and non-binding recommendations, among those approved and issued by international and regional organizations that may affect Colombia: (i) in the Andean Community, the Andean Tribunal of Justice has temporarily suspended all its judicial proceedings and terms through Resolution 03-2020/TJCA; (ii) the International Chamber of Commerce has issued a non-mandatory recommendation urging all member states and related international organizations to cooperate and coordinate their efforts to support micro, small and medium-sized businesses to ensure they continue operating; however, as its recommendation is non-mandatory, it is up to each member state to adopt domestic regulations to address this recommendation; and (iii) the Organization for Economic Cooperation and Development has issued a compilation of all tax relief measures taken by member states to provide member governments with consolidated guidelines and recommendations on how to address the COVID-19 pandemic from a tax standpoint.
Costa Rica	Not that we are aware of.
Ecuador	Not that we are aware of.
El Salvador	Yes. IDB Invest will be launching a liquidity credit facility to assist AES Corp.’s distribution companies suffering from the pandemic mitigation measures introduced in El Salvador.
Guatemala	Not that we are aware of.

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Honduras	Not that we are aware of.
Mexico	Not that we are aware of.
Peru	Not that we are aware of.
Spain	Not that we are aware of (at the European Union’s level).
Uruguay	<p>Within Mercosur (that includes as State Members: Uruguay, Argentina, Brazil, Paraguay and Venezuela), several virtual meetings were held by the presidents of each country, and certain measures were agreed upon. Most of these are related to the return of residents to their home country and the facilitation of transportation of basic supplies and supplies related to the prevention and treatment of COVID-19. However, the State Members have also summoned multilateral credit organizations, particularly the IDB, the CAF-Development Bank of Latin America and the FONPLATA, to conduct an assessment of the challenges that this situation creates and its consequences in the State Members.</p> <p>Also, multilateral organizations will extend credit lines to the Uruguayan Republic Bank (“<i>Banco de la República Oriental del Uruguay, BROU</i>”), to allow the Bank to grant financing in more flexible conditions to several businesses (lower interest rates and longer terms).</p>
Venezuela	Not that we are aware of.

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7. Do you have any additional insights on the foregoing questions that you would like to highlight or share?

Country	Answer
Argentina	No additional comments.
Brazil	No additional comments.
Chile	No additional comments.
Colombia	No additional comments.
Costa Rica	No additional comments.
Ecuador	No additional comments.
El Salvador	No additional comments.
Guatemala	Government measures include national restrictions on the mobility of people and vehicles. However, these restrictions do not apply to essential services, among which is electrical energy.
Honduras	No additional comments.
Mexico	No additional comments.
Peru	<p>Despite all the measures taken by the Peruvian government in order to temporarily suspend the development of infrastructure, as explained above, energy supply is considered an essential activity since it is linked to a public utility and, therefore, the Peruvian government is fully guarantying the generation, transmission and distribution of energy to all customers. Moreover, the Ministry of Energy and Mining has recently created a special committee to supervise the development of certain prioritized projects that are required to guaranty the distribution of energy to customers in rural areas.</p> <p>https://busquedas.elperuano.pe/normaslegales/crean-el-comite-de-seguimiento-de-inversiones-del-sector-ene-resolucion-ministerial-no-106-2020-minemdm-1865471-1/</p>

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Spain	We expect that the European Union will approve aids and measures in the coming days.
Uruguay	No additional comments.
Venezuela	No additional comments.

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B. Status of Markets and Current Market Problems

1. Are markets (e.g., capital, electricity, etc.) functioning normally or are you seeing disruptions? For example: (a) Have any utilities, distribution companies, or other offtakers reduced their offtake and/or claimed force majeure to excuse their performance under supply contracts? (b) Are you seeing any supply disruptions or other market disruptions for power, natural gas or other fuels? (c) Are you seeing any reduction in demand for power or other energy or infrastructure services (e.g., retail or distribution level, wholesale power, etc.)? (d) Are there disruptions in capital markets, including the availability of financing, failure to honor commitments, etc.?

Country	Answer
Argentina	(a) Yes. Certain renewable developers have invoked force majeure events due to the COVID-19 pandemic to request the postponement of their Commercial Operation Dates. (b) Yes, the Argentine Executive has set, on a temporary basis, a mandatory price of USD45 per WTI crude oil barrel (which is above the current market value) applicable to local refineries and banned the import of crude oil in order to support domestic oil production. (c) Yes. For example, according to a recent report issued by CAMMESA (National Grid administrator), the demand for power by industrial users was reduced by 41.6% during May. (d) Yes. But due to Argentine preexisting macroeconomic conditions, financing for energy and infrastructure projects was limited even before the outbreak of the COVID-19 pandemic.
Brazil	(a) Yes. In the natural gas sector, demand was significantly reduced, and Petrobras (i) offered not to charge 'take or pay' penalties from Local Distribution Companies (we are not aware of force majeure claims from Local Distribution Companies) and (ii) reduced natural gas importation from Bolivia and its take-or-pay commitment under a gas sale agreement regarding the Manati Project (in both cases based on force majeure provisions). In the power sector, we have noticed in the free market an increasing number of cases of free market agents claiming force majeure to renegotiate contracts. In the regulated market, we have not noticed it in practice yet. (b) No. (c) Yes. Demand for fuels and energy has been reduced significantly. Other infrastructure sectors are also facing significant reduction in demand (e.g., airports and railroads). (d) Yes. In particular, several IPOs scheduled for 2020 have been postponed.
Chile	No. Consumption has dropped significantly and there is concern regarding the imports of fuels (coal, natural gas and diesel), since Chile imports all its fuel requirements. (a) Not yet, but the government negotiated with distribution companies to allow persons in the bottom 40% of income groups in the country to delay payment of their bills without service interruption and there is market noise that said distribution companies will claim force majeure to excuse their performance under power purchase agreements (PPAs). In spite of this, there is a bill of law on this matter which is still pending approval, which would extend this benefit to the bottom 60% of income groups of the country. (b) Yes, for fuels, as explained in Section 1(a) above. (c) Yes, electricity demand fell by approximately 10% at the end of May (since the first cases of COVID-19 were reported in Chile), with 5% drops in demand every two weeks since the health crisis started (equivalent to 10 GWh daily). The main reason for this is the closure of shopping malls and certain factories, along with the decrease in production by other large market players. Demand for power could fall further if more companies decide to stop or reduce their operations, also it is important to mention

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	the decision of the Ministry of Energy, with respect to the “overcharge of the energy in winter,” which will not be applied this year (during the months of April till September). (d) Not yet.
Colombia	<p>(a) In both the fuel gas and electric energy sectors, wholesale offtakers are starting to argue that, due to the occurrence of a force majeure event, they are not obliged to comply with the duties of their supply agreements. On the other hand, it might be possible for National Transmission and Regional Transmission projects’ awardees to claim the occurrence of a such an event in order to request the extension of the Commercial Operation Dates of their projects before the Ministry of Mines and Energy and pursuant to the regulation applicable to those bids.³ (b) Not at this moment. (c) XM, which is the Manager of the Electric Energy Commercial Exchange System, informed the general demand for electricity has been reduced by approximately 6% in May and June in comparison with the week of March 9, 2020.⁴ This means there has been an increase in demand in recent weeks considering that in April power demand had fallen by 13% in comparison with the week of March 9.</p> <p>(d) (i) Disruptions in capital markets: During the first days of the COVID-19 contingency, and in correlation with the fall and suspension of trading in the NYSE, the Colombian Stock Exchange (“<i>Bolsa de Valores de Colombia</i>” or “BVC”) suspended trading, and the COLCAP fell significantly. No further market disruptions have occurred after such events that took place on March 9 and 16, 2020. Towards the end of March, the COLCAP recovered notably, and by the end of the month, COLCAP’s drop during March was estimated to be 26.8%.</p> <p>Furthermore, the BVC has implemented and reported to be fully functional through remote operation.</p> <p>Notwithstanding the above, there is evidence that capital markets are less liquid, and the conditions to obtain financing through capital markets are less advantageous. In the past few months, the National Government has issued new regulations aiming to reactivate the economy through the capital markets. For example, under Decree 817 of 2020, simplified stock companies were authorized to issue debt securities in the capital markets for the first time. For further details regarding these regulations please refer to the following links: New rules governing the sale of State-owned shares; SAS will be allowed to issue debt securities on the market.</p> <p>(ii) Failure to honor commitments: Because of market conditions described above, we have seen evidence of failures in the capital markets. From a purely legal perspective, counterparties are discussing the possibility of arguing force majeure in these events of lack of compliance.</p> <p>However, circumstances which affect the normal development of business but that do not make it impossible for the parties to comply with their commitments may not be argued as force majeure and could be deemed to be an event of default under the respective agreements.</p>
Costa Rica	(a) No. (b) No. (c) The Costa Rican Electricity Institute (“ICE”) has reported a reduction in demand for power. (d) No.
Ecuador	(a) No. (b) No. (c) No. (d) No.
El Salvador	(a) No. (b) No. (c) Not recorded. (d) No.

³ See article 4 of CREG Resolution 22 of 2001, and article 25 of CREG Resolution 24 of 2013.

