

Taxation

Holders of exploration permits and production concessions are subject to federal, provincial and municipal taxes and regular customs duties on imports. The Hydrocarbons Law grants such holders a legal guarantee against new taxes and certain tax increases at the provincial and municipal levels. Holders of exploration permits and production concessions must pay an annual surface tax based on the area held. In addition, "net profit" (as defined in the Hydrocarbons Law) of holders of permits or concessions accruing from activity as such holders might be subject to the application of a special 55% income tax. This tax has never been applied. Each permit or concession granted to an entity other than YPF has provided that the holder thereof is subject instead to the general Argentine tax regime, and a decree of the national executive provides that YPF is also subject to the general Argentine tax regime.

Following the introduction of market prices for downstream petroleum products in connection with the deregulation of the petroleum industry, Law No. 23,966 established a volume-based tax on transfers of certain types of fuel, replacing the prior regime which was based on the regulated price. Law No. 25,745 modified, effective as of August 2003, the mechanism for calculating the tax, replacing the old fixed value per liter according to the type of fuel for a percentage to apply to the sales price, maintaining as the minimum tax the old fixed value.

In compliance with the provisions of the Law No. 25,561 on Public Emergency and Foreign Exchange System Reform, the Argentine government imposed (via the Executive Decrees No. 310/2002 and 809/2002, as amended by Resolutions No. 335/04, 336/04 and 337/04 issued by the Ministry of Economy and Production on May 11, 2004) customs duties on the export of crude oil at a rate of 25%, butane, methane and LPG at a rate of 20% and gasoline and diesel fuel at a rate of 5%. Moreover, on May 26, 2004, through the issuance of Decree No. 645/04, an export duty on the export of natural gas and NGL was established at a rate of 20%. Finally, on August 4, 2004 the Ministry of Economy and Production issued Resolution No. 532/04 establishing a progressive scheme of export duties for crude oil, with rates ranging from 25% to 45%, depending on the quotation of the WTI reference price at the time of the exportation. In July, 2006, the Ministry of Economy and Production issued Resolution 534/06, which increased to 45% the export duty on gas exports and instructed the Customs General Administration to apply the price fixed by the framework agreement between Argentina and Bolivia as an estimation basis upon which to determine the export tax on gas sales. On October 10, 2006, Resolution 776/06, issued by the Ministry of Economy and Production, clarified that the export duties created by Law 25,561, Section 6, apply to exports from the Tierra del Fuego Province, which were otherwise exempted from taxes, pursuant to Law 19640. Finally, Law 26,217, published in the Official Bulletin on January 16, 2007, extended the application of export duties created by Law 25, 561, Section 6, for five years, and clarified that these duties apply to exports from the Tierra del Fuego Province and ratified the effectiveness of Decrees No. 310/2002, 809/2002, 645/2004, Resolutions ME No. 526/2002, Resolutions MEyP No. 335/2004, 336/2004 and 337/2004, 534/2006 and 776/2006. Moreover, in May 2007 the Ministry of Economy and Production issued Decree No. 509/07, which increased to 25% the export duty on exports of butane, methane and LPG.

Certain contracts under which YPF exports gas provide that any tax (whose definition YPF believes is inclusive of the export duties mentioned above) that is created after the execution of such agreements shall be borne by the buyer thereof. Consequently, it is reasonable to estimate that the applicable export duties will not be entirely borne by YPF.

Antitrust Agreement

On June 16, 1999, the Argentine Ministry of Economy and Public Works delivered a letter to Repsol YPF setting forth a series of obligations that Repsol YPF was required to assume after the acquisition of the majority of YPF's share capital. Repsol YPF, in a letter dated June 17, 1999, accepted the Ministry's requirements, which are described below:

- Repsol YPF must instruct YPF not to renew specified contracts under which YPF purchases natural gas. Repsol YPF estimated that these contracts accounted for approximately 15% of the natural gas sold in Argentina by YPF and Repsol YPF in 1998.
- By January 1, 2001, Repsol YPF was required to divest itself of Argentine refining capacity equal to 4% of total Argentine installed capacity at December 31, 1998 and of a number of service stations that account for

a sales volume equivalent to that of Eg3 S.A., a refining and marketing Argentine subsidiary of Repsol YPF ("Eg3") in 1998. Both of these requirements were satisfied through the swap agreement with Petrobras. In addition to Eg3, the swap agreement encompassed other assets located in Argentina. Repsol YPF received assets in Brazil valued at approximately U.S.\$ 559 million.

