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Reference

Oil & Gas 2010 – Argentina

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1 What is the legislation applicable to oil and gas activities in your country? Is it federal or state legislation, or both?

Oil and gas exploration and exploitation are primarily governed by a set of national laws and regulations. However, provincial legislation has emerged in the context of the increasing powers recognised to provinces, particularly following the 1994 reform of the National Constitution whereby the provinces have been vested with the original domain over their natural resources.

The 1967 Hydrocarbons Law No. 17,319 still embodies the basic legal framework governing the exploration, exploitation, industrialisation, transportation and marketing of liquid hydrocarbons, as well as the exploration, exploitation and treatment of natural gas. Notwithstanding this, its provisions have been amended to provide for the transfer to the provinces of increasing powers to decide over hydrocarbons located within their respective territories. Such process had started prior to the constitutional reform by the Federalisation Law No. 24,145, enacted in September 1992, whereby the federal government decided the transfer to the provinces of the public domain over vacant fields located in provincial territory (ie, not then yet awarded by federal government under exploration permits or exploitation concessions) as well as the future transfer of the remaining areas. In 2003, Decree No. 546/2003 expanded provincial involvement in the sector acknowledging the provinces permit and concession awarding powers over certain areas (subject to the requisites set out in the Hydrocarbons Law) and related regulatory powers. The Short Law No. 26,197, promulgated early in 2007, has furthered this process by amending the Hydrocarbons Law to provide that all liquid and gas hydrocarbon reservoirs belong to the provinces or the federal government depending on their location.

The Short Law provides that reservoirs located within the provincial territories (including offshore fields located within the territorial sea between the coast and up to 12 nautical miles) belong to the provinces, while reservoirs located in the Argentine sea between 12 and 200 nautical miles from the coast exclusively belong to the federal government. The Short Law also provides for the transfer to the provinces of all exploration permits and exploitation concessions awarded by federal government over areas located in provincial jurisdictions, declaring that the provinces shall assume full exercise of the original domain and administration of their reservoirs. Transportation concessions awarded under the Hydrocarbons Law are also transferred to provinces except that international or interprovincial transportation concessions continue to be subject to federal jurisdiction. Under the Short Law the powers of the provinces and the federal government as concession authorities must be exercised in accordance with the provisions of the Hydrocarbons Law and the Federal Hydrocarbons Agreement, with the federal government retaining exclusive responsibility in the design of federal energy policies.

As indicated above, and notwithstanding the powers retained by federal government (including the power to legislate on hydrocarbons and to issue regulations under the Hydrocarbons Law), some provinces have considered themselves empowered to issue, and have already enacted, their own hydrocarbon laws, in addition to structuring exploration and exploitation programmes and offering contracts for such purposes over their fields. Overlapping legislation may lead to conflicting jurisdictional and regulatory issues as the provincial development programmes progress.

Transport and distribution of natural gas, in turn, constitute national public services subject to the National Gas Law No. 24,076 and supplementary regulations, and to the powers of an administrative controlling entity, ENARGAS, created to administer and enforce the Gas Law and applicable regulations.

LPG is subject to a specific regulatory framework embodied in the LPG Law No. 26,020 enacted in April 2005 and regulations issued in furtherance thereof.

2 Are oil and gas activities carried out by the state or a state-owned agency?

Prior to the privatisation and deregulation of the industry started in 1989, oil and gas exploration and production were largely conducted by, or under contracts with, YPF, the then-state-owned oil and gas company. During the 1990s, following the privatisation of YPF and the massive transfer of areas under concession to private sector companies, federal government refrained from carrying out these activities focusing exclusively in regulation and control. This trend, however, has changed in recent years.

By means of Law No. 25,943, enacted in 2004, federal government created Energía Argentina Sociedad Anónima (ENARSA), a state-owned company with broad powers to operate in any phase of the energy sector, including oil and gas upstream, midstream and downstream activities. Under the ENARSA Law, ENARSA has been granted exploration permits and exploitation concessions over all then vacant (not awarded to third parties) offshore areas located in National waters. Since its formation, ENARSA has entered into various agreements with other companies, primarily aimed at promoting offshore exploration and participation in provincial bidding contests. National Law No. 26,154 has created a tax benefit regime aimed at promoting hydrocarbon exploration and exploitation in provinces and the continental shelf in association with ENARSA.