⁴ See <https://www.xm.com.co/Paginas/detalle-noticias.aspx?identificador=2533>

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Guatemala	(a) In response to the May 21 Decree 15-2020 that requires distributors to continue supplying electricity despite customer nonpayment, a number of distributors have sent force majeure notices to generators indicating that they may not be able to make all required payments. (b) No. (c) The National Electric Energy Commission has reported a reduction in energy demand. (d) No
Honduras	(a) No. (b) No. (c) Empresa Energía Honduras (“EEH”) has reported a reduction in demand for power. (d) No.
Mexico	(a) Not that we are aware of at this moment. However, clients have been reaching out to request a preliminary analysis and interpretation of force majeure clauses in connection with their permits and contracts relating to their energy and infrastructure projects. (b) Not that we are aware of at this moment. (c) No. However, we are aware of a decrease in demand for gasoline due to the mobility restrictions implemented. (d) No. However we are aware that it is becoming more challenging for borrowers to satisfy the conditions precedent for the disbursement of their loans under their financing arrangements, especially such borrowers that are required to complete registrations with the relevant public property registries throughout Mexico.
Peru	(a) No. The Peruvian government has prioritized activities relating to public utilities and, therefore, all the companies involved in the provision and supply of public services (such as energy) are ordinarily performing their activities. (b) No. (c) No, in connection with power for regular customers consumption. However, the energy demand has been negatively impacted as companies (i.e., medium and large consumers) have had to suspend their activities during quarantine. (d) Not yet, according to the public information available at the Peruvian Securities Market Regulator (SMV) web page relating to issuers in the public offer market. However, due to the default in payments of the electricity bills by consumers and the impact of COVID-19 on the operations of the infrastructure sector, the capital markets might experience certain changes in the following weeks related to the obligations of issuers. In fact, we have noticed that capital markets are already experiencing changes, which can be evidenced by the downgrade of ratings of financial instruments of companies that operate in the energy, retail and mining industries. There are no available data regarding the private offer market, so we cannot accurately assess if there is any disruption in the private market.
Spain	(a) Not that we are aware of. (b) No. (c) Yes. We have seen a higher reduction in the supply of natural gas than in the supply of electricity. Particularly, the higher reduction is in respect of fuels. (d) Our view is that the loan market for energy projects remains active. Debt capital markets activity has shrunk, especially for sub-investment-grade issuers, but it has not been discontinued. In fact, larger investment-grade issuers have been able to issue, but generally with higher rates. Disclosure issues around risk factors and prospects of the issuer remain an area of particular attention and challenge.
Uruguay	(a) Not that we are aware of. (b) No. (c) No public data on energy demand during the pandemic has been published so far, but we anticipate that there was a reduction in demand of power/energy from March and May since many energy companies decreased their production through March to May. (d) Capital markets in Uruguay are very small and there are issuers that are anticipating difficulties in meeting their commitments. As a result of this, there are restructuring processes being launched. Moreover, in the following months the availability of obtaining financing will probably be somewhat jeopardized and we may see projects failing to honor their commitments.
Venezuela	(a) Most of the utilities are exclusively provided by state-owned companies, which had been rationing the services (water, electricity and gas supply) before the COVID-19 pandemic, without claiming force majeure or any other clause in the supply contracts. The COVID-19 situation is significantly aggravating the rationing in many parts of the country. (b) The government has imposed severe gasoline rationing, but following a significant rise in gasoline prices as of June 1, 2020 to international market price levels, the gasoline supply appears to have improved for the time being. (c) Yes. (d) The Caracas Stock Exchange

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	and the National Superintendency of Securities are operating. Private companies have recently been authorized to issue debt securities.
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- 2. Are you seeing signs of financial distress or even insolvency proceedings with regards to key players in the energy and infrastructure sector? (a) Are you seeing any notices of reservation of rights notices or declarations of defaults under existing financings or commercial contracts? (b) Are you seeing news of cutbacks in capital expenditures that could affect new or continued investment in energy and infrastructure projects?**

Country	Answer
Argentina	(a) Not yet, but many consultations with clients are ongoing. In addition, judicial proceedings at the courts of the City of Buenos Aires are currently suspended as part of the ongoing lockdown. (b) Not yet.
Brazil	Yes. (a) Yes. However it is not a widespread situation at this stage. (b) Yes. In the oil and gas sector, it is expected that there will be a general CAPEX reduction, especially in exploration activities. Some companies have already announced investment cutbacks. In this regard, the Brazilian oil and gas agency approved a new resolution allowing oil companies to request a 9-month extension of the exploration phase.
Chile	Not yet. (a) Not yet. (b) Not yet.
Colombia	Yes. Decrees 560 and 772 of 2020 have been enacted as an emergency insolvency regime. Among other things, they address four main topics: (i) a more flexible insolvency regime to relieve debtors' cash flow and allows a more expedited insolvency proceeding; (ii) certain measures related to distressed M&A transactions; for example, the potential acquisition of a company that is going to be liquidated and has negative equity value for the book value of certain of its liabilities; (iii) certain measures related to debtor-in-possession (DIP) financing; for example, the possibility to grant security interests on unsecured assets or even on assets that are already secured, the capitalization of liabilities, the issuance of risk bonds or the discharge of liabilities that exceed debtor's valuation; and (iv) certain tax relief measures; for example, the suspension of the obligation to liquidate or pay advance income tax for the fiscal year 2020 and the exemption from withholding taxes and from making any self-income tax withholding. These Decrees have broadened the scope of the insolvency regime and allow companies that are generally excluded from the regular insolvency regime, such as public utilities companies, which are key players in the energy sector, to file for bankruptcy before the Chamber of Commerce, which would act as a mediator to reach a reorganization agreement when possible. On June 3, 2020, an emergency decree (Decree 772 of 2020) was enacted. The decree establishes that the interim measures ordered in collection proceedings will be lifted ipso iure upon the admission of the debtor to the insolvency proceeding and grants additional tax benefits for debtors admitted to the insolvency proceedings. (a) There have been some cases, particularly in the transport business, where companies are requiring waivers from their lenders in order to pay future debt. These cases are not exclusively related to the COVID-19 pandemic. If the lenders do not agree to provide such waivers, transport companies would be obliged to resort to a default situation simply because all of their income depends on the transport of people who are currently self-isolating under a mandatory quarantine. (b) We are not aware of any measure in this regard and there is currently no publicly available information regarding this issue.
Costa Rica	(a) No. (b) No.

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Ecuador	No. (a) Not yet. (b) No.
El Salvador	(a) No. (b) No.
Guatemala	(a) No. (b) No.
Honduras	(a) No. (b) No.
Mexico	Not yet. (a) Not yet. (b) Not yet.
Peru	<p>Not yet. (a) Yes.</p> <p>(b) Not yet. Proinversión has recently launched a public bid related to two energy projects and has announced that it will launch two additional public bids related to hospitals.</p> <ul style="list-style-type: none"> • Energy Projects https://www.proyectosapp.pe/modulos/JER/PlantillaProyecto.aspx?ARE=0&PFL=2&JER=8737&SEC=22 http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura.pdf • Hospital Projects https://www.proyectosapp.pe/modulos/JER/PlantillaProyectosResumenes.aspx?are=0&prf=2&jer=5680&sec=22 https://www.proyectosapp.pe/modulos/JER/PlantillaProyecto.aspx?ARE=0&PFL=2&JER=8180&SEC=22 https://www.proyectosapp.pe/modulos/JER/PlantillaProyecto.aspx?ARE=0&PFL=2&JER=8178&SEC=22
Spain	<p>Yes. In general, companies are preparing themselves for financial distress and potential insolvency proceedings. As from April 15, 2020, when certain restrictions were lifted, pre-insolvency and insolvency requests can be filed again. We expect an increase in insolvency declarations. Although a temporary relief measure has extended for companies that are currently in financial hardship the deadline to file for insolvency until December 31, 2020, it is likely that companies struggling with cash issues would not wait until December 31, 2020 to file for insolvency. (a) Not yet. However, companies are raising questions on the termination of agreements due to the COVID-19 pandemic, but this is not generally easy to sustain under Spanish law. In any case, financial distress will most likely cause defaults and notices of reservation of rights. (b) Not yet. However, financial distress is likely to affect investments in energy and infrastructure sectors.</p>
Uruguay	<p>(a) No with respect to key energy and infrastructure players. Note, however, that Uruguayan Courts did not function normally until May 19, 2020, hence any insolvency proceeding could not be processed until then.</p> <p>(b) No.</p>
Venezuela	<p>There are signs of financial distress. However, players in the energy and infrastructure sectors will probably either seek consensual restructuring of their debt (if they desire to continue operations) or abandon the operations in Venezuela, as</p>

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	insolvency proceedings are very inadequate and rarely used by debtors or creditors to address insolvency issues. (a) Yes. (b) We have not seen news related to this topic, but we understand that this is happening.
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3. Are you seeing any insurance claims being filed (e.g., business interruption)? Are you seeing any tension or potential breakdown in the honoring of claims (e.g., reinsurance firms signaling an unwillingness to honor locally underwritten policies)?

Country	Answer
Argentina	Not that we are aware of.
Brazil	Not that we are aware of.
Chile	Not yet, but we expect insurance claims to be filed in the coming weeks/months. No.
Colombia	We are not aware of any insurance product within the Colombian market providing business interruption coverage due to pandemics. Consequently, no breakdowns between local insurers and reinsurers shall arise from this matter.
Costa Rica	We are aware of some insurance claims being filed (e.g., business interruption); however, no tension or potential breakdown in the honoring of claims has been reported.
Ecuador	Not that we are aware of.
El Salvador	Not that we are aware of.
Guatemala	Not that we are aware of.
Honduras	We are aware of some insurance claims being filed (e.g., business interruption); however, no tension or potential breakdown in the honoring of claims has been reported.
Mexico	Not that we are aware of.
Peru	Not that we are aware of.
Spain	We are reviewing with a number of our clients their insurance policies to assess if the losses that they have suffered due to the COVID-19 pandemic can be covered by their existing insurance policies, but we are not seeing significant claims yet. No.

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Uruguay	Not at this moment. Moreover, please note that the reinsurance market in Uruguay is very limited and energy and infrastructure projects are reinsured with foreign reinsurers.
Venezuela	Not that we are aware of.

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4. Do you have any additional insights on the foregoing questions that you would like to highlight or share?

Country	Answer
Argentina	The most pressing immediate issue is the economic impact of the pandemic on the oil and gas producers, which indirectly affects the economy of the regions where these producers are located, among other factors, because of (i) the importance that royalties play in the economics of different provinces where these producers have operations and (ii) the economic and social influence of oil and gas unions in these regions. Since the oil demand has dropped significantly, the mandatory minimum price of USD45 per WTI crude oil barrel has not solved this problem.
Brazil	No additional comments.
Chile	No additional comments.
Colombia	No additional comments.
Costa Rica	No additional comments.
Ecuador	<p>Ecuador’s National Assembly has approved a bill called the “Organic Law for Humanitarian Support and Combat of the Crisis Derived from COVID-19” which will most likely be enacted by the end of June. The bill focuses on the following main issues: (i) renegotiation of contracts affected by the crisis; (ii) labor reforms to protect sources of employment; (iii) modernization of insolvency law.</p> <p>The rules for renegotiation of contracts will impact negotiations relating to: (i) education fees; (ii) lease contracts; (iii) utilities; (iv) health coverage; and (v) credit offered by banks.</p> <p>Regarding the labor reforms, the bill has taken a more permissive approach to certain provisions by allowing fixed-time contracts, salary negotiations and reduction of work hours and remunerations.</p> <p>Lastly, for companies which fall into insolvency, a new agreement with creditors will be available if the majority of creditors accept certain terms and conditions. Such agreements will provide certain protection to debtor entities. This is a much-needed update to insolvency law in Ecuador which is very outdated.</p>
El Salvador	No additional comments.
Guatemala	No additional comments.

