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I. Angola

With Executive Decree 97/14 dated April 8, 2014, the Ministry of Petroleum enacted new regulations on the management of operational discharges, repealing the prior rules on this matter. The new statute, amongst other rules, requires operators to prepare a Chemical Products Management Plan and to prepare and maintain an Operational Discharge Management Plan. These regulations apply to new and existing facilities—both onshore and offshore—as of April 8, 2014. Failure to comply with the new statute may trigger fines of up to USD 500,000.¹

During 2014, the Ministry of Petroleum also approved (i) Technical Regulations on Design, Construction and Operation of Gasoline and Diesel Filling Stations for road vehicles (Executive Decree 282/14 of September 22, 2014);² (ii) Technical Regulations on Design, Construction, Operation and Maintenance of Liquefied Petroleum Gas (“LPG”) Storage Facilities with a storage capacity of up to 200m³ (Executive Decree 295/14 of September 29, 2014);³ (iii) Technical Regulations on Design, Construction, Operation and Maintenance of Storage Facilities of LPG with a capacity exceeding 200m³ (Executive

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1. See, e.g., *New Regulations on Management of Operational Discharges Enacted*, ANGOLA LEGAL NEWS (Sept. 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140807_b248d3.pdf.

2. *New Rules on Service Stations*, ANGOLA LEGAL NEWS (Sept., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141104_f5f2be.pdf.

3. *LPG Facilities with Capacity of up to 200M3*, ANGOLA LEGAL NEWS (Sept., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141104_f5f2be.pdf.

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Decree 283/14 of September 22, 2014);⁴ and (iv) the new Regulations on Specifications for Petroleum Products Traded in Angola (Executive Decree 288/14 of September 25, 2014).⁵

Moreover, the Ministers of Finance and Petroleum enacted Joint Order 1522/14 on September 22, 2014, which declares that the Petroleum Products System Logistic Supervision Concessionaire, as well as the entities holding licenses for the retail sale of petroleum products, must make an annual contribution to the budget of the Petroleum Products Regulatory Institute in the amount of 0.0004 percent of the previous year's global turnover.⁶

II. Argentina

A. SETTLEMENT BETWEEN REPSOL AND ARGENTINA OVER YPF EXPROPRIATION

Less than two years after expropriating and taking over the control of YPF S.A.,⁷ the Argentine Government signed an Amicable Settlement and Compromise of Expropriation⁸ with Repsol (the "Agreement") on February 27, 2014, in Buenos Aires.⁹ On May 4, 2012, the Argentine Government had expropriated controlling equity interests in the Argentinean oil company YPF S.A. and its natural gas affiliate Repsol YPF Gas, S.A., both owned by Spanish multinational Repsol.¹⁰ As grounds for the expropriation, Argentina's President cited declining hydrocarbons reserves and production, Repsol's failure to invest in exploration and production (E&P), and its heavy distribution of dividends.¹¹

Following expropriation, initial ministerial reactions in Argentina were against payment of compensation to Repsol,¹² while Repsol's initial claim for expropriation was allegedly

4. *LPG Facilities with Capacity Exceeding 200M3*, ANGOLA LEGAL NEWS (Sept., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141104_f5f2be.pdf.

5. *New Petroleum Products Specifications Approved*, ANGOLA LEGAL NEWS (Sept., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141104_f5f2be.pdf.

6. *Annual Contribution for the Petroleum Products Regulatory Institute*, ANGOLA LEGAL NEWS (Sept., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141104_f5f2be.pdf.

7. See 47 ABA/SIL YIR (n.s.) 295, 297-299 (2013).

8. Press Release, National Ministry of Economy and Public Finance, Convenio de Solución Amigable y Avenimiento de Expropiación entre Argentina y Repsol [Amicable Settlement and Compromise of Expropriation Among Argentina and Repsol], (Feb. 27, 2014), <http://www.mecon.gov.ar/el-gobierno-argentino-y-repsol-firman-el-acuerdo-de-compensacion-por-la-expropiacion-de-ypf>.

9. Convenio de Solución Amigable y Avenimiento de Expropiación [Amicable Settlement and Compromise of Expropriation], National Ministry of Economy and Public Finance (Feb. 27, 2014), available at http://www.mecon.gov.ar/wp-content/uploads/2014/02/acuerdo_FINAL_27-02-2014.pdf.

10. Law No. 26,741, May 4, 2012 (Arg.), available at <http://www.infoleg.gov.ar/infolegInternet/buscarNormas.do>.

11. Discurso de la Presidenta de la Nación, Cristina Fernández de Kirchner, en el Acto de Anuncio del Envío al Congreso del Proyecto de Ley de Expropiación de YPF [Speech from the President of the Nation, Cristina Fernandez de Kirchner, on the Announcement of the Expropriation Bill of YPF] (Apr. 16, 2012), available at <http://www.presidencia.gov.ar/discursos/25810-anuncio-del-proyecto-de-ley-de-expropiacion-de-ypf-discurso-de-la-presidenta-de-la-nacion>.