In addition to ENARSA, various oil and gas producing provinces have also created state-owned entities to participate in oil and gas activities. These entities have entered into various forms of association and participation with private companies in relation to areas located in their respective provinces.

3 Is oil and gas a regulated business that can only be carried out by companies that are licensed or that receive government concessions to operate?

In accordance with the Hydrocarbons Law, the exploration, exploitation, production, processing, distribution and transport of hydrocarbons may be carried out through state-owned, private or mixed (public and private) companies. Decrees No. 1055/89, 1212/89 and 1589/89 (the Deregulation Decrees) deregulated the industry encouraging a significant increase in private sector participation in oil and gas activities, primarily by means of the award of, and

the conversion of service contracts into, exploitation concessions.

Under the Hydrocarbons Law, as amended, private sector participation in oil and gas exploration and exploitation is carried out by companies duly qualified and registered before the Oil Companies Registry of the Federal Secretariat of Energy on the basis of exploration permits and exploitation concessions granted by each provincial government or the federal government, as the case may be. Holders of permits and exploitation concessions have exclusive rights in their areas. Concessionaires own and have the right to freely dispose of the hydrocarbons produced and extracted, without prejudice to the original governmental domain over non-extracted hydrocarbons.

Following the transfer of areas to provinces, a variety of agreements aimed at exploring, developing and exploiting fields have been entered into, including different kind of joint ventures, production-sharing agreements, exploration contracts and service agreements with provinces for hydrocarbons exploration, development and production.

4 What are the regulatory agencies charged with regulating oil and gas activities?

Prior to the Short Law, the Enforcement Authority of the activities ruled by the Hydrocarbons Law was the Federal Secretariat of Energy. As a result of the Short Law, each province has its own Enforcement Authority in connection with areas located in its respective territory, with the Federal Secretariat of Energy remaining as the Enforcement Authority of the federal jurisdiction.

5 Are all hydrocarbons in your country deemed to be originally owned by the state?

Pursuant to section 124 of the National Constitution, the original domain over the natural resources (including hydrocarbon reservoirs) is vested upon the province where such resources are located. Accordingly, the Hydrocarbons Law, as amended by the Short Law, provides that all liquid and gas hydrocarbon fields belong to the provinces or the federal government depending on their location.

6 How are oil and gas exploration rights or concessions granted?

Hydrocarbons rights are independent from surface rights. Exploration permits and exploitation concessions are legal titles enabling private parties to undertake exploration and production activities, respectively. Pursuant to the Hydrocarbons Law, such permits and concessions are awarded through public bids to technically able and financially sound parties. Exploitation concessions may also be awarded to permit holders that declare a commercial discovery of hydrocarbons. In addition, holders of exploitation concessions are entitled to receive a concession for the transport of their production. Whenever the transport of production exceeds the concession area, the holder of the exploitation concession is compelled to obtain a transport concession. Exploration permits and exploration concessions may also be obtained by assignment. Such assignment is subject to prior governmental authorisation. Furthermore, perfection of the assignment by means of the relevant public deed requires the prior confirmation that no payments are due on account of the permit or concession subject to assignment (eg, for production royalties or for surface fees).

7 Is there a public bidding or similar process? If so, is it open to foreign investors?

Except for permits and concessions assigned by a prior title holder or exploitation concessions awarded to a permit holder on the basis of a declaration of commercial discovery of hydrocarbons, the award of permits and concessions under the Hydrocarbons Law is made through public bids. Following the transfer of reservoirs and fields to provincial jurisdiction, provinces have organised numerous bidding contests for the award of contracts for field exploration, development and exploitation.

There are no general restrictions preventing foreign investors to participate in bidding processes relating to upstream activities, subject to bidding rules, to the prohibitions concerning activities in the continental shelf not authorised by Argentine authorities and to the observance of legislation on security zones. In this regard, Argentine law limits the ability of foreign companies to hold oil and gas concessions (among other properties) in areas included in locations defined as security zones (typically frontier lands). Government approval is required to allow foreign parties to acquire control of companies having concessions in security zones and to permit the acquisition of new concessions in such zones whenever foreign shareholders own the majority of the shares of purchaser.

In addition, due to the existing dispute with the United Kingdom over the Falkland Islands, registration before the Oil Companies Registry is prohibited for companies or persons that directly or indirectly are owners, shareholders or contractors, or that maintain a beneficial relationship with:

i) companies that carried out or currently carry out hydrocarbons activities in the Argentine continental shelf without authorisation of Argentine authorities; or
ii) companies that rendered or currently render oil services to the companies referred to in i).

