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The International Comparative Legal Guide to:

Gas Regulation 2007

A practical insight to cross-border Gas Regulation work

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Argentina

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1 Overview of Natural Gas Sector

1.1 A brief outline of the country's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; importation and exportation of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.

The natural gas production is regulated by the Hydrocarbons Law nº 17,319 (the HL), and by the trilogy of Decrees 1055, 1212 and 1589 of 1989, that are still waiting for its reenactment through a, still to be passed, new hydrocarbons law, which should make the necessary adjustments to what was stated in Law nº 24,145 (the transfer to the Provinces, of jurisdiction over the oil & gas upstream at the expiration date of the present exploitation concessions granted by the Federal Government).

The gas transmission and distribution industry was the subject of a special law. The basic framework was determined by Law nº 24,076, the Decree 885/92, and Regulatory Decrees 1738/92, 2255/92, 1186/93 and 2731/93. Law nº 24,076 establishes that the transmission and distribution of natural gas is a public service. For policing the performance by each of the sectors in which the system is split, the law creates the National Gas Regulatory Entity (NGRE) as an entity with a board appointed by the Executive and informed to the Legislative, its members' term being five years. The NGRE is meant to be independent from the Executive and sustains itself by means of a special charge due by both natural gas distributors and transporters in order to fund the NGRE budget.

By the end of the 80's, the prospect of reserves was equivalent to 38 years of yearly consumption. After a substantial increase of the consumption of natural gas because of the expansion of infrastructure in transmission and distribution networks at a steeper degree than the also significant production during the 90's, the lack of further investments in all energy sectors as from 2001 made the level of reserves decrease in 2005 to 9 years of yearly consumption, itself swollen because of lower than international prices. Argentina has prospects of proved oil and natural gas reserves of 8.6 and 9.4 years of yearly consumption respectively, and is highly dependant on hydrocarbons, as 90.3% of the primary energy offer comes from such resources.

According to National Secretariat of Energy information, natural gas reserves fell 5.30% compared to 2004 (2005 -248,856.40 MMm3-; 2004 -262,776.00 MMm3-). Natural gas production fell 1.8% compared to 2004 (2005 -51,245.42 MMm3-; 2004 -52,204.52 MMm3-). This is due to the current regulations, the growing maturity of productive fields, and the lack of investments in exploration, the natural gas production having fallen even more, by 6.7% in July 2006 compared to July 2005.

By 2005, 18% of Argentina's natural gas reserves came from predominant gas fields, 32% from oil-associated gas, and 50% from condensed gas sources. From the fields having proved natural gas reserves, natural gas represents 65% of the aggregate hydrocarbons reserves, and oil, the remaining 35%.

Natural gas imports are free of any previous authorisation requirements, while the exports have to instead be previously authorised, with a view to keep the supply of the internal market.

Argentina is thus experimenting supply shortages in peak days due to the increase in the local market demand (the main drivers being the industrial consumption required by the remarkable increase of GNP in the last three years, and, to a larger extent, consumption of Compressed Natural Gas -GNC- on account of regulated prices that favour this choice for cars adapted or made for using such fuel).

The Argentine Government called the authority of the powers under the HL and Law nº 24,076 - that prohibit exports when the local market is short of supplies- to limit, and even suspend, exports to border countries, such as Brazil, Chile and Uruguay.

Argentina imports 7 MMm3 daily gas from Bolivia, the cost of which in 2005 was around 2.25 US$/MMBTU for wellhead gas. In 2006, the same cost increased up to 5 US$/MMBTU, after a renegotiation with the new Executive of such country.

A new gas pipeline in Northeastern Argentina is however necessary to import the prospective additional gas starting from Tarija, Bolivia, to provide gas to Chaco, Formosa, Misiones, Corrientes, Santa Fe, and Entre Ríos, Argentina. For making such pipeline feasible, an agreement should be reached in order to increase gradually such imports to the above-mentioned volumes for the next 25 years (around 27 MMm3 of gas daily).

The whole net of natural gas pipelines (Argentina's Transport System) throughout the country was divided into two, the North region and the South region, and allotted to each of the transmission companies (TGN and TGS), while both have competing gas pipelines going from West (Neuquén, Mendoza and Cuyana Basins) to East (Buenos Aires Area).

The Government owned natural gas company, Gas del Estado (hereinafter G de E) was split into eleven companies transferred to the private sector in the early 90's, nine of them holding distribution licences (the regions of the Pampas, the South, Center, Cuyana area, Mesopotamia, Northwest, the Greater Buenos Aires City, the Northern and Southern areas and the Littoral area).

The market is thus divided into separate areas: natural gas production; transmission; and distribution and sub distribution.

1.2 To what extent are the country's energy requirements met using natural gas (including LNG)?

The composition of the country's energy matrix shows that natural gas is the main supply source, which provides 51% of the energy annually consumed, followed by oil, with 36%, and hydroelectricity with 6%. The chart is completed with nuclear activity (4%) and alternative energies (such as coal, sun and firewood) representing 3%.

1.3 To what extent are the country's natural gas requirements met through domestic natural gas production?

Local demand of natural gas is supplied mostly by local production. The volume of natural gas delivered by distributors between January and March 2006 increased by 1.5%, compared to the same period of 2005. Residential Service increased by 6.2% compared to the first quarter, 2005, and the Industrial Service increased by 10.95%, compared to the same period, 2006. Natural gas by pipeline is imported only from Bolivia. The volume of gas imported from Bolivia in the first quarter of 2006 was an average of 5.5 MMm3 of gas daily, a volume that exceeds by 13.3% the gas imported in the same quarter, 2005.

1.4 To what extent is the country's natural gas production exported (pipeline or LNG)?

With regard to exports (to Chile), 15.3% of the natural gas production accumulated between January and March 2006 was exported, this volume being 13.7% higher than the gas exported in the first quarter of 2005, with a daily average higher than 21 MMm3 of gas daily. The volume exported directly by producers in the first quarter of 2006 was 12.0% higher than that accumulated in the first period of 2005. The average daily exported volume was 9.2 MMm3, compared to 8.2 MMm3 in 2005. The volume of gas exported through the transport system during the quarter January-March, 2006 was 15.0% higher than 2005, with a daily volume of 12.2 MMm3 compared to 10.6 MMm3 in 2005.

Natural gas exports are only effected through pipelines, there being no LNG exports.

2 Development of Natural Gas

2.1 Outline broadly the legal/statutory and organisational framework for the exploration and production ("development") of natural gas reserves including: principal legislation; in whom the State's mineral rights to natural gas are vested; Government authority or authorities responsible for the regulation of natural gas development; and current major initiatives or policies of the Government (if any) in relation to natural gas development.

