

Statute on “Bases and Starting Points for the Freedom of the Argentines” – Focus on Oil & Gas

June 2024

On June 28 2024, Congress passed the “Law of Bases and Starting Points for the Freedom of the Argentines” (the “Statute”). All that remains is the promulgation or veto of the President of the Nation.

The Statute includes a section on “Energy” which amends Laws No. 17,319 (“Federal Hydrocarbons Law”), 24,076 (“Natural Gas Law”) and 26,741 (“Hydrocarbon Sovereignty Law”) and other related matters.

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1. Amendments to Federal Hydrocarbons Law

1.1. General Provisions. From prioritizing self-supply to a free-market scheme

- Includes storage and processing tasks within the aspects regulated by the Federal Hydrocarbons Law, which were not previously included.

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- It includes maximizing revenue from the exploitation of resources as an objective of the Federal Hydrocarbons Law and eliminates the obligation to maintain reserves to meet the country's hydrocarbon needs with the production of its deposits.
- Converts transport concessions into transport authorizations, establishes storage authorizations, and processing permits for hydrocarbons.
- Establishes that (i) permit holders and concessionaires will have ownership of the hydrocarbons they extract and, consequently, may transport, market, industrialize, and trade their byproducts freely, (ii) the National Executive Branch cannot intervene or set prices for marketing in the domestic market for any of these activities indicated in the previous paragraph, (iii) permit holders, concessionaires, refiners, and/or marketers may export hydrocarbons and/or their byproducts freely, subject to the non-objection of the Secretariat of Energy for technical or economic reasons related to supply security within 30 days.
- International trade, import, and export of hydrocarbons will be free.
- The reservation of areas in favor of state companies is eliminated.

1.2. Hydrocarbon Exploitation Concessions. Conversion. Term. Extensions

- Establishes December 31, 2028, as the deadline for requesting the conversion of a conventional concession to an unconventional concession.
- Upon approval of the conversion request, the term of the converted concession shall be thirty-five years from the date of the request.
- The new Unconventional Hydrocarbon Exploitation Concession must aim at unconventional hydrocarbon exploitation. However, the holder may carry out complementary activities of conventional hydrocarbon exploitation.
- Eliminates the requirement for concessionaires of hydrocarbon exploitation concessions to ensure maximum hydrocarbon production compatible with proper and economical exploitation of the reservoir and compliance with criteria ensuring proper reserve conservation.
- The concept of Pilot Plan and its period of up to five years for non-conventional hydrocarbon exploitation concessions is eliminated.
- In new hydrocarbon exploitation concessions, the National or Provincial Executive Branch, as appropriate, when defining the bidding terms and conditions, may establish other terms of up to ten years in excess of the terms provided for in the different hydrocarbon exploitation concessions, in a reasoned and motivated manner justifying their deviation. In no case shall the terms be set in perpetuity. This modification eliminates the possibility of successive 10-year extensions.
- Exploitation concessions and transport concessions granted prior to the enactment of this Statute shall continue to be governed by the terms and conditions of their grant until their expiration.

1.3. Transport Authorization and Processing Enablement, independent from an exploitation concession

- A registry of authorized transporters and processors of hydrocarbons is created.

- Holders of projects and/or facilities for conditioning, separation, fractionation, liquefaction, and/or any other process of hydrocarbon industrialization may apply for authorization to transport hydrocarbons and/or their derivatives to their industrialization facilities and from these to further industrialization or marketing centers. These authorizations shall not be subject to term limits.
- It is clarified that transport authorizations granted to exploitation concessionaires shall be granted and renewed for periods equivalent to those granted for the exploitation concessions linked to transport authorizations.
- In cases of transfer of a transport authorization granted under an exploitation concession, the authorized parties may request extensions for a period of ten years each.
- Transport concessions granted prior to the enactment of the Statute shall be governed by the terms and conditions of their grant.
- Authorizations granted to holders of projects and/or facilities for conditioning, separation, fractionation, liquefaction, and/or any other process of hydrocarbon industrialization shall not be subject to term limits.
- If a person is the holder of transport capacity and does not use it, such unused capacity must be made available to third parties; provided, however, that it shall always be subject to the needs of the authorized transporter. Hydrocarbon transporters shall not engage in acts implying unfair competition or abuse of their dominant position.
- Those authorized to process hydrocarbons must process third-party hydrocarbons up to a maximum of five percent of the capacity of their facilities, provided that: process safety is not compromised; the parties agree on the service to be provided; and the applicant bears the costs associated with connecting to the plant. This percentage may be determined by the enforcement authority four years after the commercial operating permit of the plant and in the event of remaining or idle plant capacity.
- The provisions described in the preceding paragraph shall not apply to processing units integrated into refining complexes and their associated storage facilities, natural gas liquefaction plants, or hydrocarbon transport authorizations granted to holders of such liquefaction plants.