12. See, e.g., Kicilloff: *No Vamos a Pagarles lo que Dicen* [Kicilloff, *We Shall Not Pay What They Are Saying*], LA NACIÓN (Apr. 18, 2012), <http://www.lanacion.com.ar/1465945-kicillof-no-vamos-a-pagarles-lo-que-dicen>.

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over USD 10.5 million.¹³ Legal actions initiated by Repsol¹⁴ against Argentina¹⁵ and against prospective partners of YPF S.A. planning joint ventures with YPF to invest in the newly discovered shale deposits in Vaca Muerta were followed by settlement discussions.

Ultimately, Argentina and Repsol settled for USD 5 billion,¹⁶ which the government deemed fair and equitable.¹⁷ The Argentine government advanced the agreed compensation by tendering a portfolio of government bonds¹⁸ to Repsol *pro solvendo*¹⁹ to optimize their liquidity. Repsol sold the government bonds on the market promptly after settlement.²⁰ Validity of the Agreement was conditioned on satisfaction of the following conditions precedent fully and unconditionally:²¹ (i) the ratification of the Agreement by the General Shareholders' Meeting of Repsol on or before April 7, 2014 (which was satisfied on March 28, 2014²²); and, (ii) subsequently, ratification of the Agreement by the Honorable National Congress of Argentina on or before May 1, 2014. The National Congress of Argentina ratified the Agreement on April 28, 2014.²³

B. AMENDMENT OF HYDROCARBON LAW

In 2014, YPF's CEO—appointed by the federal government after the expropriation of Repsol's controlling stake in YPF—voiced his criticism over the carried interest provided under the bidding conditions tendered by many provincial states to grant exploration per-

13. *Repsol Exige una Compensación de al Menos 8.000 Millones por YPF* [Brufau: *Repsol Demands Compensation of at Least 8.000 for YPF*], EL MUNDO (Apr. 17, 2012, 1:18 PM), <http://www.elmundo.es/elmundo/2012/04/17/economia/1334646693.html>.

14. *Repsol Demanda a Argentina en Estados Unidos por la Expropiación de YPF* [Repsol Sues Argentina in United States for YPF Expropriation], RTVE (May 16, 2012), <http://www.rtve.es/noticias/20120516/repsol-demanda-argentina-nueva-york-expropiacion-ypf/527187.shtml>.

15. See, e.g., *Repsol Demandó a la Argentina ante el CLADI por la "Expropiación Discriminatoria"* [Repsol Files Claim against Argentina with ICSID for "Discriminatory Expropriation"], LA NACIÓN (Dec. 3, 2012, 6:21 PM), <http://www.lanacion.com.ar/1532938-repsol-demando-a-la-argentina-ante-el-ciadi-por-la-expropiacion-discriminatoria-de-ypf>.

16. Amicable Settlement and Compromise of Expropriation Among Argentina and Repsol, *supra* note 8, at art. 1.

17. Press Release, National Ministry of Economy and Public Finance, Kicillof, *Este Convenio nos Deja una Empresa con Inmenso Futuro, Como Motor del País, de la Distribución del Ingreso y del Crecimiento con Equidad* [Kicillof, *This Agreement Leaves Us a Company with an Immense Future as an Engine of the Country, of Income Distribution and of Equitable Growth*] (Apr. 8, 2014), <http://www.mecon.gov.ar/wp-content/uploads/2014/04/08-04-2014.pdf>.

18. See Press Release, National Ministry of Economy and Public Finance, *Convenio de Solución Amigable y Avenimiento de Expropiación* [Amicable Settlement and Compromise of Expropriation] (May 8, 2014), <http://www.mecon.gov.ar/convenio-de-solucion-amigable-y-avenimiento-de-expropiacion-entre-argentina-y-repsol>; see also *Argentina Paga a Repsol por YPF* [Argentina Pays Repsol for YPF], EL MUNDO (Aug. 5, 2014, 4:00 PM), <http://www.elmundo.es/economia/2014/05/08/536b8dfe268e3e4e438b457a.html>.

19. Amicable Settlement and Compromise of Expropriation, *supra* note 8, arts. 3, 4.

20. See, e.g., *Repsol se Desvincula por Completo de Argentina con su Salida de YPF* [Repsol Breaks Away Completely from Argentina with Its Exit from YPF], EL PAÍS, (May 23, 2014 11:59 AM), http://economia.elpais.com/economia/2014/05/23/actualidad/1400839173_922748.html.