Hydrocarbons Law nº 17,319, Law nº 24,145, Decrees 1055/89, 1212/89 and 1589/89 (which established the deregulation of Oil & Gas upstream) Law nº 24,145 that transferred the eminent domain on hydrocarbons at the future expiry dates of the current concessions, and Decree 546/03 (implementing the transfer to the provinces of jurisdiction over oil & gas upstream as per such law) are the legal framework for the exploration and production of natural gas reserves.

The Secretary of Energy is the regulatory entity for natural gas exploration and production, and NGRE on transportation and distribution.

The State's eminent domain on mineral rights to natural gas allows mineral rights to be vested in private companies through permits and concessions.

2.2 How are the State's mineral rights to develop natural gas reserves transferred to investors or companies ("participants") (e.g. license, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

The HL provides for different types of licenses and authorisations in order to allow exploration and exploitation of natural gas, granted by the Executive, or the Secretary of Energy on the basis of delegation of power to such effect.

The HL provides for different types of licenses and authorisations in order to allow exploration and exploitation of natural gas. The following authorisations may be granted by the National Secretary of Energy: 1) Research authorisations -title I, sections 14 and 15, HL-; 2) Exploration permits -title II, sections 16 to 26,, HL-; 3) Exploitation concessions -title II, sections 27 to 38, HL-; 4) Transportation concessions -sections 28, 39, 40, 41, 42, 43 and 44, HL.

The HL, section 1, had assigned to the National Government the eminent domain, "inalienable and imprescriptible" property in the subsurface oil & gas (the reservoirs). After the amendment enacted by Law nº 24,145, such eminent domain, thus reserved is to be transferred to the provinces where they are located, upon expiry of the present concessions.

The exploitation concession holders are granted with the exclusive right to exploit the oil fields subject to the concession granted (section 27, HL), for which purpose a title (first, on the exploration permit, section 16, HL; afterwards, on the exploitation concession, section 55, HL) is issued by the Executive, and the public deed registered with the National Registry. The right on the crude oil and natural gas, once produced, belongs to the concession holder.

Law nº 24,145 has, as mentioned above, granted to the Provinces such eminent domain, for all reservoirs located in the Provinces, and further on, section 124 of the National Constitution amended after the 1994 reform, has granted to the Provinces the eminent domain on "all natural resources" located in their respective territories. Such rights may not restrict the rights to explore and exploit hydrocarbons within the areas granted in existing permits or concessions by the Federal Government, as set forth in such documents, as authorised by the HL or Law nº 24,145.

Decree 546/03 granted Provinces the right to grant exploitation permits, and exploitation, storage and hydrocarbons transportation concessions, within their respective territories, on the so-called "in transfer" areas, under Decree Nº 1955/94, and on the areas defined by the competent provincial authority, in compliance with the conditions established by the HL, and regulations pursuant to it. Furthermore, Provinces are entrusted with the power to award new permits and concessions, and to rule the framework of their obligations (section 98, HL).

2.3 If different authorisations are issued in respect of different stages of development (e.g., exploration or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

1.- The exploration permit terms

The exploration permit holder is granted a title or deed, as evidence of its rights over the area (basically, the right to be the only one to explore the area, and to obtain an exploitation concession if a commercial discovery is made by it).

Following section 20, HL, the holder of the exploration permit will have to limit the exploration area, make the proper markings, and (i) do the necessary work, according to the work units' commitments requested under the exploration permit terms, consisting generally in reflective seismic, reprocessing, 3D seismic, or even an exploration well, at the permit holder's choice); and (ii) drill at least two exploration wells, one to be executed during the second exploration period (able to be postponed to the third exploration period, if justified on technical grounds), -plus, in the case of exploration permits granted under the Argentina Plan, an additional 150 work units- and the other during the third period. The exploration permit holder will forward a guaranty of fulfillment of its work commitment for the first exploratory period, and a further guaranty shall be submitted at the beginning of each of the following exploration periods for the relevant exploratory programme.

In case of withdrawal by the exploration permit holder (or in case the holder of the permit gives prior notice to the enforcement authority of the decision not to comply with a particular work unit commitment, without withdrawing of the area, provided the time of each period is not altered), the work unit is replaced by equivalent cash to be paid to the government. In some cases, unfulfillment of the minimum work units commitments implies the withdrawal of the permit and relinquishment of the areas.

The prospecting term of the first period of exploration will be two to three years (four if it is an offshore area) (according to section 23, HL). The second period will be one year less than the first period offered, and the third period, two years less than the first period (thus, if the first period offered is two years, no third period exists). In total, a maximum term of six years (onshore) or nine years (offshore), plus extensions.

Exploration permits provide for the future relinquishment of part of the area, according to the minimum established under section 26, HL, at the end of each of the exploration periods (at least 50% of the remaining area at the end of each exploration period with the exceptions mentioned below). The exploration permit holder may keep: (i) the blocks where commercial discovery has been declared, and therefore included in the exploitation concession, plus, for one more year, those blocks where a declaration of commercial discovery is under study; and (ii) for 5 years, predominantly natural gas fields, subject to the future, adequate development of the natural gas market or transport facilities (further delays may be accepted by the enforcement authority if the market conditions are no better than during the previous suspension period).

The scheme for determination of commercial discovery is described in sections 16 to 26, HL, with the right for the holders of such exploration permits to obtain automatically an exploitation concession once a commercial oil discovery is made, subject to section 27 to 38 of the same law. According to section 22, HL, the exploitation concession must be granted within 60 days of the declaration of commercial discovery by the exploration permit holder according to acceptable economic and technical criteria, having submitted the delimitation of the exploitation area.

3.- The exploitation concessions

When a commercial discovery declaration is made by the exploration permit holder, the exploration permit shall be transformed into an exploitation concession for a 25-year term. Said term resorts from section 35, HL, granting such concession rights for the aforementioned period, unless the concession is terminated because of basic infringements to the concessionaire's obligations, such as the default of the monetary obligations hereby described, bankruptcy, material and continuing infringement of technical and environmental rules for the production, etc. The same section 35, HL, allows a further 10 years' extension to be granted by the Executive Power.

Section 25, HL, establishes a limit for being simultaneously a holder of exploration permits or exploitation concessions for more than five areas, either directly or indirectly.

4.- The transportation concessions

Gas producers, holders of oil exploitation concession, have per se the right to hold a transportation concession, as stated in section 28, HL.

