



“Ley Bases”

Law of Bases and Starting Points
for the Liberty of Argentines



Current Status

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Milestone

On June 28, 2024, the House of Representatives of the Argentine Federal Congress **finally passed the law known as "Ley Bases"**.

After the House of Representatives approved the bill last April, the Senate introduced certain amendments that were subsequently reviewed and approved by the House of Representatives in their entirety.

What Follows?

The amended bill will **now be passed to the Executive Branch to complete the legislative process.**

The President can enact the bill by issuing a promulgation decree. If no decree is issued within a 10-day term, the bill will be deemed automatically enacted.

Although unlikely, the President could also veto the bill either in whole or in part.

Key Points of “Ley Bases”

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Overview

“Ley Bases” aims to address Argentina's current emergency situation through unprecedented measures, including short-term economic actions and structural reforms to deregulate the economy, encourage new domestic and foreign investments, and reduce bureaucracy in government agencies.

Key Points of “Ley Bases”

*Legislative Powers
and State Reforms*

- The President will have legislative powers over **administrative, economic, financial, and energy-related issues for one year.**
- The Administrative Procedure Law is amended to strengthen the civil service, to reduce bureaucracy and simplify administrative procedures, as well as to grant greater guarantees and protections to private parties in their relations with the federal government.
- The President will also be allowed to close or restructure governmental entities and public trust funds.

Key Points of “Ley Bases”

Privatizations

“Ley Bases” subjects to **privatization certain state-owned companies and entities** through different mechanisms.

○ Total Privatization

- **Energía Argentina (“ENARSA”)** - an energy provider company.
- **Intercargo** - a company providing passenger and ramp ground services at airports.

○ Total Privatization or Fixed Term Concession

- **Agua y Saneamientos Argentinos (“AYSA”)** - a water and sewage services provider in Buenos Aires City and surrounding areas.
- **Belgrano Cargas y Logística** and **Sociedad Operadora Ferroviaria (“SOFSE”)** - train services companies.
- **Corredores Viales** - a company operating 10 national tollways.

Key Points of “Ley Bases”

Privatizations

- **Partial Privatization** (the Federal State retains control or majority stock holdings)
 - **Nucleoeléctrica Argentina** – operates Argentina’s three nuclear power plants (Atucha I, Atucha II and Embalse)
 - **Yacimientos Carboníferos Río Turbio (“YCRT”)** – operates the Río Turbio coal mine in the Province of Santa Cruz.
- The Executive Branch will define the privatization schedule and procedures for each case.
- **Exclusions**

Although included in the original bill, the following companies were removed from the privatization list: **Aerolíneas Argentinas (airline)**, **Correo Argentino (mail company)**, and **Radio y Televisión Argentina (state-owned media outlets)**.

Key Points of “Ley Bases”

Labor Reform

- The **labor reform permits the regularization of labor relationships without penalties and eliminates the system of fines and additional compensations for improperly registered labor relationships**, which previously represented the highest economic cost in terms of labor litigation.
- It also extends the trial period from three to six months, and to one year for small companies.
- Employers can replace severance payments with a “layoff fund,” which would come from employees’ salaries and be paid to them if they are fired.
- Union protests are restricted, and actions such as company takeovers and blockades will be deemed a dismissal offense.
- Freelance professionals and service providers are excluded from labor regulations, granting more freedom in service outsourcing.

Key Points of “Ley Bases”

Large Investments (RIGI)

The **Incentive Framework for Large Investments (RIGI, by its Spanish acronym)** provides tax benefits to companies planning to **import and invest a minimum of US\$ 200 million in Argentina.**

Participants will enjoy exemptions from national and provincial taxes, as well as the ability to import goods duty-free.

Sectors and Industries

- RIGI will apply to investments in infrastructure, forestry industry, tourism, mining, steel, energy, technology, and oil and gas sectors.
- The regime includes new projects or expansions of existing projects, with certain investments required within two years of RIGI's entry into force, extendable for an additional two years

Adhesion Term

- The term to adhere to RIGI is two years from the regime's entry into force. The National Executive Power may extend this term once for up to one year.

Key Points of “Ley Bases”

Large Investments (RIGI)

Single Project Vehicles (VPU)

- **VPUs owning one or more phases of a qualifying project may apply for adherence to RIGI.** VPUs cannot carry out any activities or own assets not assigned to a project, except for transitory investments of its working capital for the prudent management of the company's funds.
- The following entities may be considered VPUs:
 - a) corporations (sociedades anónimas), including sole proprietorships (sociedades anónimas unipersonales) and limited liability companies (sociedades de responsabilidad limitada);
 - b) branches of a foreign company;
 - c) dedicated branches (applicable to local entities); and
 - d) joint ventures and other associative contracts.