1.4. Underground Storage

- Authorization of underground natural gas storage is incorporated into the law, conferring the right to store natural gas in depleted hydrocarbon reservoirs, including the process of injection, storage, and withdrawal of natural gas. They may be granted in:
 - a) Areas subject to exploration permits and/or exploitation concessions.
 - b) Areas subject to exploration permits and/or exploitation concessions of third parties, with the authorization of these before the authority.
 - c) Areas that, having been productive, are no longer subject to exploration permits and/or exploitation concessions.
- Any other underground natural gas storage project not carried out under these assumptions shall not require authorization.
- Storage authorizations shall not be subject to term limits. Holders of an underground natural gas storage authorization may request a hydrocarbon

transport authorization to their storage facilities and from these to the transport system, which shall also not be subject to term limits.

- Authorized entities shall not be obliged to store third-party natural gas, having the freedom to carry out the activity for their own benefit or for third parties, and freely agree on prices for the sale of stored natural gas and storage service, including the reservation of their capacity.
- The underground natural gas storage authorization shall not be subject to the payment of exploitation bonuses, and analogous payments for the granting of these authorizations through provincial regulations shall not be imposed. Natural gas used in underground storage shall only pay royalties at the time of its first commercialization. In the case of own natural gas storage, royalties shall be paid at the average Basin Entry System Prices (*Precios al Ingreso del Sistema de Transporte*, "PIST") at the time of production prior to storage.

1.5. Bidding processes. Awards

- The model tender document under which exploration permits and exploitation concessions shall be tendered shall contain conditions and guarantees, as well as the minimum investments necessary, and other conditions and guarantees to which the bids must adhere. Likewise, the model document shall establish royalty adjustment mechanisms deemed appropriate, which may consider for their formulation all investments made, income obtained, and operational expenses incurred, among other variables. The evaluation of bids shall take into account the total project value, including offered royalties, committed investments, and associated production as established in the respective tender document.
- Bidders shall compete on the royalty value based on a fifteen percent base value, which shall apply to the project at any stage. The royalty to be offered shall be identified as 15% (fifteen percent) + "X". The term "X" shall be set at a percentage exclusively chosen by the bidder, which may be negative.
- Existing exploitation concessions, upon expiration, shall not be awarded without a new bidding procedure. The corresponding tender may be conducted with a minimum period of one year before their expiration.
- If the tender to be carried out aims at the exploitation concession of producing areas, the tender document may establish the value corresponding to the unrecovered investments during the exploitation of the area.

1.6. Additional Obligations

The Statute incorporates the following additional obligations of permit holders, concessionaires, and authorized entities:

- a) To carry out all work using the most modern, rational, and efficient techniques.
- b) To take all necessary measures to prevent damage to the reservoirs due to drilling, operation, conservation, or abandonment of wells.
- c) To avoid any waste of hydrocarbons; if the loss is due to negligence, the permit holder or concessionaire shall be liable for damages caused to the State or third parties.

- d) To adopt security measures advised by accepted practices in the field to prevent all types of accidents.
- e) To take necessary measures to prevent or reduce damages to agricultural, livestock, fishing, and communication activities, as well as to water tables encountered during drilling.

1.7. Complementary Regulation

- The power of the National Executive Branch to conduct tenders with the exclusive participation of companies predominantly owned by Argentinian capital and to establish rules and franchises, including tax incentives, promoting the participation of such companies in the country's oil activity, is repealed.

2. Amendments to Natural Gas Law

- Section 3 of the Natural Gas Law is amended so that it establishes that natural gas exports must be regulated by the National Executive Branch according to Section 6 of the Federal Hydrocarbons Law (“... *Permit holders, concessionaires, refiners, and/or marketers may freely export hydrocarbons and/or their derivatives, subject to the non-objection of the Secretariat of Energy...*”).

- Section 3 bis is incorporated, establishing that exports of Liquefied Natural Gas (LNG) must be authorized by the National Secretariat of Energy, within 120 days of receiving the request, according to the regulations issued by the National Executive Branch, which will establish the conditions that applicants must meet and the investments and development projects of hydrocarbon exploitation required to produce the quantities of natural gas necessary to supply one or more LNG liquefaction projects mainly intended for LNG export. The regulations to be issued pursuant to the previous paragraph shall not apply in this case.