Likewise it is forbidden for holders of permits or concessions, their controlling or controlled entities, shareholders or associate entities, as well as to parties having a beneficial relationship with them, to contract, directly or indirectly, the companies referred to in i) and ii) above, as well as to participate, directly or indirectly, in exploration and exploitation in the Argentine continental shelf without the required title granted by Argentine authorities or to participate, directly or indirectly, in or to provide commercial, logistic or technical support to, companies that rendered or currently render oil services to companies that carried out or currently carry out hydrocarbons activities in the Argentine continental shelf without licences or authorisations granted by the Argentine authorities. Infringement to these restrictions leads to termination of the permit or concession, without prejudice to other legal and administrative actions.

8 Are there any restrictions on foreign participation in such rights or concessions or in companies holding any such rights?

There are no general restrictions preventing foreign investors to participate in the upstream activities or in companies holding oil and gas rights other than the observance of legislation on security zones, if applicable, and the restrictions concerning the dispute with the United Kingdom, as discussed in question 7 above. Foreign participation is notwithstanding subject to the satisfaction of general legal requisites, including the obligation of explorers and concessionaires under article 5 of the Hydrocarbons Law to establish domicile within Argentina, to have the corporate capacity to carry out business locally (either through a branch or a subsidiary), to have adequate financial resources and technical capabilities to perform the operations that the rights granted under permits or concessions entail and to be registered at the Oil Companies Registry, among others.

9 Are companies or consortia that are awarded exploration rights given priority to operate and exploit the fields?

An exploration permit allows its holder to carry out prospecting and exploration activities (geological and geophysical studies, topographic studies, preparation of plans, drilling of exploratory wells, etc) as well as to build and operate facilities necessary to carry out operations in the area described, and for the term set forth, in the relevant permit. The Hydrocarbons Law establishes a series of rules relating to permit area, number of permits and exploration terms. Pursuant to Section 17 of the Hydrocarbons Law, holders of exploration permits enjoy the right to obtain one exclusive exploitation concession to extract the hydrocarbons found. Hydrocarbon discovery must be informed to the Enforcement Authority within 30 days. Furthermore, within 30 days of the determination by the explorer that the exploitation of the deposit is economically viable in accordance with reasonable technical and economic standards, the permit holder must declare its intention to request the concession. Explorers may dispose of the products lifted in the course of exploratory work, but exploitation of the field is subject to the request and award of the relevant exploitation concession.

10 Who has title to assets imported to develop and produce petroleum?

Title to assets use to develop and to produce petroleum is vested upon the

holder of the exploitation concession. This notwithstanding, in accordance with section 37 of the Hydrocarbons Law, termination of a concession and transfer to government of an exploitation area shall involve the transfer *ope legis* to such government, and without any payment, of the free and clear title to the wells, equipment and facilities used for the normal operation and maintenance of the area as well as the fixed and moveable constructions permanently incorporated into the exploitation process at the concession area (but excluding moveable equipment not exclusively related to the production at the field, and other facilities related to the industrialisation and trading rights of the concession holder).

11 How are federal, state and local governments recompensed for granting companies rights or concessions to conduct oil and gas exploration and production?

Holders of permits and concessions are required to pay royalties based and levied upon production extracted as well as a surface fee assessed on the basis of the area extension. In addition to such standard payments, the government may receive specific compensation for granting rights in the form of exploration or exploitation fees (in the 1990s, areas awarded by the federal government under concession or association were awarded in bidding contests on the basis of exploitation or association fees offered and payable by awardees) or a participation (typically through an instrumentality) in the joint venture having rights to explore and exploit the field or other form of sharing in the production or its sale.

12 May companies or consortia that hold oil and gas exploration rights compulsorily acquire property or rights of way to carry out exploration or production activities? Are these compulsory acquisitions governed by special judicial or administrative proceedings?

Mining Code provisions, incorporated by reference by the Hydrocarbons Law, provide holders of permits or exploitation concessions with the right to compulsorily acquire surface land subject to compensation, except in the case of government-owned land where no price is payable for the acquisition. In addition, such holders have right to certain easements contemplated in the Mining Code, including the rights to occupy the surface land with industry facilities, to build roads and to use water for works, among others. Section 100 of the Hydrocarbons Law establishes that holders of permits and concessions must compensate landowners for damages resulting from hydrocarbon activities. Landowners are authorised to request the local courts to fix the corresponding compensation for the damage proved by plaintiff. Alternatively, landowners may fix the amount of the indemnification by mutual agreement with the permit or concession holder. The National Executive is also empowered to determine compensations to landowners by zones and has exercised such power for certain regions. Such compensations apply in the case of mutual agreement.