21. Amicable Settlement and Compromise of Expropriation, *supra* note 8, art.7.

22. See, e.g., Press Release See *Convenio de Solución Amigable y Avenimiento de Expropiación* [Amicable Settlement and Compromise of Expropriation], National Ministry of Economy and Public Finance National Ministry of Economy and Public Finance, 05/8/2014 *supra* note 18.

23. Law No. 26.932, April 28, 2014 (Arg.), available at <http://www.infoleg.gov.ar/infolegInternet/verNorma.do?id=229282>.

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mits.²⁴ He argued that this carried interest compromised the feasibility of mining the vast unconventional Vaca Muerta resources.

As a result, during the second quarter of 2014, YPF worked on a proposal to amend Argentina's Hydrocarbons Law No. 17.319.²⁵ The federal government promoted this proposal within the oil producing states, and after reaching a consensus with these states, introduced a bill to the National Congress.²⁶ The bill was enacted into Law No. 27.007 on October 31, 2014.²⁷

Regarding exploration bids, Law 27.007²⁸ provides that the Secretary of Energy and all provincial hydrocarbons enforcement authorities shall draft and agree on model competitive bidding terms to be followed by all provincial governments in future bidding rounds.²⁹ Blocks shall be awarded to the bidders offering the highest investments or exploration activities.³⁰ Moreover, provincial governments may not reserve additional open acreage for their state-owned companies. Such companies may set up joint ventures with private investors, but they are bound to bear their respective participating interests in all project development costs.³¹

Law No. 27.007 also incorporates and regulates unconventional hydrocarbon concessions initially introduced by National Decree 929/2013 on July 15, 2013.³² Unconventional exploitation of hydrocarbons means lifting liquid and/or gaseous hydrocarbons through unconventional stimulation techniques applied in reservoirs located in shale rock formations (shale gas or shale oil), tight sands (tight sands, tight gas, tight oil), and coal layers (coal bed methane), and/or characterized generally by the presence of low permeability rocks.³³

Without prejudice to the validity of existing exploitation concessions, concessionaires may (i) request the grant of a new unconventional hydrocarbon exploitation concession over the area of their preexisting concession(s), (ii) or subdivide the area of their existing concession(s), with new concessions granted on new areas of exploitation of unconventional hydrocarbons. Preexisting concessions will remain in effect under the previously existing conditions and term. Finally, unconventional hydrocarbon exploitation concessionaires with a preexisting concession adjacent to a new concession may apply for the unification of both areas as one unconventional exploitation concession so long as the two areas are proven contiguous. The granting authority may set the boundaries of these adjacent areas.

24. See, e.g., Galuccio: "El País se Debe una Discusión sobre el Sistema Regresivo de Acarreo" [*Galluccio: "The Country Owes Itself a Discussion over the Regressive Carried Interest System"*], TELAM (May 21, 2014, 10:04 PM), <http://www.telam.com.ar/notas/201405/64137-galuccio-el-pais-se-debe-una-discusion-sobre-el-sistema-regresivo-de-acarreo.html>.

25. Law 17.319, June 30, 1967 (Arg.), available at <http://www.infoleg.gob.ar/infolegInternet/verNorma.do?id=16078>.

26. Presidential Introduction of the Hydrocarbons Law Amendment Bill to Congress (Sept. 16, 2014), available at http://www.senado.gov.ar/bundles/senadoportal/noticias/pe_316_14.pdf.

27. Law 27.007, October 31, 2014, available at <http://www.infoleg.gob.ar/infolegInternet/anexos/235000-239999/237401/norma.htm>.

28. *Id.*

29. *Id.* at art. 12.

30. *Id.* at art. 13.

31. *Id.* at art.18.

32. See, e.g., Caryl C. Ben Basat et. al., *Int'l Energy & Natural Law*, 48 INT'L LAW. 291, 292 (2014).

33. Law 27.007, *supra* note 27, at art.5.

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A key aspect of unconventional hydrocarbon exploitation concessions is that the length of these contracts is thirty-five years³⁴—ten years longer than the twenty-five year term applicable to conventional hydrocarbons, and five longer than the thirty-year term applicable to offshore projects.

National Executive Decree 929/2013 paved the way for YPF S.A. and Chevron Corporation to execute a joint venture agreement to develop shale oil and gas resources from the Vaca Muerta shale formation located in the Neuquén province.

Driven by the needs and demands of prospective investors, Decree 929/2013 also approved a set of incentives that initially had been available only to companies who submitted a “Hydrocarbon Exploitation Investment Project” to the government, which required direct investments in foreign currency of no less than USD 1 billion calculated at the time of submission of the project to be invested during the first five years of the project. Subsequently, Law No. 27.007 instructed the national government to incorporate into the promotional regime hydrocarbon exploitation investment projects involving direct investments in foreign currency of at least USD 250 million calculated at the time of submission of the project and to be invested during the first three years of the project (Section 19, Hydrocarbons Law Amendment No. 27.007).³⁵ Thus, the scope of projects eligible for this promotional regime increased considerably.

