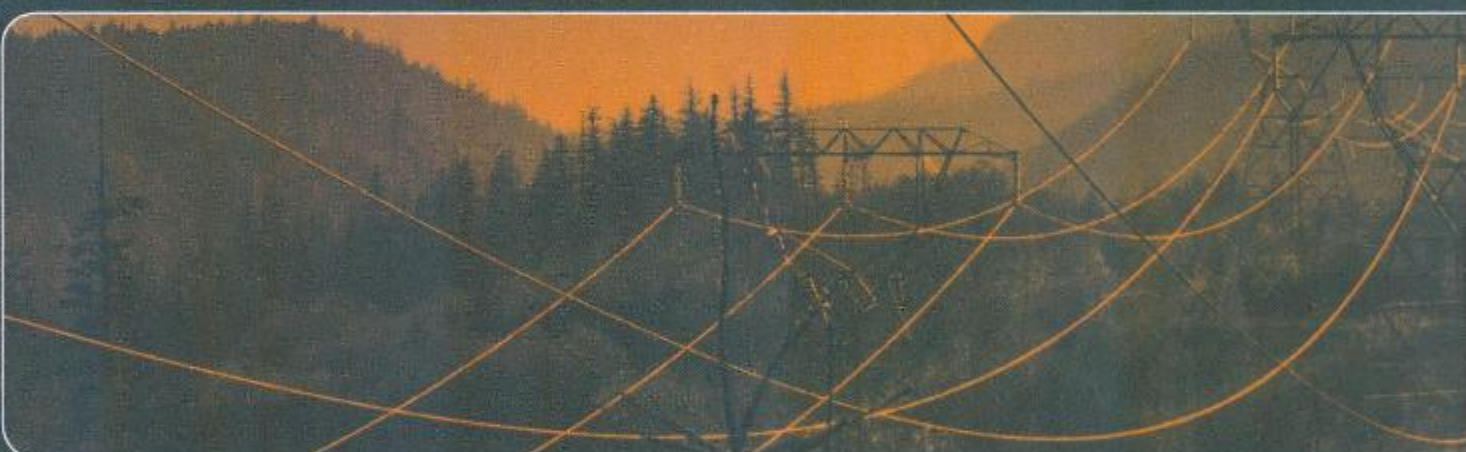


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THE NEW HYDROCARBONS LAW

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Introduction

Argentina has one of the largest reservoirs of unconventional hydrocarbons in the Vaca Muerta deposit in Patagonia. Therefore, the development of the country's unconventional oil and gas reserves presents a tremendous opportunity.

The current Hydrocarbons Law¹ provides the legal framework for unconventional oil and gas exploration and exploitation projects all over the country. Notwithstanding the foregoing, in order to promote new foreign investments, the Federal Government and the governors of the provinces that are part of the Federal Organisation of Hydrocarbon-Producing Provinces (OFEPHI) agreed to reform the Hydrocarbons Law, in order to provide exceptional measures for them.

As a result of this negotiation, on October 31, 2014, the amendments to the Hydrocarbons Law were published in the *Official Gazette* Law No.27,007. The new Hydrocarbons Law is specifically focused on the increase of foreign investment for the exploitation of unconventional hydrocarbons, which is defined as

“the extraction of liquid and/or gas hydrocarbons through unconventional stimulating techniques applied to deposits located in shale gas and shale oil geological formations, tight sands, tight gas, tight oil, coal bed methane, and/or characterized, in general, for the presence of low permeability rocks”.²

This article comments on the most important issues arising from the new Hydrocarbons Law.

Oil and gas concessions

Under the Hydrocarbons Law, an exploration concession grants the concessionaire the exclusive right to perform all tasks that require the search for hydrocarbons within an area for a limited period of time.

According to the new Hydrocarbons Law, the permit term for exploration concessions is limited to two terms, as opposed to the previous three periods.

Each term is also reduced to three years for conventional deposits and four years for unconventional deposits, with the possibility of getting a five-year extension if the concessionaire has fulfilled his obligations. In the case of offshore hydrocarbon activities, the basic terms could be increased by one year.³

When commercially and exploitable quantities of oil or gas are found, the holder of the exploration permit has the exclusive right to extract hydrocarbons within that area.

¹ Law No. 17,319

² New Hydrocarbons Law s.5.

³ New Hydrocarbons Law s.1.

The new Hydrocarbons Law extends the period for exploitation concessions, differentiating them according to the extraction method: 35 years for unconventional deposits, 30 years for offshore drilling and 25 years for conventional deposits. The provinces will have the option to extend concessions for 10 years.⁴

The holders of exploration and exploitation permits are subject to the payment of a surface canon, which is reduced by the new law. The surface canon is a yearly fee payable in advance to the Federal Government or the provinces by permit holders, calculated using the size of the relevant concession.

Additionally, the concessionaire could require the subdivision of the existing concession areas into new areas of unconventional exploitation, and the granting of new concessions for the above mentioned terms.⁵

Furthermore, unconventional concession holders owning an adjacent and pre-existing concession will be entitled to request the unification of both areas as a single unconventional exploitation concession, provided that the geological continuity of both areas is proven.

Finally, in order to uniform the concession system through the country, the new law introduces a national auction system for exploration licenses or concessions, replacing the various provincial systems currently in place.⁶

New promotional scheme

The new Hydrocarbons Law introduces a promotional scheme for investments in hydrocarbons exploitation and partially modified the tax benefit scheme.

At the national level concessionaries are subject to the payment of customs duties and taxes levied on goods imported into Argentina.

However, under the new promotional scheme, the companies that invest more than US \$250 million over a three-year period will be allowed to sell their production on international markets without paying export taxes⁷ and with no restrictions on the repatriation of profits and the importation of capital goods.⁸

These benefits will be claimable as from the third year after the execution of the project, and will apply on the following percentages:

- i. conventional exploitation—20 per cent;
- ii. unconventional exploitation—20 per cent; and
- iii. offshore drilling exploitation—60 per cent.

Additionally, the new law creates uniform taxation mechanisms in relation to hydrocarbon exploitation activities at national, provincial and municipal levels. In this regard, provinces agreed on:

- i. receiving royalties of up to 12 per cent. However, the law allows 3 per cent increases in royalty payments for concession extensions to a maximum of 18 per cent⁹; and
- ii. no imposition of new taxes or increasing of the rates of the taxes in force for the new investments.¹⁰

Therefore, the new framework creates more predictable conditions to attract foreign investment and encourages the development of unconventional resources.

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Beretta Godoy

⁴ New Hydrocarbons Law s.9.

⁵ New Hydrocarbons Law s.5.

⁶ New Hydrocarbons Law s.12.

⁷ New Hydrocarbons Law s.19.

⁸ New Hydrocarbons Law s.22.

⁹ New Hydrocarbons Law s.16.

¹⁰ New Hydrocarbons Law s.18.