The transportation concession consists of the gas pipeline from the area up to the main pipeline or Intake Point of System of Transport -PIST- (License of TGN and TGS). Only when the gas pipeline exceeds the limits of the exploitation concession (development), must the gas producer request a transportation concession from the National Secretary of Energy.

Pursuant to Decree 546/03, Provinces are not empowered to grant for-export transportation concessions, or concessions reaching beyond their territories (section 6, paragraph 2).

Regarding natural gas pipelines of exploitation concession holders, the natural gas law enforcement agency, NGRE, will supervise technical aspects (Decree 729/95, section 3).

The transport concessions granted to producers last for 35 years and may be extended for ten additional years at the producer's request.

2.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of natural gas reserves (whether as a matter of law or policy)?

Following the privatisation of the Governmental exclusive facilities and of rights to the exploration and production areas, as well as the midstream and downstream areas, the Government ceased to have any interests in the energy sector. The Government intends to return as a participant by means of a newly created state company.

On November 2, 2004 Law nº 25,943 was enacted, which creates Energía Argentina S.A. (ENARSA). Its purpose is to study, explore, and exploit Hydrocarbons Fields, whether solid, liquid and/or gas; transport, store, distribute, market, and industrialise such products and their direct and indirect byproducts; and provide public services of transportation and distribution of natural gas and generation, transportation, distribution, and marketing of electricity, all of this whether on its own, through third parties, or in association with third parties. ENARSA shall hold the power to grant the authorisations for exploration and concessions for exploitation of all of the national maritime areas not subject to such authorisations or concessions, and shall be entitled to intervene in the market to the end of preventing abuses as a result of the formation of monopolies and oligopolies. Apart from this interest, the state has no other type of interest or participation in the development of natural gas reserves.

2.5 How does the State derive value from natural gas development (e.g. royalty, share of production, taxes)?

There is no production sharing formula, and the general tax regime is applied in all present exploration permits and exploitation concessions (income tax and others), therefore excluding the special income tax substitute referred to in section 56, HL.

1.- Yearly fee

The holder of exploration permits is subject to the payment of a fixed yearly fee (section 57, HL and decree 2057/91) related with the acreage subject to the exploration permit, and the holder of an exploitation concession, to a yearly fee according to section 58, HL, adjusted by the variation of crude oil prices (section 102, HL). Decree 820/98 establishes special fees and relinquishment obligations for exploration activity in exploitation concessions.

2.- Royalties

The royalties to be paid to the Province by the exploration permit or the exploitation concession holder may be fixed up to 12% (15% on the oil obtained from the field during the exploration periods as set forth in section 21, HL) on the production assessed at the transfer price of the crude oil out of the oil well.

3.- Withholding tax

The natural gas exported was the subject of a substantial change with the establishment by Decree 645/04 as of May 26 of a withholding tax of 20% of the export price. Resolution 534/06, dated July 14th established a 45% withholding tax from the export price. Furthermore, this resolution takes as its natural gas export assessment value, the price fixed for this type of good in the "Framework Agreement between the Argentine Republic and the Republic of Bolivia for the sale of natural gas and the materialisation of energy integration projects, dated June 29 2006", which is established at 5 U$S/MMBTU.

2.6 Are there any restrictions on the export of production?

Disposition 27/04 of the Sub secretary of Fuels, as complemented by Resolution SE 265/04 and SE 503/04 referred to a "Program of Rationalization of Natural Gas Exports", establishing exports to be made only after domestic customers are supplied, fixing export ceilings to return to their 2003 levels, and assessing the value of such rerouted gas at international price levels in certain cases. These remuneration schemes were altered thereafter, to level current compensatory prices of the deviated exports, with the domestic prices that are in force for the domestic market as of July 2005, as per the Natural Gas Agreement made between the Natural Gas Producers and the State. Resolution SE 659/04 of June 17, 2004 limited the remuneration to be paid to the natural gas suppliers with export supply contracts, for the rerouted gas to the domestic market, with no distinctions (previously set forth in Resolution SE 27/04, which in some instances provided for the respect of international prices for the rerouted gas), and makes for such gas supply to the domestic market, to be paid at present at the level of domestic prices meant for July, 2005 for large customers. Though such price is considerably higher than the present domestic price, it is lower than the current export prices.

2.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

Decree 2703/02 establishes a maximum 30% limit for the free use of currencies resulting out of the exports of crude oil, natural gas and liquefied gases, and the remaining 70% not included in the free use are governed by Section 1º of Decree Nº 1638/01, i.e., liquidation and negotiation of such currencies into local currency.

2.8 What restrictions (if any) apply to the transfer or disposal of natural gas development rights or interests?

The transfer of natural gas development rights is subject to prior official authorisation from the competent government authority. The transferee must comply with the same legal requirements as initial (transferor) awardees or concessionaires in terms of technical and financial solvency (HL, title IV, sections 71, 72 and 73).

Approval for farm outs or project financing establishing liens on the concession's rights are delegated to the Head of the Cabinet of Ministers, instead of being granted by the Executive (section 73, HL).

Therefore, it may be concluded that for the enforcement authority, no transfer of interest in the joint ownership of an exploitation concession will be acknowledged until such registration is completed, and, furthermore, the assignment is approved.

2.9 Are participants obliged to provide any security or guarantees in relation to natural gas development?

Decree Nº 5906/67, Resolution of the Subsecretary of Energy Nº 96/90 and Resolution of the Secretary of Energy Nº 468/98 established the Registry of Oil Companies, where all companies having exploration permits, exploitation and/or transportation concessions, being operated or not, and any companies willing to acquire exploration, exploitation and/or transportation rights must be registered. Registration requires proof of economic and financial solvency, by means of the submission of the two last General Balance Sheets and Inventory Book, duly certified by an independent public accountant, with the signature duly legalised by the Professional Board of Economic Sciences.

Resolution 193/03 regulates the economic and financial solvency required by sections 5 and 72 of Law nº 17,319, and provides that in order to be the owner of exploration permits and exploitation and/or hydrocarbon transport concessions, the company or joint ventures must have, when filing its offer in a public bid, a net owner's equity of no less than $2,000,000 for onshore areas, and no less than $20,000,000 for offshore areas though. 70% of such amount may be replaced by bank guaranties (Foreign or National).

Upon the Chief of the Cabinet resolution granting the permits or concessions, the holder of the permit or grantee must create, to the satisfaction of the Secretary of Energy, two types of securities: 1) as for the compliance with committed Work Units, for an equivalent amount in American Dollars; and 2) as for the compliance with the drilling programme for each exploration period, for an equivalent amount in American Dollars. The amounts of the securities will be adjusted and renewed every three months as Work Units and/or drilling programmes for each period are fulfilled. Furthermore, 100% of the amount for each Work Unit performed or well finished will be deducted from the amount of the securities.