13 Are natural gas exploration and production activities regulated separately or subject to the same regulation applicable to oil exploration and production? Are there different royalties or other government charges payable by companies that conduct natural gas production activities?

Natural gas exploration and production is subject to substantially the same set of rules as exploration and production of liquid hydrocarbons. Transport and distribution of natural gas, instead, are subject to National Gas Law No. 24,076 and to regulation and control by the ENARGAS. Royalty payments for the production of liquid hydrocarbons and natural gas are subject to substantially similar rules.

14 Do foreign ownership restrictions apply to the oil and gas sector in your country?

There are no foreign ownership restrictions specific to the oil and gas sector other than those resulting from legislation on security zones, if applicable due to location of the concession area, and prohibitions concerning activities in the Argentine continental shelf conducted without the required authorisation of Argentine authorities, as discussed in question 7 above.

15 Are there any minimum domestic participation rules or any labour law rules relating to domestic and foreign workers?

The Hydrocarbons Law requires under section 71 all concession or permit holders to comply with a payroll of at least 75 per cent of Argentine nationals employed for all levels of activities, including management, and to grant special priority in each case to residents of the region in which the work is to be performed. The minimum percentage must be reached within the terms established by the pertinent regulatory provisions or bidding terms and conditions.

Employees working in Argentina are subject to local labour and social security laws and applicable collective bargaining agreements. Such regulations are mandatory and have rules on remuneration and other working conditions. Provinces also set preferences for the employment of their residents in exploration and production activities.

16 Does local law mandate a particular entity with authority over the sector?

Following the transfer of powers to provinces, each province has determined a body within the provincial administration serving as Enforcement Authority under the Hydrocarbons Law. Such body varies in the provinces (typically such authority is vested upon a minister or a secretary of energy).

17 Are there any limitations on vertical integration in the oil and gas industry?

In the absence of specific regulations on vertical integration of companies engaged in oil production and refining, such matter is subject to general antitrust legislation. Argentine Antitrust Law No. 25,156 prevents the acquisition of control over businesses which purpose or effect is or may be restrictive or distorted for the competition with potential or actual damage to the general economic interest. The law also provides for a merger control regime whereby the acquisition of control in any form over companies or assets involving a business volume resulting from the sale of products and services in Argentina by target, purchaser and controlling or controlled entities thereof, in excess of 200 million Argentine pesos, is subject to a prior mandatory notification to, and authorisation by, the Antitrust authorities, except where an exemption (including first landing) applies.

In turn, the Natural Gas Law includes provisions precluding natural gas producers to hold a controlling interest in natural gas transport or distribution companies, save the right of the holders of exploitation concession to be awarded a transport concession to conduct its own production from the producing field.

18 Are oil and gas activities carried out through incorporated entities with limited liability or by consortia or other types of unincorporated joint ventures? Are joint venture partners jointly and severally liable for the obligations undertaking?

Oil and gas activities may be carried out by incorporated entities as well as through joint ventures or consortia. Argentine Company Law No. 19,550 regulates a form of joint venture agreement denominated 'temporary union of companies' (UTE) commonly used in the industry. The UTEs do not constitute a separate legal entity but have to be registered with the Superintendency of Companies (IGJ) and are subject to certain taxes. Law No. 19,550 establishes the content of such agreements and provides that UTE members may agree to be jointly but not severally liable to third parties. In practice, international model forms of joint operating agreements, such as that of the Association of International Petroleum Negotiators (AIPN), are framed as UTEs by adding a representative (usually, the operator), a domicile and a minimum operative fund. In addition, Law No. 26,005 regulates 'cooperation consortia' that have a contractual nature and do not constitute a separate legal or corporate entity but have to be registered with the IGJ. Pursuant to such law, unregistered cooperation consortia have the effects of a de facto partnership.

19 May oil and gas be pledged or encumbered to secure the

repayment of debt? How?