Applicable incentives under Decree 929/2013 include the following: (a) when the domestic market is fully satisfied, the right to freely export a percentage of the hydrocarbon production from these projects (twenty percent for onshore conventional and unconventional projects or sixty percent for offshore projects) without any export duty, coupled with a right to freely dispose of all foreign currency proceeds obtained therefrom; and (b) when national hydrocarbon production is insufficient to meet domestic demands, the right to receive the same percentage of hydrocarbon production from such projects at a price in Argentine Pesos no lower than the applicable export price (before export duties), coupled with access to the foreign exchange market to convert the proceeds into foreign currency.³⁶

III. Cameroon

Order 2014/001, dated July 7, 2014, introduced clarifications and amendments to the General Tax Code, including a reduction of the Special Tax on Petroleum Products (“TSPP”) rates as follows: (i) XAF 80 (roughly USD 0.15) per liter for premium petrol; and (ii) XAF 60 (roughly USD 0.11) per liter for diesel.³⁷

IV. Cape Verde

During 2014, Decree-Law 1/2011 of January 3, 2011 was amended by means of Decree-Law 18/2014, on March 10, 2014. This law regarding independent and self-generated electrical power from renewable sources governs incentives, licensing procedures,

34. *Id.* at art. 9.

35. *Id.* at art.198

36. *Id.*

37. *Reduction of Special Tax on Petroleum Products (“TSPP”), CAMEROON LEGAL NEWS* (May-July, 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140820_d2e85b.pdf.

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and requirements for conducting such activities, among other rules. The new statute (i) clarifies which government authorities are responsible for each stage of the licensing procedure, (ii) maintains the General Energy Directorate in charge of such procedure, and (iii) establishes that a license can only be issued following consultation with the Economic Regulation Agency.³⁸

V. Gabon

Order 00563/MPERH/DGH/DAEJF of April 8, 2013—approved last year yet made available in 2014—lists the charges due on making available petroleum data and fees relating to certain administrative formalities carried out by the Hydrocarbons Administration. This order sets forth the rates applicable to making available and selling petroleum data, processing oil equipment importation files, fiscal metering, granting authorizations, and re-pressurizing gas cylinders.³⁹

Moreover, Gabon has enacted Law 11/2014 dated August 28, 2014, which regulates the hydrocarbons sector in the country. The new law applies to all operators and subcontractors carrying out upstream and downstream activities in Gabon, and it repeals all former statutes on this matter.

VI. Guinea-Bissau

In 2014, Petroleum Law 4/2014 (April 15, 2014) was approved by the National Assembly, which regulates liquid and gaseous hydrocarbon prospecting, exploration, production, and their transport and supervision. This statute introduces new rules governing exploration & production rights, types of petroleum contracts, the National Oil Company's (PETROGUIN) participation in petroleum concessions, and limits to the number of licenses, or blocks, that can be awarded to each contractor group or operator. The law also sets forth a new tax and customs regime applicable to the petroleum sector and a mandatory local content rule.⁴⁰

VII. Mozambique

The Government approved two new concessions for power generation projects to be carried out as public private partnerships ("PPPs"). First, Project Chókwè (construction of a 40 MW natural gas-fired power plant in the province of Gaza) was approved through Ministerial Statute 26/2014 of February 12, 2014. Second, the Moatize coal-fired Project, with a design capacity of up to 660 MW, was approved by Decree 10/2014 of March 14, 2014.⁴¹

38. *Amendments to the Special Renewable Energy Regime*, CAPE VERDE LEGAL NEWS (Feb.–Apr., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140807_caa77b.pdf.

39. *Setting up of a Pricing List for the Oil Sector*, GABON LEGAL NEWS (Mar. 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140401_417948.pdf.

40. *New Petroleum Law*, GUINEA-BISSAU LEGAL NEWS (Apr.–June, 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141113_343721.pdf.

41. *Award of Power Generation Concessions*, MOZAMBIQUE LEGAL NEWS (Feb.–Apr., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140821_618411.pdf.