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Honduras	No additional comments.
Mexico	No additional comments.
Peru	<p>There have been certain issues associated with the default, by consumers, on the payment of their electricity bills, which is generating issues in the distribution and generation of electricity payment chains. As of today, there has not been government support related to this specific sector. Furthermore, the general demand for electricity has been reduced by 30% in the last month.</p> <p>https://gestion.pe/economia/merma-en-consumo-electrico-aumentaria-distorsion-en-mercado-electrico-noticia/</p>
Spain	No additional comments.
Uruguay	No additional comments.
Venezuela	No additional comments.

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C. Force Majeure and Excused Non-Performance

1. Are you anticipating force majeure claims to delay legal, regulatory and contractual milestones (e.g., deadlines/milestones for commencing commercial operation, delivering power, commencing construction, etc.)? For example: (a) Are there immediately applicable force majeure provisions under law that would excuse performance under contracts? (b) Are there standard provisions in existing agreements (e.g., power purchase agreements that were based on a published tender form)?

Country	Answer
Argentina	(a) Yes. (b) Yes.
Brazil	Yes. (a) Yes. Brazilian Civil Code has a general force majeure provision which is applicable to contracts in general, unless otherwise agreed by the parties under the contract. (b) Yes.
Chile	Yes. (a) Yes. Chilean law provides by default for a general force majeure provision that may excuse the relevant parties from their performance obligations under public and private contracts under certain circumstances. There have been several administrative rulings that have declared the situation created by COVID-19 qualifies as force majeure under Chilean law. Specifically, the General Concessions Direction has expressly recognized the COVID-19 as a force majeure situation; nevertheless its effect on public works concessions contracts and consulting services must be determined particularly for each case. (b) Yes.
Colombia	<p>Yes. We expect that several actors of the electric energy sector will start claiming the occurrence of a force majeure event (the COVID-19 pandemic). (a) Yes, under Colombian law, force majeure is statutory, i.e., applicable to all contracts unless the parties agree otherwise. In broad terms -subject to various caveats and exceptions, applicable in specific circumstances- force majeure excuses non-performance (i.e., the party who successfully claims a force majeure event is not liable to pay damages) but does not automatically allow the affected party to terminate the contract (e.g., the agreement may be extended for a period equal to the duration of the force majeure event). In general, force majeure, as defined in the Colombian Civil Code and jurisprudence, has three elements: (i) it must be unpredictable, that is, it must not be possible to determine its occurrence in advance by employing an ordinary degree of diligence; (ii) its occurrence and its consequences must be unavoidable, that is, they must be impossible to avoid and overcome; and (iii) it must be unimputable, which means that it is not caused by or the fault of the parties to the relevant agreement and, especially, of the party alleging it.</p> <p>In any case, the application of force majeure in Colombia is by no means immediate or automatic. Its application shall be analyzed and agreed by the parties to a contract on a case-by-case basis. It is a common practice that agreements in the electric energy sector include procedures for their suspension or termination after the occurrence of such an event. If the parties do not reach an agreement regarding the occurrence, the duration, or the specific duties that cannot be performed after a force majeure event, they may concur to a judge, who will then be in charge of determining the impacts of such an event.</p> <p>Something similar occurs in the case of the construction of transmission lines, where the Ministry of Mines and Energy is in charge of declaring the occurrence and scope of force majeure events that could imply a change in the Commercial Operation Date of the projects.</p> <p>(b) Yes, force majeure is included within Sections 1.01, and 16.03 of the Renewables' Auction PPA, the agreement used in the renewable energy auction CLPE-02/19, the "PPA". In a nutshell, the procedure requires the party that intends to allege this event</p>

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	<p>to notify the other party within the following three days of its occurrence. Such notification must include all necessary evidence, such as the estimated duration of the event. If the counterparty accepts all aspects of the notification, the contractual obligations related to the force majeure event will be suspended. If it does not agree, the controversy will be decided by a third party through a mechanism that is known as “<i>amigable composición</i>” – a third party who fills a gap in a contract on behalf of both parties.</p> <p>The acceptance of a force majeure event within a PPA agreement will generally lead to the following: (i) the term of the contract, like the term of the guarantees, will be extended for a period equal to the duration of the force majeure event,; (ii) if the event does not prevent the execution of all of the obligations of the PPA, the Parties shall agree whether it suspends the PPA only partially, based on the severity of the suspended obligations. If the Parties are unable to agree on this, the matter shall be resolved through the mechanism of the “<i>amigable composición</i>”; (iii) pursuant to Section 17.01 of the PPA, if the PPA is suspended for a period longer than 180 days, the contract may be terminated early.</p>
Costa Rica	(a) We anticipate potential force majeure claims to delay legal, regulatory and contractual milestones. Costa Rican law includes force majeure statutory provisions that would excuse performance under contracts. (b) PPA based on a Costa Rican Institute of Electricity (“ICE”), official tender form includes standard provisions to regulate force majeure events.
Ecuador	Yes. (a) Yes. In addition to any force majeure provisions that may have been included in existing agreements, the default rule under the Ecuadorian Civil Code (hereinafter ECC) is that force majeure exempts the debtor from responsibility (Art. 1574, ECC), unless otherwise agreed upon (Art. 1689, ECC). These provisions might be applicable as a consequence of the current COVID-19 situation. (b) Yes, the parties usually agree upon the default rule of non-responsibility in a force majeure event.
El Salvador	(a) We anticipate potential force majeure claims to delay legal, regulatory and contractual milestones. Salvadoran law includes force majeure statutory provisions that would excuse performance under contracts. (b) Contracts based on tender process form agreements may not have standard provisions to regulate force majeure events.
Guatemala	(a) We anticipate potential force majeure claims to delay legal, regulatory and contractual milestones. Guatemalan law includes force majeure statutory provisions that would excuse performance under contracts. (b) No.
Honduras	(a) We anticipate potential force majeure claims to delay legal, regulatory and contractual milestones. Honduran law includes force majeure statutory provisions that would excuse performance under contracts. (b) PPA based on the National Electric Power Company (“ <i>Empresa Nacional de Energía Eléctrica</i> ” or “ENEE”), official tender form includes standard provisions to regulate force majeure events.
Mexico	(a) Yes. Please see below for the client alert prepared by our firm in connection with this matter: http://www.macf.com.mx/wp-content/uploads/2020/03/ClientAlert_Marzo26_Ingles2-1.pdf (b) Yes.
Peru	(a) Yes. The Peruvian Civil Code and the Peruvian Public Procurement Regime contain specific provisions relating to force majeure that are immediately applicable to excuse contractual performance. For further information relating to force majeure provisions, please refer to the links below: <ul style="list-style-type: none"> • General regime: The provisions of the Peruvian Civil Code may alternatively apply to relationships and legal situations regulated by other laws, provided that such provisions are not incompatible with their nature. Civil Code, Article 1315: http://spij.minjus.gob.pe/notificacion/guias/CODIGO-CIVIL.pdf • Force majeure in Public Procurement Agreements:

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	<p>Public Procurement Law, Article 36: https://portal.osce.gob.pe/osce/sites/default/files/Documentos/legislacion/ley/2018_DL1444/TUO_ley-30225-DS-082-2019-EF.pdf</p> <p>Public Procurement Regulation, Articles 142 and 178: https://portal.osce.gob.pe/osce/sites/default/files/Documentos/legislacion/ley/2019-modif-Regl30225/modifican-el-reglamento-de-la-ley-n-30225-ley-de-contratac-decreto-supremo-n-377-2019-ef-1837283-2.pdf</p> <ul style="list-style-type: none"> • Force majeure in PPP Agreements: PPP Regulation, Articles 38 and 111: https://cdn.www.gob.pe/uploads/document/file/220095/DS240_2018EF.pdf • RAD Blog: http://rebaza-alcazar.com/blog/covid-19-posibles-efectos-legales-en-contratos-y-ejecucion-de-proyectos-covid-19-possible-legal-effects-contracts-development-projects/ http://mail.rebaza-alcazar.com.pe/uploadimages/files/Bolet%C3%ADn_%20Litigios.pdf <p>(b) It depends on the type of purchaser. Under Peruvian regulation, power purchase agreements (PPAs) are divided into two types:</p> <p>(i) If the energy is purchased by a non-regulated client (“<i>cliente libre</i>”), which means that the purchaser is not regulated by the Peruvian Regulator of Mining and Energy (“OSINERGMIN”), there is not a template of PPA with standard provisions that have to be applied. In this case, the client will freely negotiate the agreement with the energy supplier and, therefore, it is expected that they will agree on the general provisions of force majeure contained in the Peruvian Civil Code. An example of a non-regulated client would be a mining company that requires energy for the exploitation and operation of the mine. For this scenario, please refer to the relevant links contained in (a) above. (ii) If the energy purchaser is a regulated client (such as a distribution company), such companies have to participate in a public bidding process to purchase the available energy and they will execute a standard PPA. The template of PPA contains force majeure provisions that reflect (i) the approval proceeding of a force majeure event by OSINERGMIN (set forth in the following resolution enacted by OSINERGMIN found: here) and the Peruvian Civil Code. The template of PPA can be downloaded in the following link: http://www2.osinerg.gob.pe/Resoluciones/pdf/2007/OSINERGMIN%20No.101-2007-OS-CD.pdf</p>
Spain	<p>(a) Yes. Spanish law includes statutory force majeure provisions for private contracts and for public procurement contracts that may be applicable due to the COVID-19 pandemic. Additionally, following the outbreak of the COVID-19 pandemic, the Spanish authorities have approved the possibility to suspend certain public procurement contracts whose execution has become impossible as a result of the COVID-19 pandemic. (b) Yes. Generally, there are standard force majeure provisions in the existing energy and infrastructure related agreements that usually mirror the legal statutory regime on force majeure. However, in M&A agreements, syndicated loans and investment contracts, amongst others, and potential similar issues are commonly addressed through material adverse effect (“MAE”) provisions. MAE provisions usually favor the purchaser/investor, as they entitle the parties to terminate the contract or to renegotiate its terms in the event of a MAE event. To assess whether a MAE provision may be applicable due to the situation caused by the COVID-19 pandemic, a specific analysis of the relevant MAE provision is required.</p>
Uruguay	<p>(a) The application of the provisions under Uruguayan law depends on each contract and the factual circumstances in each case. There are provisions that provide – for instance in the Uruguayan Civil and Commercial Code – that damages are not owed if the debtor is not able to comply with its duty due to a force majeure event. Whether the force majeure event can be used as a</p>

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	defense in the contract to excuse performance and exempt the party from liability must be analyzed on a case-by-case basis. (b) No.
Venezuela	(a) Yes, Venezuelan law establishes force majeure provisions for private and public procurement contracts. As a general rule, an event to qualify as force majeure under Venezuelan law must be unforeseeable, unavoidable and not attributable to the party claiming the force majeure. Depending on the case, force majeure provisions may allow suspension of performance, contract termination or other remedies. (b) No.

