

OIL REGULATION

East Timor



Oil Regulation

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Quick reference guide enabling side-by-side comparison of local insights into oil industry issues worldwide, including commercial, policy, regulatory, licensing and legal system overview; expropriation provisions; license revocation and amendment mechanisms; state participation; royalties, taxes and tax stabilisation; joint ventures; reservoir unitisation; guarantees and security deposits; transfer to third parties; title to facilities and equipment; decommissioning and abandonment; transportation; cost recovery; health and safety; environmental; labour; tax; commodity price controls; competition; seismic data; treaty, foreign ownership and cross-border sale considerations; and recent trends.

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GENERAL

Key commercial aspects

Describe, in general terms, the key commercial aspects of the oil sector in your country.

East Timor attained its independence in 2002 and, since then, its economy has shifted from relying on foreign aid to relying heavily on the returns from investing revenues received from extracting petroleum resources, in particular on the Bayu-Undan field, which is expected to dry up and commence its decommissioning this year.

The imminent decommissioning of the Bayu-Undan field has urged the government to press ahead with plans for a carbon capture and storage project and launch a new licensing round for the award of onshore and offshore blocks.

The government is also continuing to push for the final approval of the regulatory and contractual framework for the development of the Greater Sunrise fields currently under discussion with the Australian government and the Sunrise joint venture. The Greater Sunrise fields, located in the Timor Sea 150km south-east of East Timor and 450km north-west of Australia's Northern Territory, are estimated to contain at least 5.1 trillion cubic feet of natural gas plus 226 million barrels of condensate and are well placed to supply the world's biggest liquefied natural gas markets in East Asia. Despite all governmental efforts, the negotiation of the Greater Sunrise regulatory and contractual framework has been delayed, and there is still no firm timeline for commencement of development of the Greater Sunrise fields.

The Tasi Mane Project launched by the government for construction of three industrial clusters on the country's southwest coast is part of East Timor's Strategic Development Plan and will involve the development of an integrated petroleum infrastructure in the coastal zone from Suai to Beaco over the next two decades. The plan includes the construction of the Suai Supply Base cluster, the Betano Refinery and Petrochemical Industry cluster, and the Beaco LNG-Plant cluster.

The natural gas sector in East Timor is considered as the one of the most reliable revenue sources for the country. The official annual report published by the National Authority of Petroleum and Minerals (ANPM) refers to the fact that, in 2021, East Timor produced, in what regards LNG, close to 30 million barrels of oil equivalent, in a total amount of 45 cargoes, of which 44 per cent were exported to China, 38 per cent to Japan and the remaining to South Korea, India and Taiwan.

Law stated - 09 May 2023

Energy mix

What percentage of your country's energy needs is covered, directly or indirectly, by oil or gas as opposed to nuclear or non-conventional sources? What percentage of the petroleum product needs of your country is supplied with domestic production?

According to the annual report published by the International Renewable Energy Agency (updated on 24 August 2022), the percentage of the country's energy needs met, directly or indirectly, by petroleum products (fuel, oil, gasoline, etc) is 100 per cent.

According to the ANPM, the country's energy need was covered with the import of products such as diesel, which made up to 73 per cent, along with petrol, which was 21 per cent. The other imported products were 2 per cent of Jet Fuel, 2 per cent of asphalt, 1 per cent of lubricant and 1 per cent of LPG.

Law stated - 09 May 2023

Government policy

Does your country have an overarching policy regarding oil-related activities or a general energy policy?

The legal framework for development of petroleum activities is established by the National Parliament and the Government under (1) the Petroleum Law and ancillary Offshore and Onshore Regulations (upstream) and (2) the Downstream Regulations (downstream).

These diplomas set forth a robust regulatory framework for investment in the sector, with a particular focus on protection of the environment and local content to ensure the sustained development of Timorese national, local services and goods providers.

Law stated - 09 May 2023

Registering a licence

Is there an official, publicly available register for licences and licensees? Is there a register setting out oilfield ownership or operatorship, etc?

Information on existing licenses and licensees is public.

The following documentation is published in the Official Journal of the Democratic Republic of East Timor: concession and licence awarding notices with a description of the corresponding terms and conditions; tender procedures for the submission of proposals related with the award of licences; licence extinction notices. Further information is widely available at the ANPM official website www.anpm.tl.

The following documentation and information must be made available by the Ministry of Petroleum and Minerals to the public: copies of all licences and modifications thereto, whether or not in effect; details of licenses granted, and amendments or suspensions agreed in relation to a licence; copies of all unitisation agreements.

Law stated - 09 May 2023

Legal system

Describe the general legal system in your country.

East Timor's legal system is civil law-based with an independent judicial system and bound to the fundamental principles of rule of law.