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Additionally, through Resolutions 12/2014 and 13/2014, both dated March 14, 2014, the Council of Ministers authorized the negotiation of two PPP concessions for hydro-power projects. The first project will be located in the province of Tete with a nominal capacity of 215 MW, and its sponsors will be the national electricity company, Electricidade de Moçambique, EP (“EDM”), and private companies Sonipal, Lda. and Rutland Holding, Ltd. The second project, to be implemented in the Zambezi River in the provinces of Manica and Tete, will have a 600 MW nominal capacity. EDM and Sonipal, Lda. are also sponsors, along with the foreign companies Cazembe Holding, Ltd. and Hydroparts Holding, Ltd.⁴²

On March 19, 2014, the Ministry of Energy approved the Regulations on the Licensing of Petroleum Technicians with Ministerial Order 31/2014. These regulations apply to technicians working in petroleum facilities covered by the downstream activities regime (as set forth in Decree 45/2002 of December 28, 2012).⁴³

Also, the new Petroleum Operations Tax Law⁴⁴ sets forth a specific taxation and fiscal regime for petroleum operations. Effective January 1, 2015, this law applies to all persons conducting petroleum operations under a concession contract. Petroleum contracts executed under the prior legislation remain governed by the previous law unless interested companies apply for coverage under the new legislation within sixty days of entry into force of the new rules.⁴⁵

The new statute provides (i) a fifty percent reduction in the petroleum production tax whenever production targets development of local industries; (ii) production sharing shall be according to a sliding scale with reference to an R-factor, the sharing percentages being set in the new statute; (iii) recoverable costs are subject to a statutorily defined cap; (iv) an amortization table is included, under which all depreciable assets are to be amortized; (v) petroleum activities are subject to a ring-fencing principle on a concession basis, applying not only for corporate tax purposes, but also for determining production-sharing plateaus; and (v) capital gains arising from transfers of any interests or rights involving upstream assets located in Mozambique are always taxable, irrespective of the location of the transaction.

VIII. Republic of the Congo

The Congolese Government approved Order 19031, dated December 19, 2013, which provides a statutory framework for the performance of activities at sea by certain contractors. Contractors supplying sea-related services—such as removal or collection of exploration waste and/or waste from ships or oilrig cargos, resulting in discharges of hydrocarbons and other waste in Congolese territorial waters—are now subject to the

42. *Negotiations of PPPs for Hydroelectric Projects Authorized*, MOZAMBIQUE LEGAL NEWS (Feb.–Apr., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140821_618411.pdf.

43. *Rules on Licensing of Petroleum Technicians*, MOZAMBIQUE LEGAL NEWS (May–July, 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140829_e5fef4.pdf.

44. Law No. 27/2014, Sept. 23, 2014 (Moz.).

45. *Taxation and Fiscal Benefits for Petroleum Operations with New Specific Regime*, MOZAMBIQUE LEGAL NEWS (Aug.–Oct., 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20141204_843d7f.pdf.

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provisions of the order, which includes rules on waste removal or collection by ships and oilrigs at port, as well as mooring or docking in Congolese territorial waters.⁴⁶

IX. Timor-Leste

In 2014, the National Petroleum Authority (ANP) issued Regulation 1/2014 of January 15, 2014, which sets forth the quality standards and specifications to be met by fuel, biofuels and lubricants used in Timor-Leste.⁴⁷ The regulation aims at reducing the environmental impact.

X. Ukraine

Ukraine's unique geographical location and gas storage capabilities give the country a specific role in European and global fuel and energy markets. While Ukraine is an energy-dependent country with no sufficient volumes of its own conventional energy sources (oil and gas), it is important for global energy market as a critical transit centre for exports of Russian oil and natural gas to Eastern and Western Europe.

The annexation of Crimea by the Russian Federation and unrest in the southeast are current hot topics in Ukraine, which affect companies operating in the energy sector. At this time of drastic change, companies are looking for solutions to their problems, and energy policy has also faced certain challenges. Due to the suspension of gas supplies from Russia, Ukraine is taking all possible measures to diversify supplies and to stimulate local gas extraction. And since the state is no longer able to subsidize households and artificially restrain the growth in energy prices, the government has had to revise utility tariffs. Improving energy efficiency has become a necessity.

A. OIL AND GAS

One of the main targets of today's government's policy is diversification of gas supply and exploration of new energy sources. On June 16, 2014, Russia cut off Ukraine's gas supply because of its debt to Gazprom. After Ukraine and Russia agreed upon debt restructuring and terms for gas supply until April 1, 2015, the gas supplies were resumed on October 31, 2014. At the same time in 2014, Ukraine received gas supplies in reverse flow from neighboring Slovakia,⁴⁸ Hungary,⁴⁹ and Poland,⁵⁰ where supplies were suspended from time to time.

46. *Regulations Regarding Contractor's Waste Removal and Collection Activities at Sea*, REPUBLIC OF CONGO LEGAL NEWS (Nov. 2013–Jan.2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140228_95e1cd.pdf.

47. *Regulations on Fuel, Biofuel and Lubricant Quality Standards and Specifications Approved*, TIMOR-LESTE LEGAL NEWS (Dec. 2013–Feb. 2014), available at http://www.mirandalawfirm.com/uploadedfiles/20140821_917d55.pdf.

48. *See Ukraine, Slovakia Working on Expansion of Technical Possibilities for Gas Reverse Supplies, Says Ukrtransgaz*, INTERFAX—UKRAINE (Nov. 27, 2014, 2:35 PM), <http://en.interfax.com.ua/news/economic/236650.html>.