- Within six months from the enactment of the Bill, the National Secretariat of Energy shall conduct a study to issue a Declaration of Long-Term Gas Resource Availability, which will consider the sufficiency of gas resources in the country projected over time and the supply of natural gas from other sources to regularly meet domestic demand in the ordinary course of events and, at the same time, provide firm and uninterrupted basis for the LNG export projects planned during the same analysis period.
- LNG export authorizations granted will be firm capacity regarding the authorized LNG volumes for a period of up to thirty years from the start-up of the liquefaction plant (onshore or floating) or its expansions or subsequent stages and will contain the guarantees established in said regime.
- The granting of a firm capacity LNG export authorization will imply for its holders the right to continuously export all volumes authorized as such without interruptions, restrictions, reductions, or redirections for any reason during each day of the validity period of the respective export authorization, as well as the right to unrestricted and uninterrupted access to the supply of natural gas or to the capacity of transportation, processing, or storage of any kind of which they are holders or have contracted for that purpose.

- For the purpose of granting the LNG export authorization, it will not be necessary for the applicant to have LNG purchase and sale contracts for all requested volumes and terms.
 - Likewise, amendments to this law or to the regulations issued by the National Executive Branch or the resolutions issued by the regulatory authority will have no effect on the firm LNG export authorizations granted, except if they are more favorable to export.
- The renewal of the authorization for utility providers of gas transportation or distribution shall be for an additional period of twenty years instead of ten.
- It is established that for the purposes of the requirements that transporters and distributors must meet to ensure the supply of non-interruptible services, they may acquire, construct, operate, maintain, and manage natural gas storage facilities.
- It establishes a mechanism for challenging acts and sanctions issued by the highest authority of the National Gas Regulatory Entity before the National Chamber of Appeals in Federal Administrative Contentious Matters through a direct appeal.

3. Amendments to Hydrocarbons Sovereignty Law

- Section 1 of the Hydrocarbons Sovereignty Law, which declared the achievement of hydrocarbon self-sufficiency as a national public interest and a priority objective of the Argentine Republic, as well as the exploration, exploitation, industrialization, transportation, and commercialization of hydrocarbons, in order to guarantee economic development with social equity, job creation, increased competitiveness of various economic sectors, and equitable and sustainable growth of provinces and regions, is repealed.
- Within Section 3 of the Hydrocarbons Sovereignty Law, establishing the principles of the hydrocarbon policy of the Argentine Republic:
- The term "self-sufficiency" is replaced by "supply."
 - The reference to fuel prices within the objective of protecting consumer interests is eliminated.
 - Export of hydrocarbons for improving the balance of payments is established as a principle, instead of obtaining surpluses for hydrocarbon exports.

4. Related Matters

4.1. Merger of Regulatory Agencies

The National Regulatory Entity for Gas and Electricity is created, which, once organized, will replace and assume the functions of both the National Electricity Regulatory Entity (ENRE) and the National Gas Regulatory Entity (ENARGAS).

The National Executive Power is entrusted with issuing all norms and acts aimed at making effective the provisions of the previous paragraph and at issuing the corresponding consolidated and restated text of Laws No. 24,065 (Electric Power Regime) and No. 24,076 (Natural Gas Law).

4.2. Adapt of Laws No. 15,336 (Electric Power Law) and 24,065 (Electric Power Regime)

The National Executive Power is authorized to adapt Laws No. 15,336 and No. 24,065 and the corresponding regulatory norms according to the following bases:

- a) Promote the opening of international trade of electric power under conditions of security and reliability, with the objective of achieving the highest number of participants in the industry, allowing the State to formulate objections for technically or economically justified reasons regarding the security of supply;
- b) Ensure the free commercialization and maximum competition in the electric power industry, guaranteeing end-users the free choice of supplier;
- c) Promote the economic dispatch of energy transactions based on remuneration of the hourly economic cost of the system, considering the marginal hourly cost of the system, and the cost to the community of unsupplied energy;
- d) Adjust the tariffs of the energy system based on the real costs of supply to cover investment needs and ensure the continuous and regular provision of public services in accordance with the tariff principles of Laws No. 24,065 and No. 24,076;
- e) Promote the clarification of the different concepts to be paid by the end-user, with the express obligation of the distributor to act as a collection or withholding agent for the amounts to be collected in terms of energy, transport, and corresponding taxes for the Wholesale Electric Market and the Treasury, as appropriate;
- f) Ensure the development of electric power transport infrastructure through open, transparent, efficient, and competitive mechanisms;
- g) Modernize and professionalize the centralized and decentralized structures of the electric power sector to achieve better fulfillment of the assigned functions.

4.3. Uniform Environmental Legislation in accordance with Law No. 27,007

The National Executive Power is authorized to develop, with the agreement of the provinces, a harmonized environmental legislation for the purposes of complying with Article 23 of Law No. 27,007, which will have as its primary objective to apply the best international environmental management practices to the tasks of exploration, exploitation, and/or transportation of hydrocarbons in order to achieve the development of the activity with adequate environmental care.

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