East Timor adhered on 17 March 2021 (and deposited the ratification instrument with the Secretary-General of the United Nations on 18 January 2023, with the entry into force for East Timor to occur on 17 April 2023), to the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and, as such, international arbitral awards are recognised and enforceable in East Timor, without prejudice to the reservation made by the Timorese State, which limits the applicability of the Convention to:

- the recognition and enforcement of arbitral awards handed down in another contracting state; and
- disputes arising from legal relationships, whether contractual or not, of commercial nature.

It is also noteworthy that the East Timor National Parliament approved Law No. 6/2021 of 31 March 2021, which

establishes the legal regime of voluntary arbitration and allows recognition and enforcement by East Timor's competent judicial courts of arbitration decisions.

Rules on anti-bribery and anti-corruption can be found in the East Timor Penal Code and in the Anti-Corruption Law approved by Law (Law 7/2020, of 26 August 2020).

Law stated - 09 May 2023

REGULATION OVERVIEW

Legal framework for oil regulation

Describe the key laws and regulations that make up the principal legal framework regulating oil and gas activities.

Oil and gas activities are primarily regulated by Petroleum Activities Law (Law 13/2005, of 2 September 2005), the Offshore Petroleum Activities Regulation (Decree-Law 32/2016, of 17 August 2016), the Onshore Petroleum Activities Regulation (Decree-Law 18/2020, of 13 May 2020) and the Downstream Activities Regulation (Decree-Law 1/2012, of 1 February 2020).

The National Authority of Petroleum and Minerals (ANPM) is the regulatory body of the oil and gas upstream and downstream sectors, with broad statutory attributions and authority including the regulation, control and supervision of all petroleum activities.

Law stated - 09 May 2023

Expropriation of licensee interest

Are there any legislative provisions that allow for expropriation of a licensee's interest and, if so, under what conditions?

Both the Onshore Petroleum Activities Regulation (Decree-Law 18/2020, of 13 May 2020) and the Downstream Activities Regulation (Decree-Law 1/2012, of 1 February 2020) foresee the enforcement of a possible expropriation mechanism in the case of properly justified public interest, the expropriation having to be carried out in a non-discriminatory manner and subject to the payment of fair compensation, which must be calculated pursuant to the applicable laws.

Law 8/2017 of 26 April, which establishes the Timorese expropriation legal regime, sets out that the compensation may be defined either by agreement between the parties or, if the negotiation is not successful, by an arbitration court created for that effect, and must take into account the financial costs resulting from the expropriation, as well other factors, without patrimonial value. The compensation must be calculated on the basis of:

- the market value of the immovable assets, calculated at the date of the public interest declaration;
- the value of the area; and
- the cost of the eventual replacement of constructions or farmsteads.

Law stated - 09 May 2023

Revocation or amendment of licences

May the government revoke or amend a licensee's interest?

The state has the right to revoke the concession contract in certain circumstances set forth by law or contract and subject to the relevant statutory and contractual formalities and procedures (set forth under the law and/or the concession contract).

According to the Model Onshore/Offshore Production Sharing Contract (PSC), a PSC may be terminated, among other circumstances, if the holder of an exploration and production (E&P) right committed a material breach of any agreed plan, programme, authorisation, approval, condition or term to the PSC, has not complied with the applicable law in East Timor; has provided information to ANPM or the Ministry of Petroleum and Minerals (MPM), in connection with this contract or in order to obtain this contract that it knew, or ought reasonably to have known, or believed to be false; is insolvent, is adjudged bankrupt or makes any assignment for the benefit of its creditors, or is adjudged to be unable to pay its debts as the same fall due; a petition is filed in a court having jurisdiction or an order is made, or an effective resolution is passed, for the dissolution, liquidation or winding up of the parent company of any holder of an E&P right; a receiver is appointed or an encumbrancer takes possession of a majority of the assets or undertaking of the holder of an E&P right; or a holder of an E&P right ceases or threatens to cease to carry out its business.

Rules for surrender and relinquishment of areas during the Exploration Period are also established under the law and elaborated further under the PSC.

Law stated - 09 May 2023

Regulators

Identify and describe the government regulatory and oversight bodies principally responsible for regulating oil exploration and production activities in your country. What sanctions for breach may be imposed by the regulatory and oversight bodies?

The key regulatory bodies responsible for regulating the oil exploration and production activities are:

- the MPM, which is responsible for the design and implementation of the energy policy and the management of mineral resources (including petroleum) and for the licensing and regulation of industrial activity of oil and mineral processing;
- the ANPM, which is the main regulatory body of the oil and gas upstream and downstream sector. Its main attributions include the regulation, control and supervision of petroleum related activities, being, in the downstream sector in particular, responsible for the promotion of 'efficient use and optimisation of the installed capacity in petroleum infrastructures such as pipelines, terminals, transport and communications infrastructures' and 'guaranteeing national energy security and monitoring and regulating all petroleum activities so that satisfactory levels of quality and supply of products to consumers are ensured';
- Petroleum and Geology Institute, IP, established in 2012 by means of Decree-Law 33/2012 of July 18, a public institution of the East Timor government under MPM supervision, with the objective of developing geological studies of mineral resources, including East Timor's oil and gas; and
- Timor Gap, EP, the National Oil Company, tasked to identify, develop and optimise the strategic and commercial value of oil and gas of the country's resources.