2.10 Can rights to develop natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

Section 73, HL governs the existence of securities in concessions exploited with third parties' financial support. In such cases, it is possible to agree that the creditor will be the holder of the rights - prior compliance with the conditions set forth in section 72, HL-, if the obligations stipulated in the loan agreement are breached.

Participations in developments can be booked for accounting purposes under domestic law.

2.11 In addition to those rights/authorisations required to explore for and produce natural gas, what other principal Government authorisations are required to develop natural gas reserves (e.g. environmental, occupational health and safety) and from whom are these authorisations to be obtained?

As regards health and safety (H&S), the National Superintendency of Labor Risks is responsible for approving H&S conditions in all work places of the Argentine Republic, and for granting the relevant authorisations (pursuant to section 5.1 of the H&S Law nº 19,587, its regulatory Decree 351/71 and supplementary rules).

The Secretary of Energy is empowered to define the environmental rules under which the exploration, exploitation and transport of hydrocarbons can be made.

Resolution S.E. 105, dated November 11, 1992, provides guidelines for a number of practices for the protection of the environment regarding upstream operations. It establishes the obligation to conduct Environmental Impact Statements and Task and Work Monitoring both, in the exploration and exploitation stage. The Secretary of Energy issued rules concerning hydrocarbons and the environment (for example, S.E. 27/93: Creation of the Registry of Counselors for Environmental Control and Assessment; Res. S.E. 252/93: Outline with recommendations for the preparation of environmental studies and contingency plans; Res S.E. 340/93: Obligation to submit a status report of natural environments in areas in operation; Res. S.E. 342/93: It provides the structure that contingency plans of Res S.E. 252/93, Res. SET y C 5/96 must have. It provides the rules for the abandonment of hydrocarbon wells).

2.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in natural gas development? If so, what are the principal features/requirements of the legislation?

Resolution SETyC 5/96 (Secretary of Energy, Transport y Communications -actually Secretary of Energy-) governs the abandonment of hydrocarbons wells (liquid and/or gaseous), which may be of two types: a) temporary; and b) definite. The grantee of the exploitation and/or the holder of the exploration permit, based on technical, commercial and/or operational reasons, must determine the type of abandonment to be made. The abandonment of wells in urban zones is always final. As a general rule, this resolution provides that four years before the expiry of an exploitation concession, or upon total or partial reversion of the exploration area, the grantee or holder of the permit must submit, with the Secretary of Energy, a technical-economic study with the reasons why it is not convenient to abandon temporarily or definitely each of the inactive wells existing in the area to be granted.

3 Importation / Exportation

3.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

According to section 6 of Law nº 17,319 and section 3 of Law nº 24,076, Resolution SE 265/04 further states that exports above the comparable volumes in 2003 would be subject to a case-by-case authorisation. The resolution ends up menacing with a termination of the oil & gas exploitation concession if the exporter breaches the domestic supply priority as per such resolution.

The Resolution of the Secretary of Energy 659/04, of June 16, 2004 approved the complementary programme of supply to the domestic market of the natural gas, fixing priorities, additional injections of gas, an information circuit, and alternatives to the same, together with the flexibility of the said programme.

Based on the ACE 16 (Acuerdo de Complementación Económica) Argentina signed with Chile some agreements in order to export gas to such country. Due to the increase of the domestic demand, Argentina had to restrict exports to Chile.

4 Transportation

4.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

Argentina has two gas transport systems:

1. Transmission pipelines that are authorised to Natural Gas producers under the Hydrocarbons Law, sections 4, 28, 39 to 40 (Transportation Concession under HL, transportation by pipeline of natural gas from wellhead to the Intake Point of Transport System). The concession is granted automatically upon commercial discovery.

2. The gas transmission trunk pipeline authorised to the transporters. Law nº 24076, the Decree 885/92, and Regulatory Decrees 1738/92, 2255/92, 1186/93 and 2731/93, determined the basic framework (Licence Transportation under NGA, transportation by trunk pipeline from the Intake Point of Transport System to city gate).

The import and export pipeline network is formed by:

1. Export pipelines (Law nº 24,076): Gasandes - Chile-, Norandino - Chile-, Uruguayana -Brasil-, Paysandú (Uruguay), Cruz del Sur - Uruguay-, Casablanca -Uruguay- (not yet authorised).

2. Export pipelines (Law nº 17,319): Cuenca Noroeste -Chile-, Pacífico -Chile-, Posesión -Chile-, Methanex Patagónico -Chile-, Methanex -Chile-, Poseidón -Chile- (authorisations pending), Campo Durán - Cuiba (its annulment was requested).

3. Import pipelines (Law nº 17,319): Positos - Pta. Campo Durán -Bolivia-, Medrejones - Pta Campo Durán -Bolivia (out of work), Gasoducto NOA -Bolivia- (projected).

As for the expansion of the transportation system, a customer's refundable tax-like structure will be imposed -Law nº 26,095- in order to develop the necessary funds for being applied to a fiduciary fund for such transportation and distribution investments, the allotment of which is not defined, since it is declared that the former procedures for expanding transportation capacity and the distribution capacity have failed to deliver the necessary market signals (whereas of Dec. 180/04). Both licenses and concessions pipeline are owned by the private sector, except those that may be granted to ENARSA as a producer.

4.2 What Governmental authorisations (including any applicable environmental authorisations) are required to construct and operate natural gas transportation pipelines and associated infrastructure?

Transportation Concession.

See the explanation set forth in our answer to questions 2.3 (point 4) and 4.1.

Licence Transportation.

Law nº 24, 076 established a system of exclusive licences, granted for a term of 35 years plus a ten-year extension (and a first refusal or preference right at the bidding for a new license at the end of the relevant period). In the case of transportation, said exclusivity refers to the system itself and not to any geographic area, so that another license may be granted in the zone.

4.3 In general, how does an entity obtain the necessary land (or other) rights to construct natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

The gas producer may enter in private property, constitute easements and impose administrative restrictions -Section 146, Mining Law Code-, and expropriation -section 156, Mining Law Code- of the land necessary for its activity (section 19, HL). These expropriation and easement rights are decided by the Secretary of Energy (section 97), which informs its decision to the Mining Local Authorities for its due registration in the registries.