- Until the gas contracts referred to above have expired, Repsol YPF may not participate in any new electricity generation projects.
- Repsol YPF must eliminate from YPF's LPG export contracts any provision prohibiting reimportation by the buyer.
- By December 1, 2002, Repsol YPF must reduce its share of the Argentine retail LPG market by 4%. Repsol YPF estimated that the combined Repsol YPF/YPF share of this market was approximately 38% at December 31, 1998.
- During the period until December 1, 2002, Repsol YPF must pass on, in the form of price reductions, any benefits resulting from economies of scale in its Argentine LPG operations resulting from the YPF acquisition. Repsol YPF believes that these benefits consisted mainly of cost reductions, which could be passed directly to consumers.

YPF believes that it has complied with all the obligations required in the letter delivered on June 16, 1999, by the Argentine Ministry of Economy and Public Works and the Argentine government has not raised any objections to the performance of those obligations.

On March 14, 2000, the Secretariat for the Defense of Competition and the Consumer of the Ministry of Economy and Production (Secretaría de Defensa de la Competencia y del Consumidor del Ministerio de Economía y Producción) issued a press release stipulating the following series of guidelines establishing the manner in which Repsol YPF must meet its obligation under the June 16, 1999, letter of the Argentine Ministry of Economy and Public Works requiring that Repsol YPF dispose of refining assets and service stations in Argentina in connection with its acquisition of control of YPF:

- (1) Repsol YPF must make the required sale of service stations to a single purchaser.
- (2) The block of service stations and refining capacity to be sold must correspond to an equivalent of Repsol YPF's share of the relevant geographical and product markets prior to its acquisition of YPF in 1999. The sale of the block of service stations must keep Repsol YPF's market share at YPF's pre-acquisition market share levels. Repsol YPF must transfer refining capacity sufficient to permit adequate supply for the block of service stations transferred.
- (3) The entity acquiring the service stations and refining assets must have no agreements with Repsol YPF. In addition, Repsol YPF may not transfer the assets to any related entity or to an entity which has a market share greater than 10% for each of refining and service station activities in Argentina.
- (4) The Secretariat for the Defense of Competition and the Consumer of the Ministry of Economy and Production may supervise Repsol YPF's divestment of the specified assets. The Court of Defense of Competition will have the authority to review Repsol YPF's disposal of the specified refining assets and service stations.

Repsol YPF met all of the above requirements upon execution of the asset swap agreement entered into with Petrobras in December 2001.

Repsol YPF believes that the acquisition of YPF will not be subject to further antitrust scrutiny in Argentina under existing law. However, the Ministry has not stated that there will be no further antitrust scrutiny and no assurances can be given that Repsol YPF will not be required to accept additional undertakings or other measures intended to address any perceived anti-competitive effects of the YPF acquisition.

Repatriation of Foreign Currency

Executive Decree No. 1,589/89, relating to the deregulation of the Upstream Oil Industry, allows YPF and other companies engaged in oil and gas production activities in Argentina to freely sell and dispose of the hydrocarbons they produce. Additionally, under Decree No. 1,589/89, YPF and other oil producers are entitled to keep out of Argentina up to 70% of foreign currency proceeds they receive from crude oil and gas export sales, being required to repatriate the remaining 30% through the exchange markets of Argentina.