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2. Have you started to see delays in construction and/or force majeure claims to obtain postponement of construction milestones?

Country	Answer
Argentina	Yes.
Brazil	Yes. However, it is not a widespread situation at this stage.
Chile	Yes, we have seen problems in the construction of projects mainly due to (i) the international borders lockdown implemented in Chile and (ii) the restrictions on mobility imposed by local authorities, as also on May 13, 2020 there was declared another lockdown for the entire region of Santiago. It is probable that this lockdown will continue the delays in construction around the country and negatively affect this industry.
Colombia	<p>Yes. For example, the National Infrastructure Agency (“ANI”), through Resolution No. 471 of 2020, expressly recognized that the COVID-19 pandemic is a force majeure event and, therefore, unilaterally suspended certain obligations under its contracts subscribed with private contractors such as the Works Plan and the Utilities Relocation Plan under those agreements. Further, on March 13, 2020, ANI issued Resolution 4985 of 2020, by means of which amended Resolution 471 of 2020, reactivating some obligations previously suspended such as the Utilities Relocation Plan and the Equity Contributions and suspending other obligations under the existing agreements in place with private contractors such as the measurement of operation and maintenance standards, as well as obliging all private concessionaires of all modes of public transport and railway civil works contractors to submit to ANI and the Supervisor (“Interventoría”), within three days following the date on which Resolution 4985 of 2020 is binding, i.e., March 13, 2020, a Works Reactivation Plan in the context of the COVID-19 pandemic. Subsequently, the Supervisor must submit to ANI its comments (objecting or not) to each Works Reactivation Plan within two days following the date on which such plan was filed by the respective concessionaire. Afterwards, provided that there are no objecting concerns from ANI and the Supervisor, ANI will attach its non-objecting resolution to an official letter that will be sent to the relevant concessionaire and will be a mandatory requirement for reactivating its works.</p> <p>Currently, there is no available information regarding any delay in the construction of transmission or generation infrastructure. Nevertheless, the Renewable Energies Association’s Executive Director has requested the extension of the generation project’s COD within the auctions PPA. The request is basically because the mandatory self-isolation has delayed the public consultation procedures of wind projects. The government has not provided any public response regarding this issue.</p>
Costa Rica	We have not seen yet delays in construction and/or force majeure claims to obtain postponement of construction milestones, but we anticipate that they will occur due to the COVID-19 pandemic.
Ecuador	Yes, we are seeing delays in construction of several projects, due to force majeure claims given the fact that construction works were not legally allowed from March to May.

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El Salvador	We have not yet seen delays in construction and/or force majeure claims to obtain postponement of construction milestones but we anticipate that they will occur due to the COVID-19 pandemic.
Guatemala	We have not yet seen delays in construction and/or force majeure claims to obtain postponement of construction milestones but we anticipate that they will occur due to the COVID-19 pandemic.
Honduras	We have not yet seen delays in construction and/or force majeure claims to obtain postponement of construction milestones but we anticipate that they will occur due to the COVID-19 pandemic.
Mexico	Yes. We have seen delays in construction and force majeure claims to obtain postponement of construction milestones. We believe that these issues must be analyzed on a case-by-case basis, due to the fact that all construction projects have been suspended, except those considered essential to address the COVID-19 pandemic. Please refer to the measures described in the response to question 1 of Section A above.
Peru	Yes. For further information, please refer to the link below: <ul style="list-style-type: none"> • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20%20-%202020.05%20%282%29.pdf • Official Press Releases https://www.gob.pe/institucion/osce/noticias/111443-comunicado-n-005-2020-sobre-la-ejecucion-de-contratos-en-el-marco-de-las-normas-que-establecen-medidas-excepcionales-para-contener-la-propagacion-del-covid-19
Spain	Construction works were temporarily suspended. Since April 10, 2020, construction works have been resumed. Also, in relation to public procurement contracts, the Spanish authorities have approved the possibility to suspending certain public procurement contracts whose execution has become impossible as a result of the COVID-19 pandemic and the extension of certain deadlines to allow the relevant contractors to postpone their construction milestones.
Uruguay	No.
Venezuela	Yes.

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3. Are you already seeing parties, specifically offtakers, asserting claims of force majeure or other excuses for non-performance to reduce or suspend offtake under supply agreements?

Country	Answer
Argentina	Yes. As a result of these claims, the electricity regulator (ENRE) has allowed certain medium electricity users to reduce their contracted capacity with the distributors. Additionally, the Secretary of Energy authorized industrial users to request payment plans to cancel their electricity bills.
Brazil	Yes. However, it is not a widespread situation at this stage. In the power and gas markets, parties are considering such alternatives but are still seeking an agreed solution in general. As mentioned above: (i) in the natural gas market, Petrobras agreed not to charge ‘take or pay’ penalties provided in its gas supply agreements with Local Distribution Companies and claimed force majeure to reduce its natural gas importation from Bolivia and reduce its take-or-pay commitment in the gas sale agreement regarding the Manati Project; and (ii) in the power market, some relief measures with focus on liquidity of Local Distribution Companies were announced and we have noticed, in the power free market, an increase in cases of free market agents claiming force majeure to renegotiate power purchase agreements (in the regulated market, we have not noticed it in practice yet).
Chile	Not yet. For further detail, please refer to Section B, Section 1(a) above.
Colombia	Yes. Particularly, some of the non-regulated offtakers/wholesale consumers, which are companies that consume over 55 MWh/month, have expressed their intention to claim force majeure in order to suspend their performance under previously executed PPAs. This occurs mainly in agreements where the offtaker stopped producing due to mandatory self-isolation, and it had a PPA which required it to pay for a minimum or a specific monthly amount of energy (“take or pay”). Something similar is occurring in the fuel gas sector, where wholesale offtakers are starting to argue that the occurrence of a force majeure event does not oblige them to comply with the duties of their supply agreements.
Costa Rica	No.
Ecuador	Yes. However, it is not a widespread situation at this stage.
El Salvador	No.
Guatemala	Yes, in response to the May 21 Decree 15-2020 that requires distributors to continue supplying electricity despite customer nonpayment, a number of distributors have sent force majeure notices to generators indicating that they may not be able to make all required payments.

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Honduras	No.
Mexico	Not that we are aware of at this moment.
Peru	<p>No. Please note that energy production and supply is one of the permitted essential services during the state of emergency. For further information, please refer to the link below:</p> <ul style="list-style-type: none"> • Urgency Decree <p>https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-estado-de-emergencia-nacional-po-decreto-supremo-n-044-2020-pcm-1864948-2/</p> <p>https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-naciona-decreto-supremo-n-075-2020-pcm-1865780-1/</p>
Spain	Not yet. However, in relation to energy supply contracts, the Spanish authorities have issued specific regulations to allow freelancers and supply companies to request the amendment or temporary suspension of existing supply contracts. In light of these regulations, we expect that some of the industry players will invoke the COVID-19 pandemic with the purpose of suspending or delaying planned deliveries.
Uruguay	No claims have been asserted, but renegotiation of contract amendments are underway.
Venezuela	Offtakers are raising questions on suspensions of works due to COVID-19 on grounds of force majeure.

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4. Are you anticipating legal or commercial questions or issues related to the interpretation of whether a force majeure or other excuse for performance applies to the COVID-19 public health crisis? For example: (a) Do you anticipate potential mismatches among contracts (e.g., mismatch between force majeure provisions under construction contracts and PPA commercial operation date deadlines) (b) Do you have particular views on how the risk and liabilities of excused performance or non-performance may be allocated among parties in projects?

Country	Answer
Argentina	(a) Yes, it is highly likely. (b) From our perspective, the allocation of risk and responsibilities in an excused performance or non-performance scenario will respond to the specific aspects of every transaction. Among other matters, it would probably rely on the following considerations: (i) the construction phase of the project (ii) the bargaining power of the parties involved in the project and (iii) the existence of prior breaches.
Brazil	Yes. Since it is a fact-based analysis, the affected party is expected to demonstrate a sufficiently close causal link between the force majeure event and the impediment to perform its obligations. (a) Yes. Not all contracts contain appropriate back-to-back provisions. Therefore, there may be circumstances where contractors are entitled to a delay relief on account of force majeure without the corresponding relief being granted to the project under the PPA. (b) No. It will depend on the specific characteristics of each case and the best cost avoider under each scenario. To the extent government or regulators provide relief to the project, the contractor should be entitled to an extension of time where completion of the works is likely to be delayed beyond COD. Cost impacts will need to be assessed and negotiated based on a careful analysis of contractual risk allocation and entitlement as well as questions of causation, in particular with respect to pre-existing issues where no impact of COVID-19 existed.
Chile	Yes, we recognize that the application of force majeure is quite casuistic, so commercial and legal understandings on this matter will be subject to different interpretations. (a) Yes, the Chilean energy market is privately held, “sectorized” and diversified so we do not expect to find appropriate back-to-back provisions between parties. (b) Past jurisprudence has given little importance to the “theory of unforeseen events” in Chile, so the risks and liabilities should be distributed between the parties in accordance with the relevant contract provisions on a case-by-case basis. However, we expect in the coming months an increase in negotiations between the parties in order to reallocate the risks and costs that might have existed as a result of the pandemic. Some cases would be escalated to arbitration, but we believe that the bilateral negotiations to amend the existing terms and conditions of the relevant agreements in order to reach the COD will be the general trend.
Colombia	(a) Yes, it is highly likely that it would happen. (b) There might be some mismatches between the COD of construction contacts and PPA term for the beginning of the supply but it may not be excused because the energy supply commitment can be covered through the alternatives offered by the Wholesale Energy Market, especially when PPAs are executed under the take or pay modality. (c) It might be particularly difficult to justify the non-compliance in the payment/supply of electric energy since the supply duties are covered by the Wholesale Energy Market. Nonetheless, this should be reviewed on a case-by-case basis and taking into account the modality of each PPA. On the other hand, in relation with National and Regional Transmission lines, awardees of such projects might eventually request the extension of the COD based on the delays that come from expected and unexpected consequences of the pandemic. In any