Following the understanding that the licensee shall provide a public service, the licence entitles the licensee to occupy the public domain, enter in private property, constitute easements and impose administrative restrictions (Law 24,076, section 22 and Decree 1738/92 section 22). Permit holders must follow the special procedure established in Resolution NGRE 584/98 to be entitled to a provisional amount. Failing agreement, permit holder seeking easements can request to have one imposed on the landowner by the courts through a judicial procedure.

4.4 How is access to natural gas transportation pipelines and associated infrastructure organised?

See the explanation set forth in our answer to question 4.6.

4.5 To what degree are natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

Both transportation systems (Transport concessions -HL- and Transportation licence - LG) have joint responsibilities. In this sense, the operator of the Reception Point (Producer - Grantee, from the wellhead up to the trunk pipeline) controls until the point of introduction in the transportation system. Conversely, the transporter (from the Reception Point -trunk pipeline- up to the "city gate" point, where the distribution system starts) verifies the quality in the Reception Point. The transporter and/or charger - long consumer or distributor - verifies the quality in the Delivery Point. The transporter is not bound to transport gas out of its specification (9,300 Kcal), except in "emergency" situations. As regards transportation licensees -LG- it is possible, by means of the Exchange and Displacement Service, that the charger move -in a sense opposite to the gas flow- volumes of gas among different tariff zones, paying a certain fee for each tariff zone crossed.

4.6 Outline any third-party access regime/rights in respect of natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport natural gas compel or require the operator/owner of a natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

Section 43 of the Hydrocarbons Law provides that the holders of transport concessions or the owners of pipelines are bound to give free access to third parties, and to fix prices without any form of discrimination.

Transmission and distribution licensees are forced to allow open access to third parties, in accordance with the capacity of their respective system that is not committed for supplies already contracted.

Section 13 of the Natural Gas Law, and of the Regulatory Decree, allow for customers to by-pass the distributor's natural gas bundled supply service and request an unbundled service, with a six months prior notice.

The undiscriminated access for third parties established in section 26 of the Natural Gas Law for spare capacity, and prohibition for granting preferential treatment or advantages in such access, unless for objective circumstances, referred to in section 27 of the Natural Gas Law, are principles that were reaffirmed in the regulatory decree.

Section 26 of the regulatory decree establishes (i) that a transportation contract is necessary in accordance to the Regulations of Service according to the category of customer or consumer -Decree 2255/92, Annex "A", Transportation Licence, Annex II, Service Regulations, Special Conditions of the transportation service-; (ii) that access may not be discriminated, and has to be granted with respect to the spare capacity that in each moment the transporter may have, such access to be granted in equal conditions to the other customers; (iii) that such access must not be conditioned to the rendering of other non-related or accessory services (imitating the unbundling rules established in the United States with respect to the storage and other services); and (iv) it makes reference to the interruption of service due to force majeure or other circumstances, in accordance to the regulations by NGRE.

Under the transportation licence, it is stated that such transportation on a firm basis is available initially for distributors and subistributors, until the licensees show to NGRE that enough spare capacity is available for other users, and the shippers that are not distributors will have to deliver a prior notice to the NGRE and to the distributor of its area of any contract with a transmission company, with a six-month (now, three-month) anticipation.

Resolution 419/97 of NGRE (section 3) -later on, amended by Resolution 1483 of NGRE- states that any new contracting and allotment of natural gas transmission on a firm basis shall have to be done by means of open bidding, unless such contract is the consequence of an assignment of the same transportation capacity by an already existing shipper, in which case the latter has to resort to open bidding. Such resolution also enacts a complex procedure by which it creates a capacity resale market, with a view to solving the many conflicts that arose, and of the appeals filed, by distributors and other shippers.

4.7 Are parties free to agree the terms upon which natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

The terms upon which natural gas is to be transported are regulated. The method of calculation of the transportation tariff may be defined as "price cap with periodic review" model.

The tariffs are approved as ceilings; and lower tariffs may be negotiated with large customers, provided there is no discrimination or cross-rating, involving subsidies/ compensations.

The method of calculation of the transportation and distribution tariff may be defined as "price cap with periodic review" model. Adjustments to tariff are allowed: 1) semiannually, for changes in US PPI; 2) every 5 years, on account of an efficiency factor -X- (efficiency cost savings, reduces tariff) and an investment factor -K- (new investments, subject to approval, for passthrough by means of this factor, increases tariff); and 3) for cost variations (taxes other than income tax, and other objective, non-recurring circumstances). The Public Emergency Law has suspended adjustments and requested renegotiation of its terms.

The contract forms for natural gas sales transmission and distribution services must be adapted to each kind of customer. These agreements are governed by Decree 2255/92 (Annex "A", Form of Transportation License and Annex "B", Form of Distribution License).

Pursuant to the emergency legislation natural gas sale and transport contracts were "pesified", that is to say, that contracts establishing prices in dollars and/or other foreign currency were converted to a 1 peso / 1 dollar ratio and rejected any adjustments based on US inflation. Bearing in mind the negative consequences of such forced adjustment over the domestic sellers and transporters, the Government issued Decree 689/02 by which some sort of "redollarisation" is established, limiting the unwanted effect of these emergency measures, exclusively for the case of international transport and sale contracts.

5 Transmission / Distribution

5.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

Law nº 24,076 established the basic rules for the transportation and distribution of natural gas. This instrument was implemented by decree 1738/98 or regulatory decree. As a consequence of such legal framework, Gas del Estado, a State-owned entity, was divided into two transportation companies and nine companies (the regions of the Pampas, the South, Center, Cuyana area, the Mesopotamian, Northwest, and on the Greater Buenos Aires City, the Northern and Southern areas and the Litoral area). The privatisation of the new companies was opened to investors by means of public tender offer and later was transferred to the private sector.

Law nº 24,076 establishes that the distribution of natural gas is a public service.

A Model Licence approved by Decree No. 2255/92 established the basic terms and condition for the licences that each new company would be granted by the Argentine Government. A distribution's license is granted by Decree for a period of 35 years, subject to extension for another 10 years on the fulfillment of certain conditions (and a first refusal or preference right at the bidding for a new licence at the end of the relevant period). The main licensee's right as to this matter is to receive a compensation through a tariff. The principle used is the "price cap with periodic review".

The regulatory decree states that the licenses may not be subject to redemption or anticipated termination by the Government. Regulatory Decree section 4, paragraph (5), last sentence, states that the licences may not be the subject of an anticipated termination (rescate) with no fault from the licensee, setting clearly a different principle than the one typically present in concessions of public services.