Key Points of “Ley Bases”

Large Investments (RIGI)

Foreign Exchange Rules

- Unless a more favorable regime applies, **VPUs will be exempt from the obligation of repatriating into Argentina and exchanging for Pesos its export collections** in the following percentages: 20% from the second year, 40% from the third year and 100% from the fourth, starting from the VPU's commencement date. Projects classified as “long-term strategic export” will benefit from such exemptions from the first, second and third years, respectively.
- VPUs will not be obliged to repatriate into Argentina or exchange for Pesos foreign currency obtained under other transactions, different from exports, including capital contributions, indebtedness or services rendered by the VPU to non-residents. In addition, they will have free availability of such currency.
- No restrictions will be applied to the holding of so-called “foreign liquid assets,” but their prior application to the payment of foreign liabilities might be required as a condition for the VPU to access the foreign exchange market.
- Foreign exchange regulations restricting access to the foreign exchange market for the payment of foreign financing or capital repatriation will not apply to VPUs provided that such payments do not exceed the amount of foreign currency entered into Argentina and exchanged for Pesos under foreign debts, capital contributions or direct investments in the VPU.

Key Points of “Ley Bases”

Large Investments (RIGI)

Jurisdiction and Arbitration

- Disputes arising between the Federal Government and a VPU shall be resolved through consultations and amicable negotiations in a 60-day period since the notification of the dispute by the VPU. If no agreement is reached, the dispute shall be submitted to arbitration under the following rules, at the option of the VPU: (i) the Rules of Arbitration of the Permanent Court of Arbitration (PCA) of 2012, (ii) the Rules of Arbitration of the International Chamber of Commerce (excluding the Expedited Proceeding), or (iii) the Convention on the Settlement of Investment Disputes between National and Other States of 1965 or the ICSID Additional Facility Rules.
- The seat of arbitration shall be outside Argentina, in a country that is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).
- The tribunal shall be made up by three arbitrators none of whom could be Argentinian or national of the controlling shareholder's country.
- The rights acquired under the RIGI are considered protected investments in accordance with the provisions of applicable treaties for the promotion and reciprocal protection of investments.

Key Points of “Ley Bases”

Large Investments (RIGI)

Provincial and Municipal Jurisdictions

Provinces and municipalities are invited to adopt incentive schemes similar to the RIGI to avoid inconsistencies. If they adhere to the RIGI, its rules shall prevail.

Effectiveness - Regulation

The Executive Branch must issue the implementing regulation of the RIGI within 30 days from its publication in the Official Gazette. The failure to so do will not impair the operative effects of its provisions and incentives since the entrance into force of “Ley Bases”.

Key Points of “Ley Bases”

Large Investments (RIGI)

Tax and Customs Incentives

- **The Income Tax rate for VPUs will be a reduced 25%, as opposed to the 35% general rate.**
- Accelerated amortization in Income Tax.
- Elimination of the five-year term for the computation of tax losses and the possibility that after five years without being absorbed by taxable income, they may be transferred to third parties.
- Updating of tax losses by the Internal Wholesale Price Index (IPIM).
- **While the rate applicable to the payment of dividends remains 7%, it will be reduced to 3.5% when dividends are distributed after seven years** from the project commencement.
- Tax Credit Certificates will be issued, which will include the VAT amounts invoiced to the VPUs, which may be used for various purposes. Among others, Tax Credit Certificates may be transferred to third parties without prior approval of the Tax Authority when the latter does not issue a decision regarding the requested refund or transfer within a term of three (3) months.
- VPUs may compute as income tax credit 100% of the amount paid for the tax on bank debits and credits.
- The importation of new capital goods, supplies and consumer goods will be exempt from import duties and any other charge or withholding of national or provincial taxes.

Key Points of “Ley Bases”

Large Investments (RIGI)

Tax and Customs Incentives

- **Exports for consumption will be exempt from export duties** after three years have elapsed from the project commencement.
- Interest paid and exchange differences arising from the financing of the project may be deducted from profits and/or added to losses of the VPUs.
- No thin capitalization will apply for the first five years.
- No restrictions may be imposed on the import and export of goods and services by the VPU, which includes direct restrictions, quotas and any governmental measure that alters the value of imported or exported merchandise.
- VPUs may keep their accounting records in US dollars, following the International Financial Reporting Standards (IFRS).
- Reorganizations of companies carried out for the purpose of establishing a VPU do not have to comply with all the requirements established by the Income Tax Law.
- VPUs may not be subject to new provincial and/or municipal taxes, except for the municipal taxes for services actually rendered. In the case of municipal taxes for services actually rendered, existing or to be created in the future, these may not exceed the specific cost of the service actually rendered to the subjects individually considered.

