

Dear Friends and Clients,

With our newsletter we would like to inform you of recent and significant legal developments in the field of energy law in Argentina

Best regards,

José A. Martínez de Hoz (Jr.)
Head Energy Practice Group

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NEW EXPORT AGREEMENTS REGISTRATION REGIME

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On October 20, 2020, the Argentine Federal Tax Authority (“**Federal Tax Authority**”) published Resolution No. 4837/2020 (the “**Resolution**”), issued under Article 17 of the Income Tax Law (“**ITL**”).

The ITL requires all commodities export agreements to be registered with the Federal Tax Authority whenever an international intermediary is involved in the transaction, if one of the following requirements is met:

- a) The international intermediary is related to the local person; or
- b) The exporter or the importer is related to the local person; or
- c) The international intermediary is resident, incorporated, located or domiciled in a non-cooperative or low or no tax jurisdiction.

The Resolution implements the Registry of Export Agreements for those agreements meeting at least one of the requirements

listed above, in case of making definitive export of listed goods for consumption (non-agricultural).

The initial registration must be done no later than 11 am on the day after the agreement is executed and the complete registration must be done no later than the 7th day following the initial registration. The deadlines set out above are business days.

The information reported may be amended until the beginning of the embarking. Annulment of the agreement may be accepted (and must be reported) in case of force majeure (according to Article 54 of Decree No. 862/19).

The Resolution applies to all agreements executed as from October 21, 2020. Agreements executed before that date but made effective afterwards must be reported within 10 business days of October 21, 2020.

LEGISLATURE OF NEUQUÉN CONSIDERS PASSING BILL OF LAW WITH AMENDMENTS TO THE “PURCHASE NEUQUINO” POLICY

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The “Purchase *Neuquino*” (in Spanish “*Compre Neuquino*”) is a local content policy designed and implemented by the Province of Neuquén (“**Neuquén**”) that requires exploration and production, downstream and service companies carrying activities in Neuquén (the “**Companies**”) to prioritize local suppliers when procuring goods and services, with the aim of boosting local supply chain development.

The Legislature of the Province of Neuquén is considering passing a Bill of Law (“**Bill**”) amending the current “*Purchase Neuquino*” policy set forth under Provincial Law No. 2,755 dated December 14, 2010, as amended by Provincial Law No. 3,032 dated November 3, 2016 (the “**Current Purchase Neuquino Policy**”).

The Bill seeks to include the following amendments to the Current Purchase *Neuquino* Policy:

(a) Companies shall inform their contractors through their contracting terms and conditions that preference shall be given to local suppliers of goods and services.

(b) Local suppliers shall be assessed with a formula (not provided in the Bill) that basically considers their shareholding structure, the amount of local employees hired and the domicile of their offices and facilities; and, if they are successful, they shall be certified as “Certified Local Suppliers”. Depending on the result obtained in said assessment, Certified Local Suppliers shall be subdivided in two categories (A and B); those with the highest score shall be categorized as “A” and those with a lower score in the assessment but that still manage to be certified as “**Certified Local Suppliers**” shall be categorized as “B”.

(c) Companies shall invite any and all Certified Local Suppliers to their tender proceedings.

(d) Companies shall prioritize bids submitted by:

i. Category A Certified Local Suppliers even if the price offered by them is up to 15% higher than the best bid submitted by a non-Certified Local Supplier; and

ii. Category B Certified Local Suppliers even if the price offered by them is up to 7% higher than the best bid submitted by a non-Certified Local Supplier. In both cases, bids submitted by Certified Local Suppliers shall be preferred as long as they are identical or similar to the best bid submitted by a non-Certified Local Supplier. If awarded, Certified Local Suppliers may adjust the price offered in their bids up to the best price offered by a non-Certified Local Supplier.

(e) Companies shall prioritize bids submitted by Certified Local Suppliers in at least 60% of their total annual amount contracted in each category or type of activity.

(f) A digital database shall be created for the sole use of the enforcement authority, the Certified Local Suppliers and the Companies, and through which the latter shall provide information on the status of their purchases and acquisitions.

The Bill does not modify or add new penalties to non-complying parties, other than the inclusion of a one-year suspension of local suppliers found guilty of submitting false documents and/or information in order to be certified as Certified Local Suppliers.

UPSTREAM COMPANIES REGISTRY: AMENDMENT TO REGULATIONS ON RESTRICTIONS TO OPERATE IN THE ARGENTINE CONTINENTAL SHELF

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By means of Resolution No. 74/2020 (“**Resolution 74**”), published on November 3, 2020, the Secretariat of Energy (the “**SE**”) corrected certain drafting errors that had been included in Section 18 of Annex I of Disposition N° 337/2019 of the Undersecretariat of Hydrocarbons and Fuels (“**Disposition 337**”). Disposition 337 prohibits certain hydrocarbons activities in the Argentine Continental Shelf without prior authorization from the Argentine Government (the “**Prohibited Hydrocarbons Activities**”).