49. *See Hungary Halts Flow of Gas to Ukraine*, FINANCIAL TIMES (Sept. 26, 2014, 9:30 AM), <http://www.ft.com/cms/s/0/7e5d2bf0-4552-11e4-ab86-00144feabdc0.html#axzz3KHgLpsCL>.

50. *See Poland Stops Reverse Gas Flow to Ukraine, Kiev Blames Russia*, RT (Sept. 10, 2014, 5:43 PM), <http://rt.com/business/186792-ukraine-poland-gas-reverse/>.

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In addition, in August 2014, in order to stimulate an increase in domestic oil and gas production and to strengthen Ukraine's energy security, the government provided a two-year grace period for each new well that will be drilled or where production of oil and gas has started.⁵¹

B. GAS AND ELECTRICITY MARKET REFORM

On August 14, 2014, the Parliament of Ukraine passed legislation to reform the Unified Gas Transportation System of Ukraine (UGTS).⁵² This legislation will reform the National Joint Stock Company, Naftogaz of Ukraine,⁵³ and the legislation aims to align Ukraine's oil and gas industry with relevant EU legislation and with the Energy Community.⁵⁴ Pursuant to this legislation, the operations of UGTS may be assigned to an enterprise founded or owned exclusively by the State or by a joint venture comprised of the State (owning at least fifty-one percent of participation rights) and a legal entity or entities owned and controlled by residents of Member States of the EU, the United States, or the Energy Community.⁵⁵ As a result, the legislation aims to attract foreign investment and increase gas flow through Ukraine.

On September 17, 2014, Ukraine's Cabinet of Ministers revised Decree No. 864-?,⁵⁶ the government's plan for implementation of the Protocol on the Accession of Ukraine to the Energy Community Treaty. This Decree provides for developing a reform program for the National Joint Stock Company, Naftogaz of Ukraine, to comply with the requirements of Directive 2009/73/EC,⁵⁷ for starting implementation of the reform by January 1, 2015; and for aligning the Procedure for access and connection to UGTS with EC Regulation No. 715/2009⁵⁸ by January 1, 2015.

Ukraine's legislature passed a law on operating principles of the electricity market⁵⁹ aimed at creating greater transparency and fostering competition in the energy market.⁶⁰

51. Law of Ukraine on Amendments to the Tax Code of Ukraine and Certain Other Legislative Acts of Ukraine (to improve certain provisions), Law No.1621-VII (July 31, 2014) (Ukr.), *available at* <http://zakon2.rada.gov.ua/laws/show/1621-18>.

52. Draft Law No. 4116a on Amendments to Certain Laws of Ukraine on Reforming the Management System of the Unified Gas Transportation System of Ukraine (June 18, 2014) (Ukr.), *available at* http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51386.

53. Naftogaz is a vertically integrated gas-and-oil company performing the full operation cycle on gas and oil exploration and development, operational and test well-drilling, gas and oil transport and storage, and consumer supply of natural and liquefied gas. Over 90 percent of gas and oil in Ukraine have been produced by enterprises of Naftogaz.

54. Treaty establishing the Energy Community (Oct. 25, 2014), *available at* http://www.energy-community.org/portal/page/portal/ENC_HOME/ENERGY_COMMUNITY/Legal/Treaty.

55. See Draft Law No. 4116a, *supra* note 52.

56. Decree No. 864-p On Amendments to the Plan of Measures to Meet Obligations Within the Framework of the Treaty Establishing the Energy Community (Sept. 17, 2014) (Ukr.), *available at* <http://zakon1.rada.gov.ua/laws/show/864-2014-%D1%80>.

57. Directive 2009/73/EC of the European Parliament and of the Council (July 13, 2009), *available at* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0094:0136:en:PDF>.

58. Regulation (EC) No 715/2009 of the European Parliament and of the Council (July 13, 2009), *available at* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0036:0054:en:PDF>.

59. Draft Law No. 0916 on Operating Principles of the Electricity Market (Dec. 12, 2012) (Ukr.), *available at* http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=45062.

60. *Id.* art 3.

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This legislation intends to operate Ukraine's electricity market operation through direct agreements, "day-ahead" contracts, and a balancing market, all of which will regulate the imbalance in electricity generation.

C. RENEWABLE ENERGY

On October 1, 2014, the Cabinet of Ministers of Ukraine approved a decree on renewable energy and its implementation up to 2020.⁶¹ This decree aims to ensure that by 2020, the share of electricity generated in Ukraine from renewable sources should be at least eleven percent of the total energy consumption. This document stipulates that by 2020, the capacity of wind power plants in Ukraine should be 5.6 times greater. With this decree, Ukraine has again confirmed its objective to increase the share of renewables, which will consequently aid in attracting investors and commissioning new renewable power capacities.