Law stated - 09 May 2023

Government statistics

What government body maintains oil production, export and import statistics?

The Ministry of Finance is the government body responsible for the publication of official statistics, through the Directorate-General of Statistics. Petroleum production, export and import statistics are also managed and maintained by the MPM and ANPM.

Law stated - 09 May 2023

NATURAL RESOURCES

Title

Who holds title over oil reservoirs? To what extent are mineral rights on private and public lands involved? Is there a legal distinction between surface rights and subsurface mineral rights? At what stage does title to extracted oil transfer to the licensee, lessee or contractor?

Under the Timorese Constitution and the Petroleum Activities Law, the Timorese State is the owner and controls all natural resources located found in the soil, subsoil, interior waters, territorial water, continental shelf and economic exclusive zone, including oil reservoirs.

The holder of an exploration and production (E&P) right and the state individually take ownership of their relevant share of petroleum produced at the delivery point, as defined under the relevant Production Sharing Contract (PSC).

Law stated - 09 May 2023

Exploration and production – general

What is the general character of oil exploration and production activity conducted in your country? Are areas off-limits to exploration and production?

The oil exploration and production activity in East Timor is characterised by the existence of onshore and offshore operations encompassing:

- prospection, exploration, development, production, sales and export;
- construction, installation and operation of infrastructures, premises or support for the development, production and export of petroleum products; and
- decommissioning and removal of structures.

According to the Onshore Petroleum Activities Regulation and the Offshore Petroleum Activities Regulation, an area may be declared as an excluded area for petroleum activities when justified by national security, national safety, the well-being of the nearby community, environmental, cultural or religious issues or when such activities are incompatible with activities projected or being carried out in the target area. The establishment of an excluded area must be declared by the Council of Ministers, under a proposal by the Ministry of Petroleum and Minerals (MPM).

Additional off-limits areas to petroleum activities are those:

- reserved for graveyards;

- containing significant archaeological and cultural heritage or where national monuments are located;
- containing religious sites;
- within 250 metres of dams or reservoirs;
- within 100 metres of state buildings;
- used for national defence or occupied by national defence entities, including a 100-metre surrounding area;
- within 100 metres of an airport;
- located less than 50 metres away from land adjacent to railway lines or pipeline projects;
- reserved for agricultural seedings plantation or forestry activities;
- located within 250 metres of villages, towns, municipalities or cities;
- on streets, roads, bridges and other public infrastructure, including a 100-metre surrounding zone on each side;
- located in a national park; and
- located less than 1000 metres away from a border with a foreign country.

The Onshore Petroleum Activities Regulation and the Offshore Petroleum Activities Regulation also establish that if the economic value or other benefits associated with the mineral activities clearly surpass the value and importance of the archaeological and cultural heritage, national monuments or religious sites or any other legally imposed off-limits areas, the Council of Ministers may approve, if proposed by the MPM, the development of petroleum activities in such area, subject to consultation with the relevant municipal entities and governmental bodies.

Law stated - 09 May 2023

Exploration and production – rights

How are rights to explore and produce granted? What is the procedure for applying to the government for such rights? To what extent are the terms of licences or contracts negotiable?

Exploration and production rights are granted by means of a PSC.

The award of a PSC usually occurs following a public tender procedure. During the pre-qualification process applicants are required to submit evidence of (1) technical and financial capacity to carry out petroleum activities, (2) previous experience in projects with high standards in what concerns environmental, safety, health and local content, (3) duly incorporation as a limited liability company entity with limited liability and (4) a track-record of proper corporate citizenship.

Law stated - 09 May 2023

Government participation

Does the government have any right to participate in a licence? If so, is there a maximum participating interest it can obtain and are there any mandatory carry requirements for its interest? What cost-recovery mechanism is in place to recover such carry? Does the government have any right to participate in the operatorship of a licence?

The Timorese State (or any public legal person) has the right to participate in all phases of a petroleum activity, subject to approval by the Council of Ministers, up to a 20 per cent carried participating interest. The 20 per cent limit shall not apply if the participation of the Timorese State or any other public legal person results from a commercial transaction or a tender award in accordance with the applicable law.

Timor Gap, E.P. also has a right of first refusal in the transfer of exploration and production participating interests.