Disposition 337, issued on December 10, 2019, regulates enrolment in the Hydrocarbons Companies Registry –

Upstream Section (the “**Registry**”), replacing Resolution SE No. 407/2007 (“**Resolution 407**”).

Article 18 of Annex I of Disposition 337 (i) prohibits enrollment in the Registry by companies participating or involved in Prohibited Hydrocarbons Activities; and (ii) establishes certain prohibitions on companies enrolled in the Registry regarding participation or involvement in Prohibited Hydrocarbons Activities.

The original text of Article 18 of Annex I of Disposition 337 contained a broad definition of Prohibited Hydrocarbons

Activities, capturing companies that participated or were involved in Prohibited Hydrocarbons Activities in the past.

This broad prohibition had been included in the original text of Resolution 407, and had afterwards been amended by means of Resolution SE No. 194/2013, in order to adapt it to Law No. 26,659 enacted in 2013. This amendment had been mainly justified on grounds that Law No. 26,659, which had higher normative hierarchy than Resolution 407, did not capture past Prohibited Hydrocarbons Activities.

Unfortunately, despite Disposition 337 stating that the prohibitions should be maintained as envisioned in Resolution 407, as amended by Resolution SE No. 194/2013, it mistakenly used the original text of Resolution 407, which text captured cases involving prior involvement in Prohibited Hydrocarbons Activities.

Therefore, Resolution 74 corrects the abovementioned drafting error, and reinstates the amended text of its

predecessor (Resolution 407), so that the prohibitions and sanctions only capture current involvement or participation in Prohibited Hydrocarbons Activities, and not purported infractions committed in the past, in line with Law No. 26,659.¹

It does this on the grounds that “[Disposition 337] *contemplates more restrictive conditions than those set forth in Law N° 26.659 as amended, insofar as it prohibits enrolment or penalizes companies which participation or involvement in illegal hydrocarbons activities is not only current, but also those performed in the past*”.

Additionally, the new text of Section 18 of Annex I of Disposition 337 sets forth that when requesting enrolment in the Registry, companies must inform if they have performed or been involved in Prohibited Hydrocarbons Activities in the past, declare under oath that they are not currently involved in or participate in the same, and commit to comply with the prohibitions set forth in Disposition 337.

REINSTATEMENT OF TERMS FOR RE-ENROLLMENTS OF GAS MARKETERS IN THE GAS MARKETER REGISTRY

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By means of Resolution No. 332/2020 (the “**Resolution**”), published in the Official Gazette on October 21, 2020, the Federal Gas Agency (the “**ENARGAS**”) (i) resumed the terms provided in the Resolution No. 94/2020 (the “**Resolution 94**”); and (ii) approved a new information regime.

By means of Resolution 94 published on March 11, 2020, new regulations were established regarding the procedure and requirements for enrollment of gas marketers in the Gas Marketer Registry (the “**Registry**”). Resolution 94 also approved: (i) the Gas Marketer Internal Regulations; (ii) regulations regarding share capital/shareholder composition; and (iii) regulations regarding the reporting of operations. Resolution 94 abrogates the previous ENARGAS resolutions on this matter (i.e., Resolutions No. 421/97, No. 478h/97, and No. 830/98 (the “**Former Regulations**”).

Pursuant to the Resolution 94, gas marketers previously registered in the Registry were granted a period of 180 calendar days following the publication of Resolution 94 to file a new submission to register under the new regulations (i.e., September 8, 2020).

However, Resolution 94 became effective on March 19,

2020, one day before several measures were adopted in response to the outbreak of the COVID-19 pandemic, including Decree No. 260/20 which extended the health emergency, Decree No. 297/20 which provided for the “preventive and mandatory social quarantine”, and Decree No. 298/20 which suspended the course of procedural deadlines, all of which were extended several times.

The suspension of procedural deadlines brought uncertainty among the Gas Marketers on whether the obligations and terms established in Resolution 94 were applicable. Gas marketers didn’t know if they still needed to re-enroll before September 8th, 2020 or which regulations applied for the reporting operation regime (the Former Regulations or Resolution 94).

By means of the Resolution, the ENARGAS provided (i) for the reinstatement of terms, including the re-enrollment of gas marketers; and (ii) approved a transitional informative regime which is attached as Annex I to the Resolution. Gas Marketers must submit the information in Excel format according to the Annex, through the ENARGAS office and by e-mail to comercializadores@enargas.gov.ar.