Pursuant to section 73 of the Hydrocarbons Law holders of exploitation concessions are entitled with the previous authorisation of the National Executive to enter into loans providing that in case of an event of default the concession rights shall be assigned in favour of creditors. The Hydrocarbons Law also provides that government authorisation to such agreements may be granted to the extent that it is satisfactorily secured that the prospective assignee of the concession meets the technical and financial requisites applicable to holders of concessions. Once extracted, oil and gas produced under concession constitute a property of the concession holder and may be disposed or encumbered by its owner. Repayment of debt may also be secured by other oil and gas-related security interests, including the collateral assignment in trust of oil and gas production, or proceeds of the disposition thereof.

20 Can oil and gas rights that are subject to a lien be sold or transferred freely by the secured creditor?

Under section 73 of the Hydrocarbons Law the collateral assignment of concessions must be previously authorised by the National Executive in cases where the collateral structure satisfactorily ensures that the prospective assignee of such concession meets the technical and financial requisites applicable to any holder of concessions. Sale or transfer of the concession is therefore subject to a legal restriction requiring assignee to be qualified to enjoy concession rights under the Hydrocarbons Law.

21 Is oil and gas output freely exportable in your country? Are there any limits or quotas applicable to oil and gas production? Is there access to export pipelines? What licences are required for oil and gas exports? Are duties applicable?

The Deregulation Decrees provide producers with the right to freely dispose of the hydrocarbon production, either in the domestic or international markets. This notwithstanding, the Hydrocarbons Law aims at satisfying the internal demand for hydrocarbons with local production authorising the National Executive to limit exports of crude oil in case that local production is insufficient to meet domestic demand. Pursuant to Decree 1589/89, in such cases: producers, refiners and exporters must receive a price not lower than the price of imported crude oil and similar imported by-products (except when prices of such imported products increase due to extraordinary situations), and government is required to serve notice of the establishment of such restrictions 12 months in advance.

In the context of the Argentine crisis, in May 2002, national government declared the emergency in the supply of hydrocarbons empowering the Secretariat of Energy to determine the volume of crude oil (and LPG) produced and to be sold in Argentina. Initially this resulted in the establishment by Resolution No. 140/2002 of temporary limits to hydrocarbon exports that were effective during some months of 2002 but were subsequently abrogated. This notwithstanding, Decree No. 645/2002 and Resolutions No. 202/2002 and No. 1679/2004 created a registry of crude oil export transactions.

In turn, under the National Gas Law 24,076, exports of natural gas are subject to authorisation by the National Executive, which authorisation is granted if domestic supply is not affected. Pursuant to Decree No. 1705/07, the National Executive may also authorise exports of gas in excess of volumes previously authorised for export provided that such excesses are subject to interruption whenever the supply of national gas is affected. In such case it is not necessary to request approval of each export in excess of the volume originally authorised but a copy of the relevant contract must be filed with the ENARGAS. Such agreement must expressly provide that exports are subject to interruption and that no claim or compensation is payable for such interruption. During 2004, a series of decisions, including temporary suspension of exports of volumes in excess and useful for domestic supply, suspension of proceedings for export authorisation and establishment of a programme for the adequate supply of the internal market (regulating the supply by exporters of volumes required for domestic consumption), were adopted with the view of avoiding a crisis in the internal supply of natural gas (and its implication on power generation and the wholesale power market). In 2007, the Argentine government approved an agreement with gas producers aimed at securing supply to meet domestic demand and regulating the economics of such supply. Such agreement set minimum volumes of gas to be supplied by each producer for the domestic market as well as mechanisms for price determination. Both crude oil and natural gas exports are currently subject to export duties.

22 Are prices for oil and gas set or fixed by the government?

Prices are not set or fixed directly by the government. However, government has monitored price evolution, has promoted agreements addressing pricing issues among industry incumbents (particularly for volumes satisfying demands deemed critical) and has adopted tax decisions taken into account in negotiations of domestic prices. At present, in the absence of price agreements for the oil sector, prices of crude oil negotiated in the market tend to reflect the impact of the export duty regime and other market conditions. As for natural gas, the agreement with gas producers approved in 2007 set price calculation mechanisms that apply to volumes under such agreement. For LPG the LPG Law provides that the Secretariat of Energy shall determine, per region and for each six-month seasonal period in summer and winter, a price of reference for LPG destined for residential use with the view of securing regular supply of domestic market. The Secretariat is also empowered to establish price stabilisation mechanisms. The Secretariat has followed a pattern of maintenance of historical prices for the supply to bottling companies of LPG volumes for residential use.