Royalties and tax stabilisation

If royalties are paid, what are the royalty rates? Are they fixed? Do they differ between onshore and offshore production? Aside from tax, are there any other payments due to the government? Are any tax stabilisation measures in place?

A fixed royalty fee of 5 per cent is due, no difference being made between onshore and offshore production.

Holders of an E&P right must pay a surface rental fee of US\$30 per square kilometre covered by the contract area, unless the area has been abandoned in accordance with the abandonment obligation set in the applicable legal regime.

There are no statutory signature bonuses due to the government.

There are currently no tax stabilisation agreements nor tax stabilisation legislation in place in relation to the oil sector.

Law stated - 09 May 2023

Licence duration

What is the customary duration of oil leases, concessions or licences?

Petroleum contracts have an exploration period of up to seven years and a production period of 25 years. Exploration and production periods can be extended in accordance with the relevant provisions of the law.

Law stated - 09 May 2023

Extent of offshore regulation

For offshore production, how far seaward does the regulatory regime extend?

The regulatory regime extends to East Timor's territorial waters, together with its economic exclusive zone and continental platform, where East Timor has sovereign rights of exploration and production of its natural resources.

It is worth mentioning the Treaty entered between the East Timor and Australia, for the establishment of their maritime boundaries in the Timor Sea, particularly the delimitation of the exclusive economic zone and the continental platform and the establishment of the Greater Sunrise Regime (Annex B to the Treaty) which sets for special rules for the development of the Greater Sunrise fields that fall within East Timor and Australia jurisdiction.

Law stated - 09 May 2023

Onshore offshore regimes

Is there a difference between the onshore and offshore regimes? Is there a difference between the regimes governing rights to explore for or produce different hydrocarbons?

There are no major differences between the Offshore Petroleum Activities Regulation (Decree-Law 32/2016, of 17 August 2016), the Onshore Petroleum Activities Regulation (Decree-Law 18/2020, of 13 May 2020).

There is no difference between the regimes governing rights to explore for or produce different hydrocarbons, all defined under the Petroleum Activities Law as 'Petroleum'.

Authorised E&P entities

Which entities may perform exploration and production activities? Describe any registration requirements. What criteria and procedures apply in selecting such entities?

E&P rights can only be granted to national or foreign legal persons who prove to have the competence, technical capacity and adequate financial means to conduct petroleum operations. Holders of an E&P right must set up a local company in East Timor, appoint a local representative, comply and ensure that any subcontractor complies with the applicable local content requirements and open a local bank account.

Law stated - 09 May 2023

Regulatory powers over operators

What controls does the regulatory body have over operators? Can operatorship be revoked?

The appointment and change of an Operator are subject to previous approval by the MPM.

Whenever the MPM determines that the Operator is no longer competent, it may, by written notice sent to the Operator and the contractor, revoke the corresponding approval. In such case, the contractor must, within 30 days, appoint a new Operator to be approved by the MPM. If the contractor fails to appoint an Operator within the 30 days period, the MPM may terminate the contract.

Law stated - 09 May 2023

Joint ventures

What is the legal regime for joint ventures?

The association of different companies organised as an unincorporated joint venture to conduct petroleum operations is permitted. The MPM may award E&P contracts to such joint ventures, provided that (1) a joint operating agreement has been executed between the members of the joint venture and it has been approved by the Ministry; and (2) the joint venture appoints one of its members to act as the operator.

Law stated - 09 May 2023

Reservoir unitisation

How does reservoir unitisation apply to domestic and cross-border reservoirs?

Whenever a deposit is partially located in a contract area and partially in another contract area, the MPM may, by written notice, require the contractors to execute a unitisation contract for the purpose of securing an effective and optimised production of that deposit.

If an agreement is not reached by the contractors within 18 months of the notice receipt, the MPM shall define the unitisation contract terms. The same regime applies to a deposit located partially in a contract area and partially in an area which is not object of a contract, with the MPM being the counterpart of the unitisation contract.

Unitisation contracts must (1) define the quantity of oil in each of the areas subject to the contract and (2) appoint an Operator responsible for the production of oil covered by such contract.

Apart from the Greater Sunrise Special Regime established under the Treaty entered between the East Timor and Australia, for the establishment of their maritime boundaries in the Timor Sea, there are no express rules governing cross-border reservoirs.

Law stated - 09 May 2023

Licensee liability

Is there any limit on a party's liability under a licence, contract or concession?

With the exception of the National Oil Company Timor Gap, E.P., holders of E&P rights are liable for any damages, losses and claims for compensation or inconvenience caused by or arising from the decommissioning, regardless of any form of liability, whether strict liability or negligence on their part.

The obligations and liabilities of each member of an E&P joint venture are joint and several, except the National Oil Company Timor Gap, E.P., unless Timor Gap, E.P. is appointed as Operator or holds the majority of the participating interests.