Key Points of “Ley Bases”

Energy: Hydrocarbons

Exportations and Commercialization

- Ley Bases provides for the **free trade of hydrocarbons and their derivatives**, both domestically and internationally, for export or import. The Secretary of Energy may only object to an export for technical or economic reasons related to the security of supply for the domestic market.
- The Executive Branch cannot intervene or set the prices of hydrocarbons or their derivatives at any stage of their production, transportation, or industrialization. State-owned companies can only sell their production by setting prices that reflect the competitive balance of the industry.
- Self supply will no longer be considered a matter of national public interest.

Key Points of “Ley Bases”

Energy: Hydrocarbons

Government Take

- **A mandatory bidding model to award concessions is proposed**, even for the association of state-owned companies with the private sector. Said model will include, among the criteria to resolve the awarding, the percentage of royalties that each interested party offers to pay. Thus, such payment of royalties will be made according to the outcome of the bidding process. For existing permits and concessions, the agreed terms in the respective titles will apply.
- The amount of the fee (“canon”) to be paid by exploration permit holders and exploitation concessionaires, as well as any potential fines stipulated by the law, has been set by referencing variable formats to prevent devaluation.

Association with State-owned Companies

- With respect to blocks reserved for state-owned companies, particularly regarding their collaboration with private enterprises for joint exploitation: (i) the selection of these private partners must adhere to a bidding process in accordance with federal hydrocarbons law; and (ii) the requirement that each company's participation in the joint venture must proportionally reflect their respective investments is eliminated.

Key Points of “Ley Bases”

Energy: Natural Gas

Amendments to the Natural Gas Regulatory Framework

- **The export of natural gas will be regulated without the condition that domestic supply has been safeguarded.** In addition, a regulation specifically applicable to the processing of authorizations for the export of liquefied natural gas (LNG) to be granted on a firm condition and valid for 30 years is expected to be issued.
- The extension of the renewal period for licenses granted to current providers of natural gas transportation and distribution services to 20 years is established, currently set at 10 years.
- Natural gas transportation and distribution companies will be able to store natural gas as a way of reinsuring the supply of their non-interruptible services.

Key Points of “Ley Bases”

Energy: Electric Power

Amendments to the Natural Gas Regulatory Framework

- The Executive Branch is empowered **to amend the regulatory framework of the electric power industry until December 31, 2025**, according to certain principles that include:
- Free international trade of electric energy, and the delegation of the responsibility of avoiding the lack of supply of the domestic market on the exporter.
- Free commercialization, competition and expansion of the electric energy markets and free choice of electric energy supplier to end-users.
- Economic dispatch for energy transactions based on hourly economic cost of the system.
- Explicit mention of the different concepts to be paid by the end-user, and the obligation of the distributor to act as a collection or withholding agent.
- Development of electric energy transportation infrastructure through open, transparent, efficient, and competitive mechanisms.
- Review, modernization, and professionalization of the centralized and decentralized administrative structures of the electricity sector.

Key Points of “Ley Bases”

Public Procurements Contracts

Renegotiation of Contracts Executed by the Federal State

The Executive Branch **can renegotiate and terminate any contracts that generate material obligations for the State**, entered into before December 10, 2023.

- Contracts entered into under the privatization processes carried out in the 1990s (Law No. 23,696) and those concluded within the framework of regimes for the promotion or stimulation of activities, investments, and production are excluded from this process.
- Additionally, the Executive Branch is authorized to enter into settlement agreements in disputes, whether administrative, judicial or arbitral, over breaches of state contractual obligations that are likely to be acknowledged.

Key Points of “Ley Bases”

Public Procurements Contracts

Infrastructure Public Works and Services

“Ley Bases” approves a **new regulatory framework for the construction and operation of public infrastructure works and services**, through the comprehensive update of the old Law No. 17,520 on the Concession of Public Works.

- Flexible financing sources, including tolls and State or third-party remunerations.
- Private initiatives with private financing encouraged. The Executive Power will later regulate the details of this mechanism and the competitive advantages it will have over other offers.
- Mechanisms to preserve and restore the private contractor's economic-financial balance are introduced, including the possibility of renegotiating the agreed terms.
- Limits on the scope of compensation that the State must pay for breaching or terminating contracts governed by public law are removed.
- It expands dispute resolution means by allowing the agreement of prevention and dispute resolution mechanisms, such as arbitration, as well as the intervention of technical panels. Previously, the State needed congressional authorization to agree to international arbitration seated outside of Argentina for these types of contracts.



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