23 Are oil and gas exports taxed under the general income tax regime or is there specific petroleum tax legislation?

Hydrocarbon exports are subject to specific rules on export taxation. In the context of the 2002 economic crisis, and by means of the Emergency Law No. 25,561, Argentina established exports duties on hydrocarbons exports for a five-year term, empowering the National Executive to set the relevant rates. Law No. 26,217, enacted in 2007, has extended such duties and the powers of the National Executive for an additional five-year term, confirming that the powers of the National Executive may be delegated to the Ministry of Economy.

Initially, the federal government imposed a 20 per cent duty on crude oil exports, raised afterwards when crude oil prices increased. By Resolution No. 394/07 of the Ministry of Economy the pre-existing export tax limit has been replaced by a new regime whereby export duties on crude oil are calculated through a formula involving the international price of the product (IP), a reference price (RP) of US$60.9/bbl and a cut-off value (CV) of US$42/bbl. Pursuant to such regime: in case that the IP is equal to, or higher than, the RP, calculation of the export duty implies that the exporter receives the CV and any excess is paid as export duty; in case that the IP is lower than the RF but equal to, or higher than, US$45/bbl, the export duty is equal to 45 per cent; and in case that the IP is lower than US$45/bbl, the Ministry of Economy shall decide the rate of the applicable duty within a term of 90 days. IP is determined by the Secretariat of Energy on a daily basis.

In 2004, the National Executive established export duties of 20 per cent on natural gas, LNG and other gases. In 2006 the rate applicable to natural gas exports was increased to 45 per cent. Eventually, Resolution No. 127/2008 of the Ministry of Economy has increased the rate for exports of natural gas from 45 per cent to 100 per cent. In addition, such resolution establish the highest price set out in natural gas import agreements of any Argentine importers as reference value for the calculation of the export duties applicable to natural gas exports. A formula, contemplating international price, reference price and a cut-off value (US$233/m3 for propane; US$271/m3 for butane; and US$250/m3 for LPG) is used to set the export duties over propane, butane and LPG.

24 Do special environmental rules apply to oil and gas exploration and production?

Oil and gas exploration and production are subject to both general environmental rules and particular industry environmental regulations, including regulations on oil spills, pipeline layout and construction, well abandonment, safety restrictions for location of industry facilities (including safety rules for housing or populated areas), gas flaring, or rules on pools, among other matters specific to these industries. Resolution 105/1992 of the Federal Secretariat of Energy

approved the rules and procedures for the protection of the environment during hydrocarbon exploration and exploitation.

Jurisdiction to regulate environmental matters has traditionally been concurrent between federal and provincial governments. This notwithstanding, the 1994 constitutional reform introduced a new section 41 to the National Constitution whereby, in addition to the recognition of a right to a healthy (non-contaminated) environment, the distribution of concurrent jurisdictional powers in environmental matters between federal and provincial governments has been rearranged. Under the new constitutional framework, provincial jurisdiction has been restricted to issue rules necessary to complement the basic legislation to be enacted by national government through the 'minimum environmental standards or requirements' legislation applicable throughout Argentina. Provinces have also been empowered to enforce both national and provincial rules. These restrictions to provincial powers have been introduced in the National Constitution notwithstanding the recognition thereunder of the original domain of the provinces over all natural resources existing in their territories. Pursuant to section 6 of the National General Environmental Law No. 25,675, in itself a national legislation on 'minimum environmental standards', the concept of 'minimum environmental standards' set forth in section 41 of the National Constitution refers to any rules granting a uniform or common environmental protection for all the national territory. In theory, the new arrangement of environmental jurisdictions (basic national laws contemplating minimum standards and provincial rules complementing the former) has attempted to eradicate the diversity of (and even contradiction in) environmental legislation. In practice, however, the operation of the system has led to certain controversies, including, among others, the scope of the national and provincial powers (minimum standards versus common standards – if the former, provinces may aggravate national criteria; if the latter, provinces may not aggravate national standards), or the powers of the National Executive to issue executive decrees for national legislation on minimum requirements (versus exclusive empowerment of the National Congress). The legislation on 'minimum environmental standards' does not abrogate previous environmental legislation, such as the pre-existing Hazardous Waste Law No. 24,051 or provisions on environmental matters set forth in other bodies of law (including the Civil Code). The result is a complex legal environment where a number of different rules coexist and apply to similar type of matters.