Law stated - 09 May 2023

Guarantees and security deposits

Are parental guarantees or other forms of economic support common practice or a regulatory requirement? Are security deposits required in respect of any work commitment or otherwise?

Holders of E&P rights must demonstrate the necessary financial and technical capacity to qualify to participate in oil activities. Additionally, bank or parent company guarantees are usually required to ensure the fulfilment of work obligations under the relevant Production Sharing Contract.

Both the Onshore Petroleum Activities Regulations and the Offshore Petroleum Activities Regulations set out other circumstances under which additional guarantees may need to be provided by the participants:

- decommissioning activities;
- payment of wages, benefits, indemnities and other work responsibilities, which may arise from judicial orders (if the period of validity of the relevant insurance policy is less than three years counting from the date of termination of the authorisation and the amount insured is less than plus 1 per cent of the payroll of the authorised person); and
- liability arising from non-compliance with statutory obligations and requirements.

Law stated - 09 May 2023

LOCAL CONTENT REQUIREMENTS

Minimum requirements

Must companies operating in your country prefer, or use a minimum amount of, locally sourced goods, services, capital or personnel?

Holders of exploration and production (E&P) rights must (1) incorporate a company in East Timor with the sole purpose of carrying out petroleum activities, (2) appoint a local representative with full representation powers and (3) open and keep a bank account in a Timorese bank.

Additionally, the procurement of goods and services for petroleum activities shall favour the procurement of Timorese suppliers and all procurement procedures are subject to prior approval by the Ministry of Petroleum and Minerals (MPM).

Whenever goods and services from East Timor do not meet the required quality, the authorised person may request the MPM's approval to use imported goods and services, in which case foreign suppliers who are to provide services in East Timor for more than twelve months, or to whom contracts with a term of validity of more than twelve months are awarded, must establish and maintain a company in East Timor before commencing the execution of the respective contracts.

Law stated - 09 May 2023

Social programmes

Describe any social programme payment obligations that must be made by a licensee, lessee or contractor.

Holders of an E&P rights are obliged to prepare and implement local content programs throughout all phases of petroleum activities, as well as develop and finance sustainable local content programs for commercial petroleum projects (including social programmes). The selection, planning and implementation of the local content proposal should be carried out in close consultation with the Ministry, with the latter ensuring that all proposals for local content are measurable, feasible, justifiable and transparent at all stages of the operations.

Law stated - 09 May 2023

TRANSFERS TO THIRD PARTIES

Approval to transfer interests

Is government consent required for a company to transfer its interest in a licence, concession or production sharing agreement? Does a change of control require similar approval? What is the process for obtaining approval? Are there any pre-emptive rights reserved for the government?

Under the Petroleum Activities Law, assignment and changes of control operations (including control of the shares or voting rights or of the powers of controlling the management of a company) are subject to prior approval in written by the Ministry of Petroleum and Minerals (MPM), save consent having been previously obtained or the terms of the corresponding authorisation or the contract expressly foreseeing that possibility. In case a change of control without written consent of the MPM occurs, the Ministry may revoke the corresponding PSC with the relevant assignment, transfer, novation, merger or encumbrance, as applicable, not being considered valid nor producing any effect.

The National Oil Company Timor Gap, E.P. and its subsidiaries have a right of first refusal in the transfer of exploration and production participating interests.

Law stated - 09 May 2023

Approval to change operator

Is government consent required for a change of operator?

Change of operator is subject to written consent by the MPM.

Law stated - 09 May 2023

Transfer fees

Are there any specific fees or taxes levied by the government on a transfer or change of control?

The Onshore Petroleum Activities Regulation and the Offshore Petroleum Activities Regulation establish a transfer fee applicable to the assignment of a participating interest in a Production Sharing Contract to be paid within 30 days from the date on which the assignment takes effect. Such transfer fee is calculated with reference to the value of the transaction, as follows:

- for each dollar of the first US\$100 million: 1 per cent;
- for each dollar of the following US\$100 million: 1.5 per cent; and
- for each dollar thereafter: 2 per cent.

The transfer fee is not due if the holder of the E&P rights is a consortium or a joint venture, and the assignment is made between the consortium or joint venture members; the assignment is made in favour of an affiliate of the assignor; the assignee is Timor GAP, E.P.

Law stated - 09 May 2023

TITLE TO FACILITIES AND EQUIPMENT

Title holder

Who holds title to facilities and equipment used for oil exploration, development and transportation activities during the term and on termination of a licence, PSC or service contract?