In 2014, a resolution of Ukraine's National Energy Regulation Commission (NERC) made it possible for not only businesses, but also households producing electricity using alternative energy sources, to receive economic incentives known as "green" tariffs. The resolution became effective on June 10, 2014.⁶²

D. ENERGY EFFICIENCY

To demonstrate its intention to meet one of International Monetary Fund's (IMF) most important requirements for obtaining a stabilization loan, i.e., raising gas prices to the general public to the economically justified level, NERC increased gas prices for households by forty percent.⁶³ In addition, NERC increased electricity costs to the general public as of June 1, 2014 by ten to forty percent depending on the amount of electricity consumption.⁶⁴ By July 1, 2014, heating costs had risen twenty-five to forty percent.⁶⁵

With such dramatic increases, there is a high probability of the adoption of legislation for energy service companies (ESCOs) in budgetary institutions. This legislation concerns energy service contracts between beneficiaries and providers (normally an ESCO) of an energy efficiency improvement measure, in which investments in that measure are paid for in relation to a contractually agreed level of energy efficiency improvement.⁶⁶ In 2014, two different draft laws regulating these issues were registered. The documents aim to provide a legal basis for the procurement of energy services; solve the problem of financing of energy efficiency measures through savings on utilities in budget institutions;

61. Ordinance No. 902-p of the Cabinet of Ministers of Ukraine on the National Action Plan for Renewable Energy for the Period up to 2020 (Oct. 1, 2014).

62. NERC Resolution No. 170 On Approval of the Sale, Accounting and Payments for Electricity Produced from Solar Energy by Power Facilities (Generating Units) of Private Households (Feb. 27, 2014), available at <http://zakon4.rada.gov.ua/laws/show/z0539-14>.

63. NERC Resolution No. 420 on Establishing Retail Prices for Natural Gas Used for Public Consumption (Apr. 3, 2014), available at <http://zakon2.rada.gov.ua/laws/show/z0388-14>.

64. CMU Resolution No. 149 on Improving State Policy Regulating the Tariffs for Electricity Supplied to the Population and to Other Consumers (May 21, 2014), available at <http://zakon2.rada.gov.ua/laws/show/149-2014-%D0%BF>.

65. NERC Resolution No. 146 (Oct. 17, 2014), available at <http://www.nerc.gov.ua/index.php?id=12218>.

66. Directive 2006/32/EC of the European Parliament and of the Council (Apr. 5, 2006), available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=LEX:32006L0032>.

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and guarantee of payment for services ESCO delivers pursuant to energy service contracts.

XI. Venezuela

A. OIL & GAS AGREEMENTS

The Bolivarian Republic of Venezuela (Venezuela) and the national oil company Petróleos de Venezuela, S.A. (PDVSA) entered into several agreements with strategic partners on oil and gas matters throughout 2014. These include several agreements aimed at furthering the development of oil projects and increasing production in Venezuela, with particular focus on the Orinoco Oil Belt, home to vast oil reserves. Other agreements entered into by Venezuela or PDVSA involve the long-term supply of oil and oil products, infrastructure and construction of facilities, and provision of oilfield services.

In addition to oil projects undertaken in the Orinoco Oil Belt, Venezuela has sought to expand the exploitation and distribution of natural gas. As part of its attempt to achieve this goal, PDVSA entered into agreements this year for the development of production of condensates (natural gas liquids) in projects such as the Perla 3X offshore gas reservoir located off the western coast of Venezuela.⁶⁷

In terms of gas, Venezuela is currently ranked as having the eighth largest proven natural gas reserves in the world and the largest in Latin America.⁶⁸

B. RELEVANT ICSID ARBITRATION AWARDS ON ENERGY MATTERS

On September 22, 2014, an ICSID tribunal awarded Canadian mining company Gold Reserve USD 740.3 million in connection with claims filed against Venezuela arising out of several mining concessions and rights.⁶⁹

On October 9, 2014, an ICSID tribunal issued its award at the conclusion of the *Exxon Mobil Corp. v. Venezuela* case, one of the largest claims filed against Venezuela before the ICSID. In its decision, the tribunal ordered Venezuela to pay Exxon USD 1.6 billion in compensation for the 2007 expropriation of the company's investment in oil projects in the country.⁷⁰ A deduction of USD 907 million will apply to this award since PDVSA already owes Exxon this sum pursuant to a 2012 ICC tribunal decision in connection with a related case. On October 24, 2014, Venezuela filed an application for review of the ICSID award that resulted in a temporary stay of its enforcement.⁷¹

67. See *PDVSA Signs Agreements with ENI, Repsol*, EL UNIVERSAL (June 5, 2014 8:47 AM), <http://www.eluniversal.com/economia/140605/pdvs-signs-agreements-with-eni-repsol>.

