

## Reforming the Argentinian Oil and Gas Regime

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In order to prevent the increase of energy prices and to safeguard domestic supply, at the start of the millennium the Argentinian federal government made various amendments to the legal regime regulating the exploration and production of hydrocarbons. Such measures included the introduction of a system of regulated prices and the prohibition of exports until domestic demand had been satisfied. Following these changes, oil and gas production and exports declined and Argentina has subsequently had to manage a reduction in its energy self-sufficiency as fuel imports have increased.

Following months of extensive negotiations in 2014 between the federal government, the regional oil-producing provinces, YPF and other key members of the private oil and gas sector in Argentina, the Argentinian Congress passed a new law amending its hydrocarbon regulatory framework (the "**New Hydrocarbon Law**"<sup>2</sup>). The New Hydrocarbon Law was officially published by the Federal Register on 31 October 2014 with the aim of creating incentives to encourage long-term foreign investment in the oil and gas sector, with the ultimate aim of boosting both conventional and (particularly) unconventional exploration and production. The principal elements of the New Hydrocarbon Law are as follows:

- **National bidding process:** A single national tender process will now apply to all oil-producing regions in a move away from the previous regionally fragmented model. Under the new bidding process, concessions will be awarded to the most suitable bid (based on the level of investment and exploration activities proposed by the concessionaire).
- **Duration of exploration period:** The duration of an exploration permit will now depend on the type of prospect that is targeted:
  - in respect of a conventional resource the maximum term of an exploration permit is 11 years; and
  - in respect of an unconventional resource the maximum term is 13 years.

In addition, the previous prohibition on a company holding more than five exploration permits has been removed and the acreage relinquishment requirements that apply during the term of

an exploration permit have been reduced.

- **Duration of exploitation period:** The exploitation period under a concession has been extended based on the type of the resource concerned, being:
  - 35 years in the case of unconventional resources;
  - 30 years in respect of offshore resources; and
  - 25 years in respect of onshore conventional resources.

In addition, concessionaires may request multiple extensions up to a maximum period of 10 years (irrespective of whether they obtained their concession before or after the implementation of the New Hydrocarbon Law).

- **Taxation:** Under an investment promotion scheme, concessionaires that invest more than \$250 million over a three-year period will be permitted to sell the following percentages of their production on international markets free from export taxes:
  - 20% in respect of conventional exploitation;
  - 20% in respect of unconventional exploitation; and
  - 60% in respect of offshore drilling exploitation.

The New Hydrocarbon Law also introduces a uniform tax structure for production activities at national, provincial and municipal levels by restricting the provincial governments from imposing new taxes or increasing the rate of tax on new investments.

- **Royalties:** Provincial government royalties are now unified at a national rate of 12% and may only be increased by 3% on each concession extension (subject to a maximum cap at 18%) and such extensions may only be awarded every 10 years to companies that meet specified investment requirements.
- **Provincial companies:** Both the federal government and the regional provinces are prohibited from creating reserve areas and awarding them to companies which they control. Both must now participate in the bidding process under the New Hydrocarbon Law.

In addition to the New Hydrocarbon Law, the Ministry of Economy recently announced a further boon for the oil and gas sector by reducing the tariffs applicable to oil exports (in order to encourage production in the current oil price decline, the Ministry has also established that the applicable rates will automatically and progressively reduce as prices move below \$80 a barrel WTI). As Argentina is a federal state in which the rights and title to exploit natural resources is vested with the regional provinces under the national constitution, the introduction of a nationally uniform regulatory regime under the New Hydrocarbon Law was warmly welcomed by the oil and gas sector. It is clear that the changes are directed, at least in

part, at the development of a shale gas industry in Argentina. This is a positive development, given that Argentina holds the world's second largest shale-gas reserves (with most of them in the Vaca Muerta shale play, which the EIA estimates to hold 308 trillion TCF of shale gas and 16.2 billion barrels of shale oil). Nevertheless, some commentators have suggested that the complexity surrounding Argentina's foreign exchange controls and its currency woes present further barriers that will need to be remedied before it sees the substantial foreign investments in exploration and production that are needed to develop the country's vast resources.