Pursuant to the Onshore Petroleum Activities Regulation and the Offshore Petroleum Activities Regulation, infrastructure for oil exploration, development and transportation is property of the National Oil Company of East Timor, Timor Gap, E.P. Infrastructures acquired by the holder of exploration and production (E&P) rights (except for leased assets) for the development of petroleum activities under a Production Sharing Contract (PSC) become assets of Timor Gap, E.P. when acquired in East Timor and, when acquired abroad, when they enter Timorese territory. The holder of the E&P rights shall, nevertheless, possess and have control over the infrastructures and is entitled to use them in the petroleum operations free of charge during the whole term of the PSC. The contractor shall be liable to carry out proper maintenance and repair of all infrastructures so as to ensure their integrity and usefulness at all times.

Law stated - 09 May 2023

DECOMMISSIONING AND ABANDONMENT

Laws and regulation

What laws or regulations govern abandonment and decommissioning of oil and gas facilities and pipelines? In summary, what is the obligation and liability regime for decommissioning? Are there any other relevant issues concerning decommissioning?

The main legal framework relating to abandonment and decommissioning of oil and gas facilities and pipelines are the Petroleum Activities Law, the Offshore Petroleum Activities Regulation and the Onshore Petroleum Activities Regulation (Decree-Law 18/2020, of 13 May 2020).

The holders of exploration and production (E&P) rights must submit a decommissioning plan to the Ministry of Petroleum and Minerals for its approval, either in response to a request from the Ministry or within two years of beginning production. The plan must include an estimate of decommissioning costs, as well as other elements, including, but not limited to, (1) description of petroleum activities carried out in the corresponding oil field, (2) all facilities and wells and its location and depth, (3) decommissioning options and a recommended option. The Ministry has the power to require additional information and documentation and may as well reject the plan.

Law stated - 09 May 2023

Security deposits for decommissioning

Are security deposits required in respect of future decommissioning liabilities? If so, how are such deposits calculated and when does their payment become due?

Unless otherwise required by the Ministry of Petroleum and Minerals (MPM), the holders of E&P rights must, at the start of commercial production activities, open an escrow account in a bank approved by the Ministry, for the purpose of accumulating reserves for decommissioning costs, to be used as a contingency fund for decommissioning costs. Withdrawals from the decommissioning fund shall only be permitted with the prior approval of the MPM, and for the purpose of implementing an approved decommissioning plan.

On termination of the petroleum contract and whenever the MPM and other competent authorities confirm and recognises the fulfilment of all obligations with respect to decommissioning, all values deposited in the decommissioning fund remain the property of the Ministry, to be used as a guarantee for the proper execution of post-decommissioning monitoring, maintenance and inspection in accordance with the decommissioning plan.

Law stated - 09 May 2023

TRANSPORTATION

Regulation

How is transportation of crude oil and crude oil products regulated within the country and across national boundaries? Do different government bodies and authorities regulate pipeline, marine vessel and tanker truck transportation?

In accordance with the Downstream Regulations, the National Authority of Petroleum and Minerals (ANPM) is the state authority responsible for licensing downstream activities, including the transportation of crude oil and crude oil products.

Companies willing to carry-out downstream are required to be duly incorporated under Timorese law and must have financial and organisational capacity (including duly qualified staff and adequate equipment to carry out the activities it intends to develop), have its office and place of effective management in East Timor and must have a minimum 5 per cent participating interest held by a public entity or company or by Timorese citizens, or by a company owned by Timorese citizens.

Renewal and transfer of a downstream licence is subject to ANPM's previous approval.

Law stated - 09 May 2023

COST RECOVERY

Determining recoverable costs

Where oil exploration and production activities are conducted under a production sharing contract, describe how recoverable costs can be determined and how recovery can be realised.

ursuant to the Offshore Petroleum Activities Regulation and the Onshore Petroleum Activities Regulation, the cost recovery mechanisms are established in each Production Sharing Contract (PSC), with the holders of exploration and production rights having the duty to maintain records of all information and data related with recovery costs amounts and calculations.

Both the Onshore/Offshore Model PSC under the Petroleum Activities Law and previous PSCs entered into by the Timorese State followed East Timor's very competitive costs recovery policy.

Law stated - 09 May 2023

HEALTH, SAFETY AND ENVIRONMENT

Requirements

What health, safety and environment requirements apply to upstream oil-related facility operations onshore and offshore? What government body is responsible for this regulation; what enforcement authority does it wield? What kind of record-keeping is required? What are the penalties for non-compliance?

The rules on health, safety and environment requirements applicable to the upstream sector are set out in the Offshore Petroleum Activities Regulation, the Onshore Petroleum Activities Regulation and in Decree-Law 5/2011 of 9 February, which regulates the environmental review and licencing procedure (the Environmental Licencing Regime).