Following the idea that the licensee shall provide a public service, the licence entitles the licensee to occupy the public domains, enter in private property, constitute easements and impose administrative restrictions.

The Public Emergency law (nº 25,561) eliminated indexation clauses, produced the freezing of tariffs, and after such re-regulation of both gas and power regulatory frameworks and other established by law, did spill over the deregulated market, with a very complex effect, because the mechanism for determination of tariffs was set forth by the natural gas framework and the electric energy regulatory framework by leaving aside any attempt of regulation of the upstream sectors, affected nevertheless by such measures.

Resolution 208/2004 of the Ministry of Federal Planning and Public Works homologated the agreement to implement the natural gas prices conditions at the intake point of the transport systems, according to Decree 181/2004, subscribed by the Energy Secretary and the Gas Producers on April 2nd 2004.

This Resolution establishes the homologation of the mentioned agreement between the producers and the government to establish a price in the intake point of the transport system, to condition the income of the producers. On the other hand, it sets forth a sort of pathway for gradual increases of the formerly capped prices since 2002. The agreement will be in force until December 2006.

The agreement is exclusively applied to the following cases: (i) the natural gas that the producers supply to distributors, at the volume each producer thereof referred to will supply according to Annex II of the agreement (the Annex II establishes the producers subject to such commitment, and the quantity of gas that they will have available to these effects); (ii) the natural gas that the producers supply to the new Direct Consumers of natural gas according to the definition in paragraph 4 (b) of this agreement; and (iii) the natural gas that the producers supply to the generators of electricity to generate electric energy destined to the internal market .

5.2 What Governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?

Law nº 24,076 established a system of exclusive licences, granted for a term of 35 years plus a ten-year extension (and a first refusal or preference right at the bidding for a new licence at the end of the relevant period).

NAG 100 and Resolution 186/95 of NGRE refer to environmental authorisation applicable to gas natural distribution pipelines.

5.3 How is access to the natural gas distribution network organised?

The access to natural gas distribution networks is described in our answer to question 4.6.

5.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?

Distributors may be bound to expand their system, pursuant to the rules governing the expansion of natural gas works, formed by section 16 of the Gas Law Nº 24,076, and its regulatory Decree Nº 1738/92 (DR), point 8.1.3 of the License Basic Rules (RBL), and points 5, 6 and 7 of the Service Regulation (RS), included in Annex B of Decree Nº 2255/92.

The system of network expansion provides a number of gradual and connected proceedings that must be performed by the parties (both the ruled and the regulatory agency) in order to expand the distribution systems. If the work is contemplated in the authorisation, the distributor must effect the expansion in the form provided therein. For example, "compulsory investments", works of investment programmes under section 9.4.1.1. of the RBL (K factor), supplementary works of such investment programmes and any such other work as the distributor may be willing to develop, under an investment schedule duly informed to the regulatory agency. Conversely, if the work is not contemplated in the relevant authorisation, the cooperatives and/or the third party interested in its materialisation, must address to the distributor its intent to have it made, in a complete and accurate form (section 6 RdS). The distributor has a priority right in carrying out the work, as expressly provided in section 6, Decree 2252/92 and subsection (4), section 16, Regulatory Decree.

The distributor shall follow a clear and competitive proceeding when carrying out the work, for which purpose, it shall be monitored by the regulatory agency (chapter IX, RBL). In view of the distributor's priority right, the distributor of the zone and the interested third party may reach an agreement on the work's materialisation. Should they fail to reach an agreement, the ENARGAS must solve the controversy pursuant to a criterion that most benefits the final user. As a general rule, the rendering of the service must be entrusted to the distributor, such rendering being entrusted to other interested third parties only in exceptional cases.

5.5 What fees are charged for accessing the distribution network, and are these fees regulated?

Law nº 24,076 Section 37 set forth that distribution tariffs are composed by three elements: a) price of the gas at the intake point of the transmission system; b) the transmission tariff (see, question 4.7); and c) the distribution tariff.

As for the distribution system two elements should be taken into account to calculate the tariff as a general matter: 1) the distribution added value; and 2) the cost of the gas. The method of calculation is the same described in our answer to question 4.7.

As from the emergency legislation, changes incorporated in the regulations through decrees 180/04 and, separating different bandwidths or segments of prices, make in essence for keeping cross subsidies -to the burden of natural gas producers- during specific transition periods, which were formerly prohibited under the energy laws.

Enargas "declared" (rather, it acknowledged it should be applied, by allowing its pass through to the distribution tariff) the validity of the Resolution 208/04. As a consequence the same agency, taking into account the increases of the gas costs for the distribution, allowed a pass through of the same to the tariffs, but to the burden of only the final, large customers, and not for the residential consumers, that do not have their tariffs increased. The price path for such distribution tariff's gas cost component is to increase such portion of the tariff's price as per their purchase cost to absorb the increases agreed and approved on Resolution 208/04.

5.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?

Under Law nº 24,076 (Natural Gas Law), which established the regulatory framework of natural gas transmission and distribution, the above-mentioned restrictions for the holding of interest in transmission and distribution companies were established through section 34. Such restrictions on the recombination of key parts of the system by the awardees of the bids, and thereafter, on the shareholders of the investor companies formed in accordance to such bidding, were based on competitivity issues.

As a consequence: 1) no single natural gas producer may have control (as defined in section 33 of the Companies Law) of the holding company of a distribution or transmission licensee; 2) no group of natural gas producers may have control of such holding company, if: (i) such natural gas producers supply in the aggregate more than 20% of all the natural gas transported or distributed, computed monthly, by the transmission or distribution company controlled by the holding company where such group participates; or (ii) a preferential treatment is incurred by the transmission or distribution company to the benefit of such group or for any of the participants in such group; and 3) no transmission company may operate as a natural gas producer, or control one.

The licensee of the distribution (as well as the Transport licensee) may neither dispose in any form whatsoever of the Essential Assets (indispensable goods for the rendering of the service), nor shall it encumber, lease, sublease, give them as loan for use, or allot them to uses other than the distribution service, without the prior authorisation of the NGRE. Any expansion or improvement financed and incorporated to the distribution network by the licensee after the service takeover may be encumbered to secure credits longer than a year, taken to finance such extensions and improvements, which shall automatically become, upon incorporation thereof, the licensee's property, and shall be further automatically submitted to the rules applicable to Essential Assets.