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	case, and as in the case of all electric energy utility’s activities, the investment risk is solely assumed by its the investors and not by the government ⁵ .
Costa Rica	(a) Yes. (b) We do not have a general view on how the risk and liabilities of excused performance or non-performance may be allocated among parties since this issue must be assessed on a case-by-case basis.
Ecuador	Yes. (a) No, in the event that a force majeure event is applicable to a specific case, the parties to the relevant agreement/s will be released from all their obligations under the existing legal relationship, regardless of the number of documents governing such relationship. We expect a consistent interpretation by the courts of the force majeure provisions to avoid any mismatches. (b) In general, from a legal perspective the risks and liabilities of excused performance or non-performance in the event of force majeure will be equally allocated between both parties, i.e., both the contractor and its relevant counterparty(ies) are excused from complying with their obligations under the relevant contract/s. In practice, from a business standpoint, this may have a heavier negative impact on the party which is expecting the service rather than the contractor, but it will depend on the specific circumstances of each case.
El Salvador	(a) Yes. (b) We do not have a general view on how the risk and liabilities of excused performance or non-performance may be allocated among parties since this issue must be assessed on a case-by-case basis.
Guatemala	(a) Yes. (b) We do not have a general view on how the risk and liabilities of excused performance or non-performance may be allocated among parties since this issue must be assessed on a case-by-case basis.
Honduras	(a) Yes. (b) We do not have a general view on how the risk and liabilities of excused performance or non-performance may be allocated among parties since this issue must be assessed on a case-by-case basis.
Mexico	Yes. In fact, clients have already been reaching out to us requesting analysis and interpretation of force majeure provisions in connection with permits and contracts relating to their energy and infrastructure projects. (a) Yes. In this regard, our firm always looks to have back-to-back provisions in the project agreements vis-à-vis PPAs or other offtake agreements for the projects in which we are involved. (b) We do not have a general view on this topic, it is a specific contractual matter that should be assessed on a case-by-case basis.
Peru	Yes. (a) Yes. For further information on this matter, please refer to the link below: <ul style="list-style-type: none"> • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Bolet%C3%ADn%20RAD_final.pdf https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-nacional-decreto-supremo-n-075-2020-pcm-1865780-1/ (b) Yes. For further information on this matter, please refer to the link below: <ul style="list-style-type: none"> • RAD Blog http://mail.rebaza-alcazar.com.pe/uploadimages/files/Bolet%C3%ADn%20RAD_final.pdf
Spain	(a) These mismatches and interactions may probably occur. However, it is necessary to analyze the specific contract provisions to determine whether the COVID-19 pandemic only affects the construction contracts or whether it also allows modifying the commercial operation date deadlines. (b) Yes. In private contracts, we are anticipating defenses based on non-performance of the contract due to a force majeure event (the COVID-19 pandemic) and as a cause for release from liability for breach of a

⁵ See article 85 of Law 143 of 1994.

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	<p>contract. In the long run and depending on the real and direct impact of the COVID-19 pandemic on a specific contract, we may be facing claims requesting the termination of the contract or the renegotiation of its terms based on the <i>rebus sic stantibus</i> doctrine (also known in international contracting as “<i>hardship</i>”). However, Spanish courts have applied such doctrine very exceptionally with respect to private contracts, and we are not yet in a position to foresee a likely outcome of future claims in the context of the COVID-19 pandemic. Under the specific public contract regulations, there is a statutory compensation for damages in the event that the contract is affected by the COVID-19 pandemic.</p> <p>Moreover, generally, if there effectively exists an impossibility for any of the parties to perform its(their) obligations under a contract (private or public), then the party(ies) that can no longer perform would be released from all its (their) obligations outstanding under the contract, with no liability whatsoever derived from the breach of such obligations. The non-breaching party that does not receive the product and/or the service, will not be obliged to pay for it and may not be entitled to request compensation for the damages caused by the breach derived from the impossibility to perform.</p>
<p>Uruguay</p>	<p>(a) Yes, this could potentially take place. (b) No.</p>
<p>Venezuela</p>	<p>(a) Yes. (b) This will need to be assessed on a case-by-case basis as there are no standardized force majeure clauses or a consolidated doctrine on how risk and liabilities of excused performance or non-performance may be allocated among the parties in projects. Another key issue to be assessed is whether any dispute of this type will be governed by Venezuelan or another law and settled by arbitration outside Venezuela, arbitration in Venezuela, Venezuelan courts or foreign courts.</p>

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5. Are you expecting broad, uniform legislative or regulatory action to grant relief or mainly bilateral negotiations under contracts?

Country	Answer
Argentina	It is difficult to predict at this stage.
Brazil	Yes. We expect both to happen. There have been relevant measures implemented by the government and regulators to provide relief in broader terms. See the response to question D.2. below.
Chile	No, mainly bilateral negotiations.
Colombia	<p>Regarding public contracts, certain of the decrees issued by the Government have already provided new tools to their parties to negotiate an agreement on potential compensations to be granted due to the COVID-19 pandemic. For example, among others, Decree 482 of 2020 regulated the following⁶: (i) in public initiative Public Private Partnerships (“PPP”) of Law 1508 of 2012, time extensions may be granted, which, in the aggregate, may result in an excess of up to 20% of the initial contract value; (ii) in private initiative PPP projects, the duration of the contracts may be extended beyond 20% of their initial duration as long as they do not exceed the value addition limits set forth by Law 80 of 1993 (plus 50% of the initial contract value); and (iii) grantors of port concession agreements (<i>i.e.</i>, ANI and Cormagdalena) may extend the duration of the agreements for the time deemed necessary to compensate for the impact of the COVID-19 pandemic on the contract’s economy.</p> <p>Moreover, on April 15, 2020, the Colombian Government issued Decree 569 of 2020 approving, among other measures, that those concession contracts whose income/collection capacity is being affected by the measures adopted by the government to face the COVID-19 pandemic may extend their term beyond the regular limits set forth in the applicable laws, provided that such time extension shall be limited to a period of time equal to the term of the mandatory quarantine ordered amid the COVID-19 pandemic. Similarly, on May 30, 2020, the Colombian Government issued Decree 768 of 2020 stating that the term of ongoing concession contracts can be extended (even exceeding the legal limits) in order to compensate for the measures adopted by the government amid COVID-19 exempting certain users from paying rates or fees.</p> <p>On the other hand, regarding National and Regional Transmission projects, the Ministry of Mines and Energy shall analyze each project, upon the awardee’s request, in order to determine the viability of declaring an extension of the COD due to force majeure event as a result of the COVID-19 pandemic.</p> <p>Furthermore, as mentioned in Section C.3 above, both CREG and SSPD have implemented relief measures to incentivize the renegotiation of the current terms and conditions applicable to the existing supply contracts both in the energy and gas sectors.</p>
Costa Rica	No.

⁶ Art. 25 of Decree 482 of 2020.

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Ecuador	No. We do not expect a broad, uniform legislative or regulatory action, there are already existing regulations addressing both force majeure and material adverse effect contractual issues. However, there is a bill close to being approved that takes into account the effect of COVID-19 in specific commercial relationships, such as lease contracts, services contracts (basic services to consumers) and labor relationships to some extent.
El Salvador	No.
Guatemala	No.
Honduras	No.
Mexico	We mainly expect bilateral negotiations under contracts.
Peru	<p>Yes. For further information, please refer to the link below:</p> <ul style="list-style-type: none"> Public Procurement Agreements https://www.gob.pe/institucion/osce/noticias/111443-comunicado-n-005-2020-sobre-la-ejecucion-de-contratos-en-el-marco-de-las-normas-que-establecen-medidas-excepcionales-para-contener-la-propagacion-del-covid-19 PPP Agreements <p>We believe that it will depend on the project; however, based on the regulation referred to in section 1(a) of this Section C, we anticipate that PPP Agreements will be treated similarly to Public Procurement Agreements.</p> RAD Blog https://rebaza-alcazar.com/blog/alerta-litigios-como-se-veran-afectados-los-contratos-en-curso/ http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%20Reactivaci%C3%B3n%20%281%29.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20%20-%20%2020.05%20%282%29.pdf
Spain	No. There is already specific regulation on public procurement contracts (<i>ex ante</i> and <i>ex professo</i>) to address the situation created by the COVID-19 pandemic. In relation to private contracts, force majeure existing statutory provisions and scholars' doctrines on <i>rebus sic stantibus</i> will be used by courts to address the effects of the COVID-19 pandemic. We are not yet in a position to assess whether there would be more bilateral negotiations or if the parties will generally seek relief in courts.
Uruguay	We are not expecting broad uniform legislative or regulatory action to address this contractual issue.
Venezuela	We expect bilateral negotiations.

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6. Do you have any additional insights on the foregoing questions that you would like to highlight or share?

Country	Answer
Argentina	Many renewable developers were experiencing delays before the COVID-19 pandemic and had already requested the postponement of their Commercial Operation Dates (for example, arguing that because of the macroeconomic situation they were unable to secure financing in a timely manner). Controversies between (at least) EPC contractors, sponsors and offtakers are to be expected.
Brazil	At this stage, our view is that most companies have already reviewed their contracts to evaluate their alternatives, including claiming force majeure. Some of them have also started bilateral negotiations. Notwithstanding, as far as we are concerned, there has not been identified a widespread claim of force majeure in the energy and infrastructure projects. In the oil and gas industry, Petrobras claimed force majeure to reduce its take-or-pay commitment under the gas sale agreement regarding the Manati Project and to reduce its natural gas imports from Bolivia, but it has not taken the same approach more broadly. Recently, energy distribution companies started to put some pressure on power generators/suppliers to reduce the energy supply in response to the reduction in energy demand, but some governmental measures already approved and currently under discussion seem to have relieved such pressure to a certain extent.
Chile	There are currently two legislative bills being presented by different groups of congressional representatives that address force majeure legal provisions. These bills propose amendments to the Chilean Civil Code in order to expressly recognize the “theory of unforeseen events” through the incorporation of a <i>Rebus Sic Stantibus</i> general provision. These bills have only been presented for congressional review, and they are not expected to be passed any time soon.
Colombia	No additional comments.
Costa Rica	No additional comments.
Ecuador	No additional comments.
El Salvador	No additional comments.
Guatemala	No additional comments.
Honduras	No additional comments.