The principal regulatory bodies responsible for the administration of the abovementioned legal statutes are the National Authority of Petroleum and Minerals and the Ministry of Petroleum and Minerals (MPM). In the event of violation of the Petroleum Activities Law, the Onshore Petroleum Activities Regulation, the Offshore Petroleum Activities Regulation, orders or directions stipulated in or issued under these legal statutes, the MPM may suspend or revoke any approval or authorisation granted.

In the development of petroleum operations, contractors are statutorily required to consider and abide by the internationally accepted standards and good oilfield practices, particularly those relating to operational safety, environment protection and general health and safety of the persons involved. These practices include obligations such as:

- drafting of a contingency plan for oil spilling, to be delivered (at least 30 days prior to the start of petroleum activities) and approved by the MPM;
- preparation of a yearly environmental report;
- drafting and implementation of a health safety plan, prior to the start of petroleum activities.
- creation of a health and safety commission, with the purpose of draft and implement procedures to secure health and safety of the workers; and
- preparation of monthly and yearly health and safety reports.

Law stated - 09 May 2023

LABOUR

Local and foreign workers

Must a minimum amount of local labour be employed? What are the visa requirements for foreign labour? Are there anti-discrimination requirements? What are the penalties for non-compliance?

Under the Offshore Petroleum Activities Regulation and the Onshore Petroleum Activities Regulation, employment in petroleum activities is reserved to Timorese workers, based on competency and merit. In case the Timorese applicants do not meet the required competencies, the holders of exploration and production (E&P) rights are allowed to employ foreign workers. During that period, the holders of E&P rights must present a substitution plan to the Ministry of Petroleum and Minerals.

The Ministry may also authorise holders of E&P rights to employ foreign workers, in case:

- the work requires specific skills and experience, and the duration of the employment is inferior to a year or the work is related to construction, installation, drilling or decommissioning; and
- the employment of foreign works is required for the purpose of legal protection of intellectual property.

E&P contracts must expressly include provisions regarding knowledge transfer to Timorese nationals and entities, through financial and technical support, capacitation programs, internships or scholarships for Timorese citizens, or others deemed convenient.

Visa requirements for foreign workers employed in petroleum activities may differ in accordance with the oil fields the activities are carried out on (as an example, Law No. 4/2019, of 27 August 2019, approved a special labour and migration regime applicable to the Bayu-Undan Project).

Law stated - 09 May 2023

TAXATION

Tax regimes

What is the tax regime applicable to oil exploration, production, transportation, and marketing and distribution activities? What government body wields tax authority?

East Timor's Tax Law, which was approved by Law no. 5/2019, of 27 August 2019 (as subsequently amended), establishes a special tax regime applicable to petroleum activities, as follows:

- Supplemental Petroleum Tax: 22.5 per cent, applicable to holders of exploration and production rights with a positive balance of net accrued revenues relating to petroleum activities. An uplift of 16.5 per cent may be applicable to the Supplemental Petroleum Tax.
- Corporate income tax: 30 per cent
- Personal income tax: from 10 per cent.

The government bodies with tax authority are the Ministry of Finance and the Tax Authority of East Timor.

Law stated - 09 May 2023

COMMODITY PRICE CONTROLS

Crude oil mining

Is there a mandatory price-setting regime for crude oil or crude oil products? If so, what are the requirements and penalties for non-compliance?

There is no mandatory price-setting regime for crude oil or crude oil products. Nevertheless, prices are overseen by the National Authority of Petroleum and Minerals.

Law stated - 09 May 2023

COMPETITION

Competition enforcers

What government bodies have the authority to prevent or punish anticompetitive practices in connection with the extraction, transportation, refining or marketing of crude oil or crude oil products?

East Timor does not have a competition government body responsible for the prevention or punishment of anticompetitive or manipulative practices. Nevertheless, as the regulatory body for the oil and gas sector, the National Authority of Petroleum and Minerals (ANPM) has the right to oversee and control anticompetitive or manipulative practices in the sector.

Pursuant to the Onshore Petroleum Activities Regulations and the Offshore Petroleum Activities Regulations, the ANPM must safeguard loyal competition in the market and fight price manipulation, monopolies and other anticompetitive or manipulative practices. In the absence of express rules on anticompetitive or manipulative practices in the petroleum sector, the ANPM may refer to the standard anti-competition and oilfield best international practices.

Law stated - 09 May 2023

Obtaining clearance

What is the process for procuring a government determination that a proposed action does not violate any competition laws? How long does the process generally take? What are the penalties?

The ANPM enforcement powers and authority to preclude or remedy anticompetitive or manipulative practices may be ultimately limited or impaired by the lack of express, clear and binding rules on the matter.

Law stated - 09 May 2023

DATA

Seismic data

Who holds title to seismic data collected during the term of and on termination of a licence, PSC or service contract? Can the regulator require the data owner to report or release the data?