¹The amended text of Article 18 of Annex I of Disposition 337 sets forth: “18.1. Enrolment in the [Registry] of companies which directly or indirectly own, are shareholders of, or contractors of, or have a beneficial relationship with the following, is hereby prohibited: (a) Companies that carry out hydrocarbon exploration, exploitation or transportation activities in the Argentine Continental Shelf, without being authorized by Argentine competent authority; (b) Companies that supply oil and gas services to the companies mentioned in subsection (a) above. Companies that, upon requesting enrolment with the [Registry], have in the past maintained any type of relationship or participation in connection activities or service within the terms described in this Subsection 18.1, must report to the Enforcement Authority [i.e., the Energy Secretary], in the form of a sworn statement, the current absence of such relationships and an irrevocable commitment to abide by the terms of this Disposition. The Enforcement Authority may request from the interested party additional information and documentation that it may deem necessary to confirm such circumstance, and also issue an information request to any other administrative entity or office for the same purposes. 18.2 The holders of exploration permits or exploitation or transportation concessions granted by any Argentine competent authority, their controlling or controlled entities, shareholders, related parties, and those companies with which they have a beneficial relationship, are hereby prohibited from: (a) participating [own interests] directly or indirectly in hydrocarbon exploration, exploitation and transportation activities in the Argentine Continental Shelf without being authorized by any Argentine competent authority, or entities that render oil and gas services for the benefit of such activities; (b) rendering commercial, logistic or technical assistance to the entities set out in (a) above; (c) Contracting, carrying out transactions or commercial acts or economic, financial, logistical, technical or consulting operations with third parties, for the development of hydrocarbon exploration, exploitation or transport activities in the Argentine Continental Shelf not previously authorized by the competent Argentine authority.”

**INCORPORATION OF LNG SUPPLIERS TO THE
REGISTRY CREATED UNDER RESOLUTION NO.
1102/2004**

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By means of Resolution N° 61/2020 ("**Resolution 61**"), published on October 27, 2020, the Secretariat of Energy (the "**SE**") incorporated the category Liquefied Natural Gas Service Stations to the Registry of Liquid Fuel Hydrants, Own Consumption, Storage, Distribution and Marketing of Fuels and Hydrocarbons in Bulk and Compressed Natural Gas (the "**Registry**"). Individuals or companies that sell Liquefied Natural Gas (the "**LNG Suppliers**") at gas stations and/or for their own fuel consumption must register with the Registry.

The Registry was created by Resolution No. 1102/2004 ("**Resolution 1102**") and covers all the sellers of liquid fuels, their own consumption, storage facilities, distributors, large fuel marketers and compressed natural gas. Resolution 1102 did not contemplate the inclusion of LNG Suppliers since at the time of its issuance, it was not as popular as it is today and the technology for its use was underdeveloped.

Advances in technology have made it possible to build LNG-powered vehicles, and that is why the SE deemed it necessary to regulate its use by including them in the Registry.

According to Resolution 61, LNG Suppliers that decide to provide LNG services must apply for registration with the Undersecretariat of Hydrocarbons.

Resolution 61 also regulates safety aspects. LNG Suppliers must hire an external safety audit service, on an annual basis, and must have at least one audit in force at the time of registration.

The Undersecretary of Hydrocarbons is appointed as the Controller's Authority and shall carry out periodic inspections and controls in such facilities through the National Directorate of Refining and Marketing.