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Mexico	No additional comments.
Peru	<p>Yes. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • RAD Blog <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Bolet%C3%ADn_%20Litigios.pdf</p> <p>http://rebaza-alcazar.com/blog/alerta-litigios-el-centro-de-arbitraje-de-la-camara-de-comercio-de-lima-se-pronuncia-sobre-la-extension-de-la-cuarentena/</p> <p>http://rebaza-alcazar.com/blog/alerta-litigios-suspension-de-plazos-durante-el-estado-de-emergencia/</p> <p>https://rebaza-alcazar.com/blog/aprueban-lineamientos-sectoriales-para-la-reanudacion-de-actividades-economicas/</p> <p>http://rebaza-alcazar.com/blog/alerta-corporativa-aprueban-decreto-supremo-que-establece-marco-general-de-reanudacion-de-actividades-economicas/</p> <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20%20-%202020.05.pdf</p> <p>http://rebaza-alcazar.com/blog/alerta-corporativa-aprueban-decreto-supremo-que-aprueba-la-fase-2-de-la-reanudacion-de-actividades-economicas-dentro-del-marco-de-la-emergencia-nacional/</p>
Spain	No additional comments.
Uruguay	No additional comments.
Venezuela	No additional comments.

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D. Prospective Developments

1. **Have you been seeing or do you anticipate any of the following: (a) Broad government/public sector relief and/or action (e.g., grants or loans, broad extension milestones and deadlines for projects)? (b) Renegotiation or extension of start dates and terms of offtake agreements? (c) Extensions of tax relief to affected producers? (d) Potential cascading delays related to interrelated infrastructure or projects (e.g., delays in construction of key transmission lines affecting interconnection of new projects)? (e) What do you expect to happen once the immediate quarantine/crisis is over? Do you expect a ramp up or counter-shock resulting from a sudden increase in demand?**

Country	Answer
Argentina	(a) So far, although the government relief measures have been focused, in general, on the most vulnerable sectors (for example, prohibiting disconnections due to lack of payment of electricity and natural gas bills), certain relief measures have been granted to large users (for example, extension of payment plans) and project developers (for example, temporary suspension of penalties). (b) Not yet, although it would be likely after the lockdown. (c) It is likely. E&P companies might be subsidized. (d) It is likely. (e) Probably not in the short term.
Brazil	(a) Yes. See response to question 2 below. (b) Yes. (c) Yes. (d) Yes. (e) In our view, in general, demand will increase after the quarantine/crisis, but it will take longer to reach the pre-crisis levels. We anticipate that the slope of the ramp-up curve will not be as sharp as was the decrease. In certain specific infrastructure sectors – such as the aviation/airport market - such trend will very likely not apply and demand will take much longer to recover.
Chile	(a) Yes. (b) Yes. (c) Yes. (d) Yes. (e) In our view, in general, demand will increase slowly after quarantine. Chile is also facing some social issues and a constitutional process during this year. Then, we believe it would take a while to reach the level of demand existing before the quarantine.
Colombia	(a) Yes. The government has expressed its strong commitment to implement policies that enhance a strong recovery of the economy. By means of Legislative Decrees 574 and 581 of 2020, recently approved, the government provides the possibility for public utilities companies to gain access to loans with interest rates equivalent to 0%, loans which will be offered by the Corporate Fund of the Public Utilities Superintendence for totally or mainly publicly owned companies, or by Financiera de Desarrollo Territorial S.A. (a semipublic Colombian Development Bank, “Findeter”) for any public or private utilities companies. The purpose of these measures is to provide cash flow for energy commercialization companies, considering that due to certain relief measures, said commercialization companies are temporarily obliged to offer to their end-users in strata 1 to 4 a deferred payment mechanism to pay their outstanding bills (throughout the country, houses, homes, apartments and other buildings are given a number on a scale of 1-6, with 6 being the highest on the socio-economic scale and 1 being the lowest). (b) Yes. Regarding PPAs, there is currently no public available information and we do not expect massive renegotiations of PPAs. Depending on the duration of the crisis generated by the COVID-19 pandemic, PPA agreements executed with non-regulated users might be amended due to the paralysis of their industrial activities. On the other hand, and as mentioned in our Section C.2 above, the Renewable Energies Association’s Executive Director has requested the extension of the generation project’s COD within the

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	<p>auction's PPA. The request is basically because the mandatory quarantine has delayed the public consultation procedures of eolic projects, and it could eventually lead to changes in such projects' COD. However, this request is not likely to change the date on which the supply of energy will start, as the PPA sets forth that this obligation cannot be suspended due to force majeure and as sellers may comply with the mentioned duty resorting to the different alternatives provided in the Colombian Wholesale Energy Market (back-up PPAs or the Spot Market). The government has not yet provided any public response regarding this issue. (c) It is uncertain. (d) There might be cascading delays in relation to the entering into operation of electric energy projects especially in the case of generation projects that were missing only their connection to the National Interconnected System and transmission projects that are delayed due to the current crisis. In any case, it is also likely that both generation and transmission projects that are at similar stages are delayed and that they do enter commercial operation at very similar times. (e) From a legal perspective it is not possible to determine financial, commercial, or technical consequences of the COVID-19 pandemic until the mandatory quarantine/crisis is over. Neither would it be possible to determine from a legal perspective if there will be ramp up or counter-shock resulting from the sudden increase in demand.</p>
Costa Rica	(a) No. (b) No. (c) No. (d) No. (e) Demand will recover its prior level before the COVID-19 crisis.
Ecuador	(a) In the case of Ecuador we do believe this is highly improbable. The economic situation is complicated, so economic relief will be complicated. What we envisage could happen is the adoption of laws that will have tax exemptions, or the extension on terms for payment of loans and fulfilment of obligations towards the government. (b) Most likely. (c) Yes. The government has recently announced the approval of tax relief measures in the coming days, which may impact the energy and infrastructure sectors. (d) Yes, due to the state of emergency declared, mobilization is restricted, so we expect a cascade of delays on key energy and infrastructure projects. The problem here is that all construction projects are delayed or closed due to the transit restrictions throughout the country. (e) We expect the activity to be resumed in stages and progress depending on the situation in each region. We do not expect a ramp-up or counter-shock resulting from a sudden increase in demand immediately after the crisis.
El Salvador	(a) No. (b) No. (c) No. (d) No. (e) Demand will recover its prior level before the COVID-19 pandemic.
Guatemala	(a) No. (b) No. (c) No. (d) No. (e) Demand will recover its prior level before the COVID-19 pandemic.
Honduras	(a) Yes. (b) Yes. PPA indicates that there could be an extension for the construction of projects. (c) No. (d) Yes, please see the response for (b). (e) Demand will recover its prior level before the COVID-19 pandemic.
Mexico	(a) As of June 8, 2020, we have only seen the measures described in the response to question 3(a) of Section A above. (b) Yes. We have seen and expect to see more renegotiations and extensions of start dates in connection with projects affected by force majeure events. (c) No. (d) Yes. (e) Our expectation, in line with forecasts issued by national and international financial institutions, is that there will be an economic slowdown in Mexico for the remainder of 2020. As a result, we are not expecting a ramp-up or counter-shock resulting from an increase in demand.
Peru	<p>(a) Yes. For further information, please refer to the links below:</p> <ul style="list-style-type: none"> • Grants or loans: http://mail.rebaza-alcazar.com.pe/uploadimages/files/Refinanciamiento_MYPES.pdf http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta_Laboral_DU0332020.pdf

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	<p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Bolet%C3%ADn%20REG_FINANCIERO.pdf</p> <ul style="list-style-type: none">• Extension of milestones and deadlines for projects: <p>Public Procurement:</p> <p>https://www.gob.pe/institucion/osce/noticias/111443-comunicado-n-005-2020-sobre-la-ejecucion-de-contratos-en-el-marco-de-las-normas-que-establecen-medidas-excepcionales-para-contener-la-propagacion-del-covid-19</p> <p>https://www.gob.pe/institucion/osce/noticias/131671-comunicado-n-010-2020-medidas-en-el-marco-de-la-ampliacion-del-estado-de-emergencia-nacional-hasta-el-10-de-mayo-de-2020</p> <p>https://rebaza-alcazar.com/blog/covid-19-posibles-efectos-legales-en-contratos-y-ejecucion-de-proyectos-covid-19-possible-legal-effects-contracts-development-projects/</p> <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura%20-%202020.05%20%282%29.pdf</p> <p>PPP Agreements:</p> <p>We believe that it will depend on the project; however, based on the regulation referred to in section 1(a) of Section C, we anticipate that PPP Agreements will be treated similarly to Public Procurement Agreements.</p> <p>(b) No. Please note that energy production and supply is one of the permitted essential services during the state of emergency. For further information, please refer to the links below:</p> <p>https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-estado-de-emergencia-nacional-po-decreto-supremo-n-044-2020-pcm-1864948-2/</p> <p>https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-prorroga-el-estado-de-emergencia-naciona-decreto-supremo-n-075-2020-pcm-1865780-1/</p> <p>https://www.gob.pe/institucion/minem/informes-publicaciones/462266-listado-de-empresas-electricas-a-que-hace-referencia-el-articulo-7-de-la-rvm-n-001-2020-minem-vme</p> <p>(c) No. As mentioned above, extensions have been granted only for taxpayers with an income of less than US\$6.5 million. However, a transitional regime has been approved to determine the advanced payment of the Income Tax corresponding to the months of April, May, June and / or July 2020, which allows its suspension or modification. This regime is applicable exclusively for taxpayers who had an income decrease in relation to 2019. Therefore, taxpayers whose income has been reduced by more than 30% may suspend their advanced payments. For taxpayers who have had their income reduced up to 30%, this new regime allows for the payment coefficient to be modified to 0.5846.</p> <p>The term to offset the third category total net loss recorded for 2020 has been extended for up to five years, under one of the compensation systems regulated in the income tax law. Also, a Fractionation and/or Deferral Regime for Tax Debts has been created and accelerated depreciation rates have been approved for certain assets. For further information, please refer to the links below:</p> <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/BOLETIN%20TAX%2011.05.pdf</p> <p>http://rebaza-alcazar.com/blog/alerta-tributaria-modifican-causales-de-perdida-de-los-aplazamientos-yo-fraccionamientos-o-refinanciamientos/</p> <p>For further information, please refer to the links contained in question 3(b) of Section A.</p>
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	<p>(d) Yes. However, there is no public information to disclose as of the date hereof. Please note that prior to the COVID-19 crisis, the Peruvian government enacted an Infrastructure Development Plan prioritizing key infrastructure projects (please refer to the link below). We anticipate that the state of emergency will have a negative impact on the development of such projects.</p> <ul style="list-style-type: none"> • Peruvian’s prioritized projects (2020-2021) <p>http://www.proinversion.gob.pe/portafolioapp/docs/Portafolio-app-final.pdf</p> <p>(e) We expect to see an increase in demand since the large number of companies will resume their activities once the quarantine is over. Moreover, please note that the Peruvian government will be investing the largest budget in Latin America for economic reactivation through several measures in different fields. Therefore, a ramp-up of the current demand could be foreseen.</p> <p>Please refer to the link below for further information in relation to the measures recently adopted by the Peruvian government: https://www.bbc.com/mundo/noticias-america-latina-52104166</p>
Spain	(a) Yes. (b) Yes, in respect of energy supply agreements. (c) No. (d). Yes. (e) We expect a reasonable ramp-up in the energy and infrastructure sector after the COVID-19 pandemic.
Uruguay	(a) For small businesses, the National Agency of Economic Development (“ <i>Agencia Nacional de Desarrollo Económico</i> ”), has implemented tools to protect their financial situation, granting more flexible conditions, lower tax rates, term extensions for credits, and incrementing the funds of the National System of Guarantees. (b) Renegotiation or extension of start dates or terms, or other alternatives have not been measures issued by the Government. We expect to see renegotiation of agreements among the parties. (c) These have not been issued. (d) This could occur. (e) It is not possible yet to estimate the effects that this crisis will have on the general economy. However, it is more likely to expect a general economic downturn rather than a rise, due to the general pause in the flow of capital, the rise of population included in unemployment insurance programs, and the public resources that will be devoted to battling the crisis.
Venezuela	(a) Not yet. (b) Not yet. (c) Not yet. (d) Yes. (e) No, unless there is a resolution of the current political stalemate.