Pursuant to the Onshore Petroleum Activities Regulations and the Offshore Petroleum Activities Regulations, the Timorese State is the holder all data collected during the term of and on termination of Production Sharing Contract

(PSC). The Onshore/Offshore Model PSC expressly establishes that data includes, inter alia, all project data and information, whether raw, derived, processed, interpreted or analysed and operational information.

The Onshore/Offshore Model PSC includes specific provisions on confidentiality. Without prejudice to National Authority of Petroleum and Minerals right to use and make available any data and information for the purpose of general statistical and other general reporting purposes, it is thereunder recognised the principle that data relating to petroleum operations shall be confidential and shall not be disclosed to any third party without the prior written consent of all parties to the PSC.

Law stated - 09 May 2023

INTERNATIONAL

Treaties

To what extent is regulatory policy or activity affected by international treaties or other multinational agreements?

Regulatory policy and activity applicable to the oil sector is approved or amended to give effect to the country's commitments under international treaties and other multinational agreements adhered to by East Timor. For example, East Timor has recently been accepted to the Association of Southeast Asian Nations as an observer member and is expected to conclude its accession in full by the end of 2023, which will affect international importing, exporting and trading of all commodities, including petroleum products.

In the conduct of petroleum operations, holders of exploration and production (E&P) rights are statutorily required to consider and abide by the internationally accepted standards and good oilfield practices.

East Timor acceded, and ratified (through the deposit of the ratification instrument with the Secretary-General of the United Nations), to the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, and the Convention will enter into effect for East Timor on 17 April 2023.

Law stated - 09 May 2023

Foreign ownership

Are there special requirements or limitations on the acquisition of oil-related interests by foreign companies or individuals? Must foreign investors have a local presence?

Holders of E&P rights must (1) incorporate a company in East Timor with the sole purpose of carrying out petroleum activities, (2) appoint a local representative with full representation powers and (3) open and keep a bank account in a Timorese bank.

Law stated - 09 May 2023

Cross-border sales

Do special rules apply to cross-border sales or deliveries of crude oil or crude oil products? Are there any volumetric supply obligations for the local market that prevail over the export rights of the oil producer?

Cross-border sales or deliveries of crude oil and crude oil products are not subject to special rules. Nevertheless, the legal regime governing the activities relating to the transportation, storage and handling of crude oil and crude oil

products must be taken into consideration.

Law stated - 09 May 2023

UPDATE AND TRENDS

Current trends

What are the current trends in your jurisdiction? What can we expect in the near future? Are there current proposals to change the regulatory or statutory frameworks? What areas may be of particular interest to foreign investors?

Parliamentary elections are scheduled for May 2023. Despite the political disturbance that usual associated with general elections, the new government will certainly put the emphasis on oil and gas expansion and large-scale infrastructure development as the risk outlook remains clouded by the absence of solid alternative current account receipts to the hydrocarbon fields.

Five bid winners were announced by the National Authority of Petroleum and Minerals further to the East Timor 2nd Licensing Round launched in 2022. East Timor's national oil company Timor Gap has already signed a new Production Sharing Contract (PSC) for an onshore exploration block and four more PSC are expected to be signed in 2023.

A new regulatory framework for carbon capture, utilisation and storage is underway. A new partnership between the government of East Timor and the International Finance Corporation has been established to ensure preparations for a carbon capture and storage project in the Timor Sea (Bay-Undan field) to meet global best practice while supporting the Southeast Asian nation in its greenhouse gas emissions mitigation efforts. The Bayu-Undan reservoir is a mature gas field located in the Timor Sea which has been in production since 2004 but is expected to be depleted by 2023. The current operator of the field estimates the reservoir has the potential to safely and permanently store approximately 10 million tons of CO₂ per annum.

East Timor has been accepted as an observer member of the Association of Southeast Asian Nations (ASEAN) and is expected to conclude its accession as a full member by the end of 2023. Under this context, legislative and regulatory harmonisation with ASEAN standards is expected to occur, particularly in employment, anti-bribery, anticorruption and tax sectors.

Law stated - 09 May 2023

Jurisdictions

	Angola	Vieira de Almeida & Associados
	Argentina	Martelli Abogados
	Brazil	Campos Mello Advogados
	Denmark	Bech-Bruun
	East Timor	Vieira de Almeida & Associados
	Ecuador	Robalino
	Egypt	Soliman, Hashish & Partners
	Faroe Islands	Bech-Bruun
	Ghana	Kimathi & Partners Corporate Attorneys
	Greenland	Bech-Bruun
	Italy	CMS Italy
	Mozambique	Vieira de Almeida & Associados
	Nigeria	ENR Advisory
	Norway	Kvale Advokatfirma
	Peru	CMS Peru
	Thailand	Chandler MHM Limited
	United Arab Emirates	Devine & Severova FZ LLC
	United Kingdom	Mayer Brown