National laws on 'minimum environmental standards' enacted and most relevant for the sector include the General Environmental Law No. 25,675 on minimum standards for the preservation and protection of the environment and Law No. 25,612 on Management of Industrial and Service Waste. Other key National legislation on environmental and safety matters include the Hazardous Waste Law No. 24,051 and Law No. 13,660 and Decree No. 10,877/1960 on prevention of risks in plants where fuel-related activities are performed. The health and safety requirements are those established by Law No. 19,587 on health and safety at work, and regulations issued in furtherance thereof.

Notwithstanding the provincial jurisdiction over environmental matters and enforcement of applicable rules, the Federal Secretariat of Energy has traditionally played a leading agency role in the regulation of environmental matters specific to the oil and gas exploration and production activities.

25 Are environmental regulations in your country consistent with any international standards?

The number, complexity and severity of environmental regulations in Argentina has increased significantly in recent years as well as the efforts of administrative authorities, courts and interested parties in seeking enforcement thereof. This process is progressively adjusting environmental rules to demanding standards comparable in many respects to those applied internationally.

26 Must companies in the oil and gas industry obtain special environmental or other government permits (other than licences or concessions to carry out oil and gas exploration and production) in to operate in your country?

In addition to the exploration permits and exploitation concessions, there are additional environmental authorisations, permits or certificates required for specific matters or works as well as to meet provincial and municipal environmental requirements. Annual security audits are required in connection with hydrocarbon storage facilities and tanks, oil refineries, natural gas service stations, fuel commercialisation plants and LPG bottling plants.

27 Does the government (including any development banks or agency) provide financing, subsidy or other support to companies undertaking oil and gas exploration or production?

The government provides no financing, subsidy or other financial support to companies undertaking oil and gas exploration or production.

This notwithstanding, Decree No. 2014/2008, supplemented by Federal Secretariat of Energy Resolution No. 1312/2008, created the 'Oil Plus' and 'Refining Plus' incentive programmes aimed at increasing the production of oil and fuels through the granting of tax credit certificates, applicable to the payment of export taxes.

In turn, pursuant to Resolution No. 24/2008 of the Federal Secretariat of Energy, as amended and supplemented by Resolutions No. 1031/2008 and No. 695/2008 of such Secretariat, the federal government has established the 'Gas Plus' incentive programme with the view of increasing natural gas production by excluding gas produced by projects approved under such programme from volumes subject to the supply rules and pricing mechanisms of the 2007-2011 agreement with gas producers. Since the establishment of the 'Gas Plus' programme numerous projects have been submitted to, and received approval by, the Federal Secretariat of Energy.

In addition to such incentive programmes, Law No. 26,154 allows for the award of tax benefits to promote the exploration and exploitation of hydrocarbons in all the provinces and the continental shelf by projects in association with the ENARSA.

Law No. 26,360 has created a regime to promote investments in infrastructure and capital goods by granting tax benefits to companies whose projects are approved by government (either in the form of advanced reimbursement of VAT or of income tax accelerated depreciation). The production, distribution and transportation of hydrocarbons constitute activities promoted by Law No. 26,360. In this connection, Decree No. 2014/2008 that created the 'Oil Plus' and 'Refining Plus' programmes provides that works performed by producers for the exploration and exploitation of new oilfields, the increase of production capacity and the incorporation of new technologies for the exploitation and development of existing fields that increase their current capacity may qualify as 'critical infrastructure works' subject to the provisions of Law No. 26,360.

28 Are there any tax stability or similar regimes available to foreign investors undertaking investment in the oil and gas industry in your country?

Permit and concession holders are subject to federal, provincial and municipal taxes. Taxation provisions under the Hydrocarbons Law establish a regime protecting such holders during the effectiveness of the permits or concessions against new taxes or increases of certain provincial and municipal taxes.

29 Are oil and gas activities generally protected under bilateral investment treaties entered into by your country?

Argentina has signed numerous bilateral investments treaties (with countries such as Canada, France, the UK and the US) aimed at protecting foreign investments. The provisions of such treaties also apply to oil and gas activities. Following measures adopted by the Argentine government from 2002 in the context of the economic crisis, several foreign investors in oil and gas activities have filed arbitration claims against the Argentine federal government under ICSID and UNCITRAL rules.