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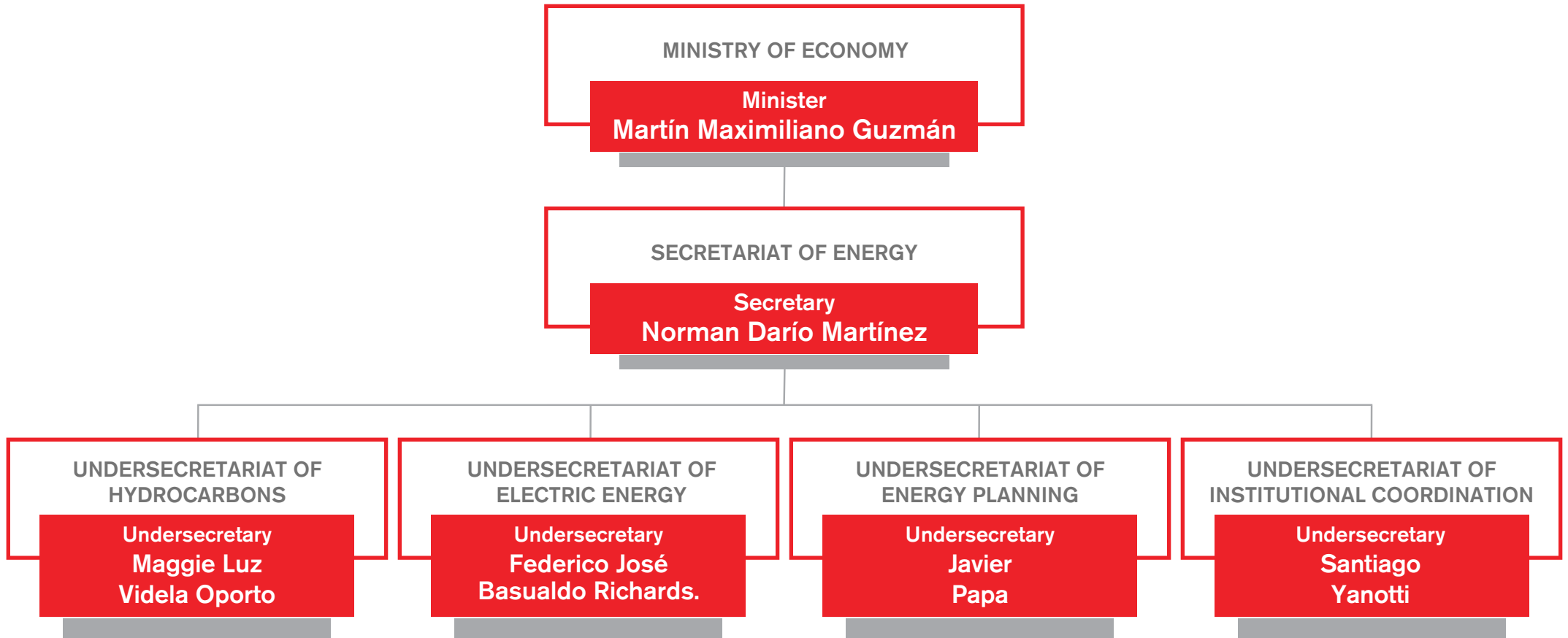
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SECRETARIAT OF ENERGY - ORGANIZATIONAL CHART



DECENTRALIZED AGENCIES

National Electricity Regulator (ENRE)*

Controller: Vacant.

National Gas Regulator (ENARGAS)*

Controller: Federico Bernal.

National Commission of Atomic Energy (CNEA)

a. President: Osvaldo A. Calzetta Larrieu.
b. Vice-president: Alberto Lamagna.
c. General Manager: Enrique Cinat.

**Article 6 of the Solidarity and Productive Reactivation Law No. 27,541 authorized the National Executive to take control of the ENRE and the ENARGAS. On March 17, 2020, Executive Decrees No. 2771/20 and 278/20 were published in the Official Gazette, establishing: (i) the intervention of the ENRE and ENARGAS, respectively, by the National Executive, until December 31st 2020; (ii) the appointment of Federico Basualdo and Federico Bernal as their regulators for the same period; and (iii) the suspension of the current members of ENARGAS and ENRE's Board of Directors. Pursuant to Executive Decree No. 847/2020, Federico Basualdo resigned as controller of the ENRE and the position is now vacant.*

Mixed Technical Commission of Salto Grande

a. President: Luis Benedetto.
b. Vice-president: Juan Domingo Orabona.
c. Delegate: Héctor María Maya.

Argentine – Paraguayan Mixed Commission of the Paraná River

a. Delegate: Eng. Alejandro Valerio Sruoga.
b. Executive Director: José Antonio López.
c. Section Management Director: Héctor Enrique Guardo.
d. Secretary-General (Buenos Aires Headquarters): Teresa R. Salatino.
e. Managing Director: María Marcela Tito.
f. Technical Director: Eng. Luis Bergman.

Nucleoeléctrica Argentina S.A.

a. President: Eng. Eduardo Nies.
b. Vice-president: Eng. Rubén Quintana.
c. Director: : Lucas Castiglioni.
d. Director: Eng. Juan Pablo Ordoñez.
e. Director: Isidro Baschar.

Integración Energética Argentina S.A. (IEASA)

a. President: Andrés Cirnigliaro
b. Vice-president: Hernan Pablo Herrera
c. General Assistant Manager: Agustin Gerez
d. Directors: Oscar Cretini and María Cristina Lapenta

Yacyretá Hydroelectric Dam

Executive Director: Ignacio Barrios Arrechea (Argentina)

Dioxitek S.A.

a. President and General Manager: Santiago Sartori.
b. Vice-president: Julio Aráoz.
c. Directors: Julieta Sayan, Daniel Marchi and Emilio Guiñazo Fader.

Special Unit System of Electric Energy Transmission de (UESTEE)

COMPANIES INCLUDED IN ART. 15, LAW NO. 26,741

YPF S.A.

Chairman of the Board: Guillermo Nielsen.

YPF Gas S.A.

CAMMESA

General Manager: Esteban Kiper