68. See Programa Educación y Soberanía Petrolera. Aspectos Técnicos: Gas Natural [Programo on Education and Oil Sovereignty: Natural Gas], PETRÓLEOS DE VENEZUELA S.A., http://www.pdvs.com/PESP/Pages_pespectostecnicos/gasnatural/reservas_gasiferas.html.

69. Gold Reserve Inc. v. Bolivarian Republic of Venezuela, ICSID Case No. ARB(AF)/09/1, Procedural Details (Sept. 22, 2014), *available at* <https://icsid.worldbank.org/ICSID/FrontServlet>.

70. Venezuela Holdings B.V. and others v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/07/27, Award (Oct. 9, 2014), *available at* <http://italaw.com/cases/713>.

71. Venezuela Holdings B.V. and others v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/07/27, Procedural Details (Oct. 24, 2014), *available at* <https://icsid.worldbank.org/ICSID/FrontServlet>.

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In another proceeding, an ICSID tribunal's decision on damages regarding the claim of ConocoPhillips against Venezuela remains pending. The ICSID tribunal is now overseeing the quantum phase of the case after its decision on jurisdiction and merits, in which the tribunal found Venezuela to be in breach of its obligation to negotiate in good faith for compensation for its taking of Conoco's assets in three oil projects in accordance with Article 6(c) of the Netherlands-Venezuela Bilateral Investment Treaty.⁷²

C. SHALE GAS EXPLORATION AND EXTRACTION

Venezuela is ranked as having the seventh largest technically recoverable oil shale resources worldwide,⁷³ but the government has said that it disagrees with the extraction of these resources using fracking technology. In this regard, while PDVSA announced it would undertake the first shale gas exploration in the country in May 2014,⁷⁴ more recently President Nicolás Maduro and the Venezuelan National Assembly (the latter through a National Assembly Accord) expressed their opinions on what they consider are the negative effects and environmental impact of the fracking method for exploiting shale oil and gas.⁷⁵

D. OTHER RELEVANT MATTERS

Other relevant topics in the oil and gas industry have been changes in public officials appointed to coordinate the oil and gas sector in Venezuela,⁷⁶ new rules on exchange control matters applicable to energy projects, and the possibility of Venezuela divesting some of its offshore assets, including the potential sale of the offshore company CITGO.⁷⁷

In the mining sector, President Nicolás Maduro recently approved the Decree with Rank and Force of Organic Law Reserving to the State the Activities of Exploration and Exploitation of Gold, as well as Related and Ancillary Activities, whereby the Venezuelan

72. See ConocoPhillips Petrozuata B.V. and others v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/07/30, Decision on Jurisdiction and Merits (Sept. 3, 2013), available at <http://italaw.com/cases/321>.

73. See Press Release, US Energy Information Administration (EIA), Technically Recoverable Shale Oil and Shale Gas Resources: An Assessment of 137 Shale Formations in 41 Countries Outside the United States (June 13, 2013), <http://www.eia.gov/analysis/studies/worldshalegas/>.

74. See AFP, *Venezuela to Venture into Shale Gas Exploration*, NEWS 24 (May 22, 2014, 9:45 AM), <http://www.news24.com/Green/News/Venezuela-to-venture-into-shale-gas-exploration-20140522>.

75. See Agreement in Support of the Statements of the Constitutional President of the Bolivarian Republic of Venezuela, Nicolás Maduro Moros, Related to the Rejection and Condemnation of Oil Extraction via the Fracking Method, Issued by the Venezuelan National Assembly, Published in Venezuelan Official Gazette No. 40.534 (Nov. 5, 2014) (Spanish).

76. See Kejal Vyas & Ezequiel Minaya, *Venezuelan President Replaces Oil Minister Rafael Ramírez*, WALL STREET J. (Sept. 3, 2014, 12:24 AM), <http://online.wsj.com/articles/venezuelan-president-replaces-oil-minister-rafael-ramirez-1409713741>.

77. See Erwin Seba, *Exclusive: Potential Buyers Checking Out Two Citgo Refineries—Sources*, REUTERS (Nov. 6, 2014, 4:57 PM), <http://www.reuters.com/article/2014/11/06/us-refinery-sale-citgo-pete-idUSKBN0IQ2AH20141106>.

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government regulates all aspects related to gold mines and reservoirs; the reserve to the State of the primary, ancillary and accessory activities related to such mineral; and the creation of companies and strategic alliances for the performance of such activities.⁷⁸

78. See Decree with Rank and Force of Organic Law Reserving to the State the Activities of Exploration and Exploitation of Gold, as Well as Related and Ancillary Activities, published in Special Official Gazette No. 6150 (Nov. 18, 2014) (Spanish), *available at* <http://issuu.com/diariopanorama6/docs/6150/1?e=0/10353807>.

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