30 Are there any dispute resolution systems specific to the oil and gas industry? Does state immunity apply in disputes?

There are no dispute resolution systems specific to the oil and gas industry. Cases are submitted to federal or provincial courts depending on the matter of the controversy. On 28 July 2005 and in connection with a litigation that a surface landowner had brought before a court in Delaware, United States,

against a holder of an exploitation concession concerning damage arising out of the operations conducted by such concessionaire in the area, the Argentine Federal Supreme Court rejected by majority, in *Pan American Energy LLC v Forestal Santa Bárbara SRL*, the petition of the plaintiff requesting such tribunal to declare the exclusive jurisdiction of Argentine courts to hear any dispute between the holder of the exploitation concession and the surface owner concerning operations of the holder in the concession area. Such rejection argued that the plaintiff's request sought an abstract declaration rather than a court sentence resolving a controversy. In addition, the Supreme Court also rejected the plaintiff's petition of an interim order of the Argentine court requesting the Delaware tribunal to suspend proceedings and instructing defendant to refrain from promoting or taking participation in litigations on the same matters before foreign tribunals. These requests were rejected by majority arguing that orders inhibiting jurisdiction of other tribunals are not permitted between courts of different nations, without prejudice to the right of plaintiff to argue against the jurisdiction of the foreign tribunal before such tribunal and to request such foreign court to decline its jurisdiction. The minority of the Supreme Court admitted plaintiff's requests.

There is no immunity from jurisdiction preventing federal or provincial governments to be sued before Argentine courts in connection with oil and gas related controversies. This notwithstanding, judgments are not enforceable against public domain properties and assets dedicated to public or essential services. Furthermore, National Law No. 24,624 sets forth rules for the discharge of monetary judgments passed against the federal government whereby such discharged must be made pursuant to the authorisations contemplated in the national budget and when the annual budget corresponding to the fiscal year during which a judgment must be honoured does not contemplate funds to satisfy the payment due, the National Executive must provide for the incorporation of the required amounts in the budget of the next fiscal year provided that actual knowledge by the government of the judgment occurs prior to August 31 of the year corresponding to the remittance of the draft of budget. Funds voted by congress are applied to discharge judgments in strict order of seniority as determined by judicial notice thereof and up to consummation of all budget funds, any balance being satisfied with funds allocated in the ensuing fiscal year. Judgments against state enterprises, government corporations and other business or corporate entities or organisations where government holds a participating interest (either total or partial) shall not be enforced against the national treasury as government liability is limited to the participation in the capital of such entities and organisations. Attachments are not available against properties of public domain, assets dedicated to public or essential services and, at federal level, funds dedicated to discharge expenses of the public sector set out in the national budget. Certain provincial constitutions and laws also contain limitations to, or procedural rules for, or both, the enforcement of judgments against government and attachments against provincial properties, including budget funds. Successive economic crisis have resulted in emergency laws delaying compliance and enforceability of judgments.

31 Do anti-corruption rules apply to the oil and gas industry?

General anti-corruption legislation applies also to the oil and gas industry. Anti-corruption legislation primarily includes the provisions of the Criminal Code concerning the crimes of active and passive corruption of public officers (bribery, gifts, influence peddling), frauds on government, dealing or participation in contracts or transactions related to his or her public office and secret commissions, illegal enrichment, possession of property or proceeds obtained by crime, laundering proceeds of crime and related crimes.

Other relevant Argentine legislation on corruption include the National Public Ethics Law No. 25,188, which sets forth duties, prohibitions and incompatibilities applicable to persons serving in a public office defined as any temporary or permanent activity, whether remunerated or not, in the name or at the service of the state or any of its instrumentalities, whatever its hierarchical level, including any member of the administration, congress or courts and persons elected by popular voting or appointed in other form. This law requires a large number of public officers (including the president, the vice president, senators, deputies, national judges and court secretaries, ministries and secretaries of state, ambassadors and consuls, and high ranking officers of the administration, the congress or regulatory entities or other controlling bodies, as well as officers with decision or intervention in government contracts, among others) to present a statement under oath of his or her properties before the assumption of service, to update data annually during service and to file a final statement at the termination of such services. Except for officers elected by universal voting the statement must include labour background to facilitate conflict of interest control.

Argentina has also approved a series of international anti-corruption conventions, including the United Nations Convention against Corruption adopted in New York on 31 October 2003 (approved by Law No. 26,097), the Paris Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Convention) executed in Paris on 17 December 1997 (approved by Law No. 25,319) and the Inter-American Convention against Corruption executed in Caracas on 29 March 1996 (approved by Law No. 24,759).

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