6 Natural Gas Trading

6.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

Section 9, second paragraph, LG includes the brokers (marketers) as parties subject to the law as well. Section 14 defines such broker as an entity that purchases and sells natural gas for the account of third parties. Following such definition, the transactions that would make a contracting party fall into this category would be the ones where such contracting party would identify itself in the contract as a commission agent, acting for the account of a third party that is the beneficiary of such transaction. The essence is that the particular business is contracted for the account of a third party, and not for its own benefit (or risk). Resolution NGRE 421/97 establishes the requirements for registering with the then created Registry of Brokers.

6.2 What range of natural gas commodities can be traded? For example, can only "bundled" products (i.e., the natural gas commodity and the distribution thereof) be traded?

Resolution NGRE 419/97 which regulates the resale of transportation capacity, backed off of the principles stated under Resolution 267/95 -that had been opposed by several natural gas distribution licensees-. By the present resolution any new transportation capacity on a firm basis offered by a natural gas transmission licensee should be awarded by an open bidding system, while the holders of existing contracts that grant transportation capacity on a firm basis may assign directly such contracts to third shippers, provided such assignment is the result of an open bidding made by the first shipper itself.

The exception for these open bidding systems is for the case of bundled -supply/transportation- sale or a transport sale to a distributor in case of emergency of supply according to the regulations.

A most significant reform is constituted by the creation (Resolution SE 1146/04) of an electronic bulletin board -GEM- (Gas Electronic Market) for natural gas transactions as it involves an implied promise of a free market for natural gas.

Spot sales transactions will be exclusively made through such exchange. Resale of idle transportation capacity will be also transacted as required by regulations.

The allotment of idle transportation capacity would be assured by means of forcing any customer to make for the resale of the allotted transportation capacity of their transport contracts if the nomination of their gas to be transported does not reach the levels contracted for transport (section 16 and 17, Dec. 180/04) and it has not made a direct assignment to another customer. Resale of unbundled services, or with different combinations, is the matter of Resolution SE 606/04, giving considerable freedom to reassign them, until the Gas Electronic Market is put fully in place (since as from then on such capacity should be exclusively negotiated through such market, as established thereafter Resolution SE 739/05). The same will happen with any surplus of line pack gas offered by the transporters, which, as idle capacity, should necessarily be the subject of transactions under the new Exchange (section 16, 2nd, paragraph, Dec.180/04).

So far, the volume of spot transactions is not significant compared to the total production volume.

Natural Gas distribution licensees were not allowed to trade in the natural gas upstream market, and could only purchase for selling at tariff's prices. They are allowed under this agreement to set up trading units through new companies subject to the same joint control of distribution licenses (section 28 of the Decree 180/04), and by these means have the ability to compete in this new market.

7 Liquefied Natural Gas

7.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.

There are neither LNG liquefaction facilities in Argentina, nor a regulatory framework.

7.2 What Governmental authorisations are required to construct and operate LNG facilities?

No regulations have yet been issued in respect of the conduct separation, treatment and liquefaction activities, all of which will require permits from SE.

7.3 Is there any regulation of the price or terms of service in the LNG sector?

No regulations have yet been issued regarding the price or terms of service in the LNG sector.

8 Competition

8.1 Which Governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the natural gas sector?

Law nº 25,156 (Defense of Competition Law "DCL") came into force on September 28th, 1999, and established an entirely new regulation of concentrations and mergers.

The Tribunal for the Defense of Competition "TDC" has not been constituted yet, during the transition period running from the date on which the DCL is in force and the effective date on which the Tribunal shall be fully operative, DCL states that the National Defense of the Competition Commission "NCDC" created by Law nº 22,262 (former competition defence law which was abrogated by the DCL, as per its section 58) shall be the "interim" Application Authority that shall handle all filings presented as from the validity of the DCL.

8.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

In general, the set of punished conducts requires a coordinated action, for the following: (i) to fix, determine or to cause variations in the prices within a market, either directly or indirectly, by means of coordinated actions; (ii) to limit or control, by means of coordinated actions.... the distribution or marketing of goods or services; (iii) to set forth, by means of coordinated actions, the sale and marketing conditions, minimum quantities, discounts and other aspects of the sale and marketing; and (iv) to execute agreements or to undertake coordinated actions, distributing or accepting, among competitors, zones, markets, clients or supply sources.

8.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

Law nº 25,156 (Defense of the Competition) abrogated "any and all powers related to the object and purpose of this law, granted to other agencies or state entities" (section 59). Under this section, the intervention of regulatory entities in this field remains limited to the submission of any such reports as may be required by the National Court of Defense of the Competence -Law nº 25,156, section 16 and 24 (a)-.

8.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

The DCL is establishing an entirely new regulation of

concentrations and mergers. Chapter III "Concentrations and Mergers", sets forth, in sections nr. 6 through 16, the provisions regarding economic concentrations, which should be complied with by the individuals or entities framed therein.

According to Section 6 of the DCL "economic concentrations" are concluded through the take-over of one or several companies: a) merger between companies; b) the transfer of ongoing concerns; c) the purchase or the acquisition of rights, with respect to: (i) shares; (ii) equity interest; or (iii) debt instruments which grant any kind of right to be converted into shares of equity interest; or to have any kind of influence in the decisions of the issuer, when such acquisition grants to the acquirer the control, or a substantial influence on the issuer; or d) any other agreement or act that transfers de jure or de facto to a person or economic group the assets of a company or grants a determinant influence in the adoption of ordinary or extraordinary administrative decisions of a company.

When the total business volume of the group of companies concerned exceeds in the country the amount of two hundred million US Dollars (U$ 200,000,000) or when the volume, at a worldwide level, of the group of companies concerned, exceeds two and a half billion US Dollars (U$ 2,500,000,000, therefore qualifying such companies as Major Companies), any act specified in Section nr. 6 of the DCL shall be previously notified to the NCDC for its analysis.

The notice can also be given within the term of one week as from: a) the date of "completion" of the agreement; b) the publication of the purchase or exchange offer of shares; or c) the effective acquisition of a controlling interest (when such interest is incorporated into the net worth of the purchaser), and such term shall run as from the occurrence of the first of the events mentioned above, under the warning that, in case of breach, the provisions contained in section nr. 46, subsection d) shall apply. Additionally, section nr. 13 of the DCL states that the acts shall only cause effects between the parties or in connection with third parties once the transaction notified to the Authority is approved, as provided for under sections nr. 13 (written and founded approval) or 14 (tacit) of the DCL.

Resolution 14/99 of the NCDC sets out the guidelines for this notice, setting forth a specific form, identified as "F1". The information contained therein is the one that should be presented to the authorities in those cases in which an operation is notified.