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2. Given the adverse economic impacts in your country as a result of the COVID-19 crisis, will the government reduce its support for investment and development of energy infrastructure, particularly renewables, or will the government seek to increase or support those investments as part of its economic stimulus?

Country	Answer
Argentina	Due to financing restrictions, it would be unlikely that the government would seek to boost new renewable projects.
Brazil	<p>Even before the crisis, governmental incentives to certain renewable energy were being discussed. In general, such discussions involved the reduction or elimination of governmental incentives to renewable projects such as distributed generation. Brazil already has a renewable energy matrix and the incentives to solar and wind projects have been successful in increasing the share of solar and wind in the energy matrix. In that sense, regulators already indicated they will phase out subsidies, revising and tailoring policies developed for this sector in order to ensure a well-developed renewable sourced energy in the country. Notwithstanding the foregoing, on June 5, 2020, a presidential decree was issued that designated renewables and other projects with green environmental and social impact characteristics as priority projects that will be eligible for financing with green debentures.</p> <p>In addition, the Brazilian government and energy regulator ANEEL have been discussing an emergency loan package for energy distributor companies facing lower demand use and lost revenues as a result of the COVID-19 pandemic, which received final approval by ANEEL on June 23, 2020. The loan package will resemble similar aid measures enacted in 2014 and 2015 and will involve a pool of Brazilian private banks. The loans would be repaid and backed up by sectoral charges coming from the energy development account (CDE) and would be passed through and paid by the final energy consumers.</p>
Chile	We think it is still too early to anticipate the severity of the impact that COVID-19 will have on the Chilean economy. Notwithstanding the aforementioned, Chile has a long tradition of supporting renewable energy projects that also enjoy strong popular support, so we expect that the government will continue to support the development of energy and infrastructure projects, especially renewable energy projects, after COVID-19.
Colombia	It sounds unlikely that the government will reduce its support to the country's energetic transformation through renewables. In fact, on June 10, 2020, the federal government issued Decree 829 of 2020, which establishes procedures aimed at increasing accessibility to a suite of tax incentives for non-conventional energy projects available under Law 1715, including an income tax deduction and VAT exclusion.
Costa Rica	We believe that the Costa Rican government will not reduce its support for investment and development of energy infrastructure. However, it's worth noting that the current ICE's investment pipeline within the National Energy Plan 2020-2025 does not include major investments in energy infrastructure.
Ecuador	Ecuador had been facing a difficult economic situation long before the COVID-19 crisis. However, the government has been keen in taking steps towards economic growth and development of energy and infrastructure projects by partnering with the private sector. Surely this measure will continue.

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EI Salvador	We believe that the Salvadoran Government will not reduce its support for investment and development of energy infrastructure.
Guatemala	We believe that the Guatemala Government will not reduce its support for investment and development of energy infrastructure.
Honduras	We believe that the Honduras Government will reduce its support for investment renewables energy and support gas projects.
Mexico	In spite of the recent administrative actions taken by the federal government which have had a negative reception by the energy sector, we expect that the government will seek to increase the investment and development of energy infrastructure. Recently, the Mexican government has reiterated its intention to issue its long-awaited energy infrastructure plan despite the COVID-19 pandemic, and in fact sees the release of the plan at this time as a countercyclical measure to counteract any slowdown in the Mexican economy caused by the COVID-19 pandemic.
Peru	No. The Peruvian government has not publicly addressed this issue yet. However, a reduction in support for investment and development of energy infrastructure would not be consistent with the latest policies adopted. Furthermore, Proinversión has recently launched a public bid to award two energy projects: https://www.proyectosapp.pe/modulos/JER/PlantillaProyecto.aspx?ARE=0&PFL=2&JER=8737&SEC=22 http://mail.rebaza-alcazar.com.pe/uploadimages/files/Alerta%20Infraestructura.pdf
Spain	We expect that the government will continue supporting the renewable energy sector.
Uruguay	We are not aware that these measures have or will be adopted by the government.
Venezuela	The government will most likely seek to support the growth and development of these investments, but it will probably be unsuccessful unless the current political stalemate is solved.

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3. Do you have any additional insights on the foregoing questions that you would like to highlight or share?

Country	Answer
Argentina	Investments in high tension transmission lines are critical for the development of Argentina’s National Grid. The main challenge of the government would be to find a way to finance these projects.
Brazil	No additional comments.
Chile	No additional comments.
Colombia	No additional comments.
Costa Rica	No additional comments.
Ecuador	No additional comments.
El Salvador	No additional comments.
Guatemala	No additional comments.
Honduras	No additional comments.
Mexico	No additional comments.
Peru	<p>Yes. Please refer to the link below:</p> <p>http://mail.rebaza-alcazar.com.pe/uploadimages/files/BOLET%C3%8DN_RAD.pdf</p> <p>https://rebaza-alcazar.com/blog/covid-19-posibles-efectos-legales-en-contratos-y-ejecucion-de-proyectos-covid-19-possible-legal-effects-contracts-development-projects/</p> <p>http://rebaza-alcazar.com/blog/alerta-corporativa-aprueban-decreto-supremo-que-establece-marco-general-de-reanudacion-de-actividades-economicas/</p> <p>http://rebaza-alcazar.com/blog/alerta-corporativa-aprueban-decreto-supremo-que-aprueba-la-fase-2-de-la-reanudacion-de-</p>

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	actividades-economicas-dentro-del-marco-de-la-emergencia-nacional/
Spain	Not for the moment. For additional information on the COVID-19 client alerts we have prepared, please refer to https://www.perezllorca.com/en/news/coronavirus-covid-19/
Uruguay	No additional comments.
Venezuela	No additional comments.

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E. Brief Observations of the Willkie Latin America Team

While we have noticed some of the immediate effects of the COVID-19 pandemic, it may still be too early to reasonably attempt to make any predictions about the long-term impacts on and outcomes for the energy and infrastructure sectors in Latin America. Nevertheless, we thought it might be helpful to share our observations based on the responses from our colleagues on the LATAM COVID-19 Task Force as viewed through the lens of our experience, what we are seeing and analyzing in the U.S. and European markets, and our discussions with clients and friends in these sectors.

- **Tool for Anticipating Potential Issues** – One of the main reasons we spearheaded this particular survey and used this approach is that we hope that the information that we collect will allow clients to identify potential issues affecting projects early with a level of specificity that would allow them time to analyze and plan to mitigate as soon as possible. As our clients and friends in these sectors know, energy and infrastructure projects exist in the context of a range of public and private arrangements and contractual relationships that typically require detailed analysis. With all of that in mind, the feedback provided by our colleagues on the LATAM COVID-19 Task Force has allowed us to achieve those objectives and has given us very content-rich answers which provide a very helpful snapshot of the status of key issues for the energy and infrastructure sectors.
- **Use of Force Majeure** – As you can observe from the design of the questions, we were very focused on identifying declarations of force majeure in different contexts and by different parties, so clients and their counsel can start to analyze how those declarations may ripple through their value chains and myriad contractual and business arrangements.
 - In designing the questions, we were particularly concerned about giving clients whose businesses involve project-financed projects – whether owners, developers, lenders or investors – as much advance warning as possible given the often complex legal, statutory and contractual analysis required. Among other questions:
 - What event(s) associated with the COVID-19 crisis (or its derivative effects) is the “affected party” (i.e., the party claiming force majeure relief) identifying as the cause for its inability to perform its obligations? Which project contracts may be affected and how those contracts interplay with the project’s financing documents? Which law(s) will apply for purposes of assessing the implications?
 - Is the claim for relief based on force majeure provisions in a contract, a law or statute, or common law principles? What are the standards that will apply to determining the merits of the claim for relief and what will be the process for determining the merits (e.g., arbitration, litigation,

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government agency review, private litigation, etc.)? Has the affected party satisfied any notice requirements required to claim force majeure?