In July 2002, Argentina's Attorney General issued an opinion (Dictamen No. 235) which would have effectively required YPF to liquidate 100% of its export receivables in Argentina, instead of the 30% provided in Decree No. 1,589/89. The Attorney General's opinion was based on the assumption that Decree No. 1,589/89 had been superseded by other decrees (Decree No. 530/91 and 1,606/01) issued by the government. Subsequent to this opinion, however, the government issued Decree No. 1,912/02 ordering the Central Bank to apply the 70/30% regime set out in Decree No. 1,589/89. Nevertheless, on December 5, 2002, representatives of the Central Bank of Argentina, responding formally to an inquiry from the Argentine Bankers Association, stated that the Central Bank would apply the Attorney General's opinion. On December 9, 2002, YPF filed a declaratory judgment action (*Acción Declarativa de Certeza*) before a federal court requesting the judge to clarify the uncertainty generated by the opinion and statements of the Attorney General and the Central Bank of Argentina, and requesting confirmation of YPF's right to freely dispose of up to 70% of its export receivables. On December 9, 2002, the federal judge issued an injunction ordering the Argentine government, the Central Bank and the Ministry of the Economy to refrain from interfering with YPF's access to and use of 70% of the foreign exchange proceeds from its exports. This decision was appealed by the Central Bank and the Ministry of Economy and Production.

On December 27, 2002, the government issued Decree No. 2,703/02, effective as of January 1, 2003, setting forth a minimum repatriation limit of 30% with respect to proceeds from the export of hydrocarbons and byproducts, with the remaining portion freely disposable. However, when referring to the minimum repatriation limit of 30%, the decree only mentions the foreign exchange proceeds from freely disposable exports of crude oil and its byproducts. Although the recitals and the first part of Section 1 of Decree No. 2,703/02 mention natural gas and LPG as covered by this regime, there are no express references to natural gas or LPG in the rest of Section 1. However, taking into account the rights granted by Decree No. 1,589/89, YPF applies this regime to the export of crude oil, LPG and natural gas. It is worth noting that the recitals of Decree No. 2,703/02 restate the interpretation maintained by the Attorney General in the sense that Decree No. 1,589/89 has been repealed by Decree No. 530/91 and No. 1,606/01. This interpretation prompted the filing of the above-mentioned declaratory judgment action. Moreover, since Decree No. 2,703/02 is effective as from January 1, 2003, and, in light of the Attorney General's opinion, it is unclear whether hydrocarbon exporters would be required to repatriate the total amount of their 2002 export proceeds or whether the existing hydrocarbons regulatory framework will prevail, YPF has expanded the object of the declaratory judgment action before the federal court to request that the judge expressly state that Decree No. 530/91 did not derogate Decree No. 1,589/89 and, thus, that the right of free disposal of export receivables was effective between issuance of Decree No. 1,606/01 and Decree 2,703/02. On December 1, 2003 the National Administrative Court of Appeals decided that the issuance of Decree No. 2,703/02, which allows companies in the oil & gas sector to keep abroad up to 70% of the export proceeds, rendered the injunction unnecessary. On December 15, 2003, YPF filed a motion for clarification asking the court to clarify whether the exemption was available to oil & gas companies during the period between the issuance of Decree No. 1,606/01 and the issuance of Decree 2,703/02. On February 6, 2004, the Court of Appeals dismissed YPF's motion for clarification, indicating that the regulations included in Decree 2,703/02 were sufficiently clear, and confirmed the lifting of the injunction that prohibited the Central Bank and the Ministry of Economy and Production from interfering with YPF's access to foreign exchange proceeds, as described above. On February 19, 2004, YPF filed an extraordinary appeal before the Supreme Court challenging the December 1, 2003 decision of the Court of Appeals and requesting the restatement of the injunction against the Central Bank and the Ministry of Economy and Production. The Federal Court of Appeals dismissed the extraordinary appeal. Taking into account the fact that there is a new special system in place allowing for the free disposal of up to 70% of the foreign currency proceeds from the exports of crude oil and its derivatives, it was deemed advisable to abandon the suit as a procedural strategy. Should the Central Bank eventually request the conversion of the foreign currency proceeds derived from hydrocarbon exports made from the issuance of Decree No. 1,606/01 to the date on which Decree 2,703/02 became effective, YPF may challenge such decisions or proceedings through administrative appeal procedures, as well as request precautionary measures within the frame of other judicial proceedings.