However, there are certain cases (section 10 of the DCL) in which the parties are not compelled to inform the transactions: a) acquisition of companies of which the purchaser already owned more than fifty per cent (50%) of the shares; b) acquisition of bonds, debentures, non-voting stock or debt instruments of companies; c) the acquisition of a single company by a single foreign company which previously did not have assets or shares in other companies in Argentina (the so-called exception of "first landing"); or d) acquisition of liquidated companies (which have not carried out business in the country during the last year)".

NCDC shall decide, within forty-five (45) working days following the submission of the relevant notice: a) to authorise the transaction; b) to subordinate the act to the performance of the conditions set forth by the Commission itself; or c) to deny such authorisation. Once the term set forth in the preceding section has elapsed without the issuance of a written resolution thereon, the transaction shall be considered tacitly authorised (section 14). In all the cases, the tacit authorisation shall cause the same legal effects as the express authorisation. In practice, depending on the circumstances, the authorisations for mergers or acquisitions may be granted in an average six-month term.

On September 29th, 1999, the Secretariat of Industry, Trade y Mining issued the Resolution Nr. 726/99 which sets forth the Guidelines for the Control of the Economic Concentrations and the Rules of Procedure for the handling of Mandatory Notices of Economic Concentrations. The Resolution fixes the "substantial objective criteria" necessary to ground the evaluation process of the economic concentrations, as well as the rules that regulates the mandatory summons proceedings for the transactions stated in sections 6, 7 and 8 of the DCL. The Resolution describes several economic concepts and tools to be used in this procedure for the approval or denial of the relevant economic concentration transaction.

9 Foreign Investment and International Obligations

9.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

Foreign investments have the same privileges as local investors, none of which apply to the natural gas sector. The Regulatory Framework does not impose special requirements or limitations on acquisitions of interests in the natural gas sector by foreign companies all foreign investors must comply with foreign exchange regulations that establishes minimum terms for the investment to remain in the country.

9.2 To what extent is regulatory policy in respect of the natural gas sector influenced or affected by international treaties or other multinational arrangements?

Except as described in section 3, the current government does not consider international agreements or other multinational arrangements in determining its regulatory policy in the natural gas sector.

10 Dispute Resolution

10.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; and distribution network owners or users in relation to the distribution/transmission of natural gas.

In the gas industry, a prior and compulsory stage with the regulatory agency (National Gas Regulation Entity -NGRE)- has been established for controversies between producers, transporters, stockers, brokers and consumers (physical and commercial by-pass), arising out of the rendering of the service (section 66, LG). These decisions may be appealed to the Appellate Court in and for the City of Buenos Aires having jurisdiction over administrative cases, within fifteen (15) days of the resolution's notification (section 73, 3rd paragraph, LG). Regulatory resolutions may be appealed pursuant to the Administrative Proceedings Law Nº 19,549 (section 70, LG).

Conversely, administrative penalties may be appealed by means of

a direct appeal filed with the Appellate Court in and for the City of Buenos Aires having jurisdiction over administrative cases, within 30 days of the resolution's notification. The appeals had, without exception, a suspensive effect, and would have, because of this, left the NGRE with a limited authority, as it would have had to overrule this suspensive effect only by requesting to the judiciary an injunction or a provisional court order be granted to that effect (it is only as from Decree 692/95 that such suspensive effect was reversed).

10.2 Is the country a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID")?

Argentina is a signatory to, and has duly ratified, the New York Convention on the Enforcement of Foreign Arbitral Award by the Adhesion Instrument dated June 12 1989. Also, Argentina has been a signatory to the ICSID Convention since May 12 1991. The ICSID was ratified by Argentina on October 19 1994, and it came into force on November 18 1994. Argentina has signed, as host country of such investments from foreign countries' nationals (physical persons and entities, including their local subsidiaries under their control) more than 50 BITs with such investors' countries.

10.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

There is no special difficulty in litigating, or seeking to enforce judgments or awards, against Government authorities or the State. Public bodies enjoy no immunity against litigation and are subject to the rule of law on the same basis as individuals and non-state owned corporations and other entities.

In CMS Gas Transmission Company v. Argentine Republic (ICSID Case No. ARB/01/8) (Annulment Proceeding - Decision on the Argentine Republic's Request for a Continued - Stay of Enforcement of the Award- Rule 54 of the ICSID Arbitration Rules) the Committee held that the Republic of Argentina provided "an undertaking to CMS Gas Transmission Company that, in accordance with its obligations under the ICSID Convention, will recognise the award rendered by the Arbitral Tribunal as binding and will enforce the pecuniary obligations imposed by that award within its territories, in the event that annulment is not granted." Argentina has recently submitted as forming part of an annulment request under ICSID rules, that it will honour ICSID awards, when final.

10.4 Have there been instances in the natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

The discussions on disputes were related to foreign investments under the umbrella of Bilateral International Treaties (BITs) for the protection and promotion of foreign investments that basically establish a floor of international protection standards. Many of such BITs have "fork in the road" clauses, giving the choice to such foreign investors to request (instead of resorting to local jurisdiction) international arbitration for such disputes resolution, at the end of a stay period of some months whereby amiable discussions would have been pursued with the host country.

The majority of foreign investors have chosen to resort to international arbitration. Therefore, there are no such conflicts on foreign investments filed with the domestic courts

There are currently 36 registered ICSID claims against the Argentine Republic; some of them refer to oil & gas (ICSID maintains a public registry of claims that seek arbitral relief but there is no record of the number of claimant notices received declaring intent to arbitrate),

The ICSID tribunal in CMS Gas Transmission Co. v. Argentine Republic (ILCSID No. ARB/01/8), issued a $133.2 million award in favour of CMS after finding that Argentina failed to accord CMS "fair and equitable treatment" in violation of the bilateral investment treaty (BIT) between the United States and Argentina. However, the tribunal dismissed CMS's claim for "expropriation."

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Abeledo Gottheil Abogados S.C. is a leading law firm in Argentina with a strong international projection. It comprises more than sixty attorneys and since it was founded in 1963 it has been working for several clients (local and international) and publications. The Firm has carried on a series of analysis involving the past and present of the upstream exploration and exploitation in Argentina, the deregulation of the downstream, the award process to the private sector of separate business units, exploration permits and exploitation concessions through reconversion of preexisting risk service contracts, public bidding of exploration and exploitation areas, natural gas transportation and distribution licenses, and recombination the key parts of the natural gas system, describing as well the rate making regulations, the security of supply and open access rules and the nature of gas supply and transportation contracts. Currently, several publications of the Firm refer to the present status of the energy industry, the assessment of the regulatory constraints and impact, and the protection of investments in the sector.

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