- For example, under U.S. law and principles, we would ask a series of questions such as whether the event in question appears to be beyond the affected party's reasonable control, has the event prevented, impeded or hindered the affected party's performance, and has the affected party taken reasonable steps to avoid or mitigate the event or its consequences?
 - What sort of relief is the affected party seeking (e.g., schedule relief, excuse for not taking the minimum required offtake, etc.)? How closely does that relief correspond to the event identified by the affected party and the obligation that the affected party has identified that it was unable to perform (i.e., does the relief fit the nonperformance)? If there is an obligation to mitigate, what options might the affected party have available that would limit the force majeure claim (e.g., availability of alternatives to cover its obligations such as spot market purchases, alternative logistical arrangements, etc.)?
- Our emphasis in the questions on force majeure declarations also reflects our concern that force majeure claims under project contracts can have secondary consequences under financing documents. For example, those claims may result in schedule relief or delays in construction schedules that can trigger notices to lenders, result in change orders or amendments requiring lender consent, and put pressure on meeting guaranteed dates for commencing operations and completing projects under contracts, permits and/or financings among other consequences. In fact, we noted that our LATAM COVID-19 Task Force colleagues in Brazil, Colombia, Ecuador and Mexico are reporting force majeure claims with respect to construction milestones and offtake obligations. In addition to potentially causing economic impacts that can disrupt other companies in the value chain, those claims or notices of claims can affect disbursement conditions and lead to delays in anticipated disbursement schedules. Project owners, lenders and investors may need to analyze the potential gaps and differences between the interpretation of a claim for force majeure relief and the extent to which that claim or the underlying facts may trigger "material adverse change/material adverse effect" provisions (e.g., under the conditions precedent to funding disbursements under a financing). Again, those situations require a careful fact-driven legal analysis that may involve different agreements under different applicable laws.
 - We noted that our LATAM COVID-19 Task Force colleagues indicated that government actions to slow the spread of the virus have, in many of the surveyed countries, restricted the movement of goods and people and limited access to key infrastructure (e.g., ports) which in turn has resulted in logistical delays. Those delays may lead to force majeure claims under construction and material supply contracts. We have started to see claims surface in the energy sector and we will need to monitor how those claims

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affect the value chain in the energy sector. We know that some of those claims will result in delays and economic impacts. As noted in previous alerts, claims may impact projects under construction or development that have permits, offtake contracts or other agreements that require satisfaction of completion milestones, schedules, deadlines and similar timing requirements related to the commencement of construction, commercial operation or other performance requirements, which may be impacted. Again, clients and their counsel will need to carefully review the relevant contractual provisions and analyze how those resulting delays ripple through the contracts and permits with these types of timing requirements. Again, we intend to continue to endeavor to track these developments and how parties address the issues.

- We also observed that all of the surveyed countries reflected some drop in electricity demand as a result of the social distancing/self-isolation/curfew policies that have noticeably reduced economic activity. While we are aware that some electricity distribution companies and wholesale offtakers may have claimed force majeure as the basis for reducing their obligation to meet minimum requirements for taking power under existing power purchase agreements, those situations seem to be fairly limited at the moment, which may reflect that the terms of those agreements can vary within a country and across the various countries in the region and/or some efforts by governments to provide relief to offtakers impacted by the notable drop in demand.
- We shall continue to watch how the responses to our questions evolve over the coming weeks (or remain the same). For the moment, absent further insight into how force majeure claims will be interpreted and what relief will be granted, neither the risk of a claim nor the assertion of a claim should cause parties to conclude or assume that claims will be resolved in a manner adverse or unfavorable to affected projects.
- **Government relief** – While still not widespread, we noted that our LATAM COVID-19 colleagues were reporting more examples of legislative or regulatory action by governments in the region and state-owned companies intended to provide projects or sector participants with relief under offtake or other project contracts, including extensions under power purchase agreements for meeting deadlines to commence commercial operations and payment relief for small and medium-sized enterprises (SMEs). In particular, we noticed that some countries, like Colombia, Peru and Uruguay, are adopting legislation providing tax relief, and in the case of Colombia and Ecuador, modifications to the insolvency laws to provide additional tools and flexibility to facilitate orderly restructurings of companies in the energy sector. In addition, Argentina has suspended penalties for energy projects, and in Brazil, the oil and gas sector has received some regulatory accommodations and the Brazilian government has approved a US\$3.1 billion package of emergency loans to electricity distribution companies who have been affected by a sudden drop in demand due to the crisis and a rise in consumer payment defaults, which in turn might affect those utilities' ability to pay their obligations to power generation and transmission companies.

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However, while the number of countries adopting measures has increased, most countries have not enacted a broad array of relief measures. We conversely see continued reports of bilateral negotiations for relief. Again, if widespread, uniform legislative or regulatory efforts remain limited to a minority of countries:

- We may see adverse impacts to the energy and infrastructure sectors as investors, owners and lenders find they have less visibility and transparency around the timing, effect, and value of the relief to be obtained from these bilaterally negotiated outcomes.
- Differing approaches by governments with respect to measures affecting projects, including access, and relief could mean disproportionate impacts on projects and portfolios.
- Without uniform approaches, we may see, among other possible outcomes, continued market uncertainty, potentially larger discounts on the value of projects due to uncertainty, diminished access to capital, and a more challenging M&A market for sellers.

However, we understand that there continues to be some discussion or suggestion that government agencies or institutions may channel economic stimulus for their economies through support to the private sector as in the United States, but we are waiting for further details to emerge as governments assess how they will respond to the crisis.

- For example, we understand that there has been some discussion about using national development banks and similar institutions, like BNDES in Brazil, to channel financial relief to different sectors, as has recently been approved in Colombia through Findeter (Financiera de Desarrollo Territorial, S.A.).
- Similarly, we know that multilaterals, like the IMF, World Bank and Inter-American Development Bank, have publicly announced financial support to governments and public entities trying to cope with the COVID-19 crisis, including through disbursements under pandemic bonds, the IDB Invest-led liquidity credit facilities being introduced in Chile and El Salvador, and other measures.

While our colleagues in the LATAM COVID-19 Task Force generally thought that governments would continue to support investment in energy and infrastructure, it remains to be seen whether economic stimulus packages will provide support to energy and infrastructure projects, how the government will choose to direct or provide that support, what form any support will take, and the details of that support.

- For example, we note that while there may have been renewed discussion in Brazil about reducing or eliminating subsidies for renewables, a recently issued presidential decree prioritizes renewable energy and other green infrastructure investment through Brazil's green debenture program.

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- In the case of Mexico, we have observed the discussions and legal developments following the major policy and regulatory changes recently published by CENACE, which seem intended to reduce the share of electricity supplied by private sector, renewable energy projects. Contrary to regulations issued in other countries which seemed intended to provide COVID-19 pandemic relief to private sector participants in the electricity sector, these policies appear to form part of a fundamental shift in energy policy by Mexico's current administration. While these latest government actions appear to have been in response to the fall in electricity demand as a result of the COVID-19 pandemic, they seem to form part of a broader shift in energy policy that began prior to the pandemic and seems to be specific to Mexico as opposed to portending a trend throughout the region. We will continue to monitor these developments, along with our friends at Mijares, and survey the ramifications for the energy sector in Mexico and the possibility that it may presage policy shifts in other parts of Latin America.
- On a more positive note, we see that Peru and Costa Rica are proceeding with new tenders for infrastructure.
- We will endeavor to continue to track actions and initiatives proposed and adopted by the governments in the surveyed countries in future updates.
- **Value of coordinated action** – If broad government relief is not anticipated, market participants facing similar issues or challenges – such as power producers seeking extensions under power purchase agreements with the government that are based on the same precedent or template – should consider coordinating through trade associations or other legal mechanisms that do not run afoul of competition laws to communicate common concerns and preferred solutions to government policy-makers as opposed to pursuing individual, piecemeal solutions.
 - One example of such coordinated action is the effort by the Colombian renewable energy association (SER) which has presented a joint request for relief in the form of extended deadlines under previously executed PPAs with the government.
 - Project developers and owners (and their lenders) may want to consider concerted efforts to seek relief on milestones associated with permits or to commence commercial operation. That relief may take many forms, including force majeure or other legal relief.
 - We also noted that our LATAM COVID-19 Task Force colleagues reported that their countries and regional organizations, like Mercosur, were requesting technical and financial support from multilateral organizations, including the Inter-American Development Bank (IDB) and CAF. To that end, we have started to see multilaterals like the IMF, World Bank and IDB providing financing to national governments

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and other public sector entities, as well as private sector companies in the region, in an effort to help them cope with the effects of the COVID-19 pandemic in specific Latin American countries. We also noted the references to work by international organizations like UN ECLAC and IRENA.

- We expect that multilaterals, like the World Bank and Inter-American Development Bank, will continue to play a key role in coordinating responses to the effects of the pandemic and continue to provide thought-leadership, guidance and financial support to governments and private sector entities seeking to cope with the economic impacts of the crisis. We will continue to monitor the scope and form of that support and where it will be directed.
- **Prospective Developments** – Some of the problems that we were concerned would arise have not materialized, but neither has the extensive state-driven relief.
 - So far, we have generally been hearing that lenders have only been disposed to provide very specific, surgical relief to borrowers as opposed to broader waivers of events of default, due in part to uncertainty around the crisis. As a result, sponsors may want to lay out a strategy for sequencing requests even where some of the indications from the survey suggest potential issues ahead.
 - We have not seen governmental restrictions (i.e., capital controls) yet that could impact funds flow to and from projects.
 - We noted that our LATAM COVID-19 Task Force colleagues were reporting delays in offerings and other capital market disruptions in Brazil, Peru and Uruguay and we assume that other countries may develop or experience similar delays or disruptions in the coming weeks as the global economic picture and its recovery become clearer.
 - Our LATAM COVID-19 Task Force members have not yet seen widespread signs of financial distress or insurance claims, which may be encouraging or may reflect differences in markets. However, the oil and gas sector continues to be hit hard in the region as in other parts of the world. In Argentina, Brazil, Colombia and Venezuela in particular, industry disruptions have prompted government relief measures that have not consistently proven effective. Again, the situation is evolving and may change, so we will continue to monitor it.
 - On a more positive note, we see that increasing efforts are being made to reactivate economies and launch new tenders. While we will have to monitor how those efforts unfold, we would like to remain optimistic that those efforts will generally be positive drivers on the long-road to recovery for the economies in the region.

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We will continue to work with the LATAM COVID-19 Task Force to provide our clients with periodic, timely updates to the surveyed questions and updates to these observations as warranted. As noted throughout, these situations and issues will require fairly intensive fact-driven, legal analysis by parties and their counsel. Both the Willkie Latin America Practice team and the members of the LATAM COVID-19 Task Force are happy to address your questions and discuss our views and assessments of any of the developments and issues that we have noted in this client alert.

Willkie has multidisciplinary teams working with clients to address coronavirus-related matters, including, for example, contractual analysis, litigation, restructuring, financing, employee benefits, SEC and other corporate-related matters, and CFTC and bank regulation. Please click [here](#) to access our publications addressing issues raised by the coronavirus. For advice regarding the coronavirus, please do not hesitate to reach out to your primary Willkie contacts.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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