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OIL & GAS

NEW PRIVATE INVESTMENT LAW IN TIMOR-LESTE – LAW NO. 15/2017, OF 23 AUGUST 2017

The Timorese National Assembly recently published Law no. 15/2017, of 23 August 2017, approving the new legal regime for private investment in Timor Leste (“LIP”) whilst repealing the former, approved by Law no. 14/2011, of 28 September 2011.

The LIP will enter into force on January 1st 2018 and will be further regulated on the sixty days following its enforcement, in order to define, for instance, the minimum admissible values of investment/reinvestment for investors to benefit from the LIP’s provisions and to be granted a statement of benefits.

The LIP seeks to modernise the current legal regime and to ensure the conformity of Timorese legislation on private investment with the guidelines set by the Global Investment Agreement of the Nations Association of South East Asia (ASEAN), aligning national legislation with the country’s accession to the organisation.

Scope

Unlike the current regime, the LIP does not exclude any activity from its scope, namely the petroleum sector. It will be the duty of the competent private investment entity to define the scope of the LIP.

However, investments made by the Government or State-run companies and entities are already excluded from the scope of this new regime.

Investments made by companies with capital held in 50% or more by the State or other State-run entities are also excluded, but merely from obtaining fiscal and customs benefits.

Special benefits

Investors may be granted special benefits through the emission of a statement of benefits – the current investor certificate is eliminated – consisting of the following benefits:

- Guaranteed delivery of five work visas to foreign workers hired as supervisors, directors or technical functions adequate to the investment project;
- Right of rental of real estate owned by the State for an initial period that may be set up to 50 years, and renovated for 25 years up to a total of 100 years;
- Fiscal and customs benefits in projects related to (i) agriculture, livestock, forest, fishing and aquaculture, (ii) transforming industries, (iii) housing, and (iv) tourism activities.

The fiscal and customs benefits of the previous regime are basically unaltered: an exemption of 100% of income tax may be granted to the company linked to the investment project and an exemption of 100% of customs tax may be obtained on all goods and capital equipment used in the construction or management of the investment/reinvestment project. These exemptions are granted for a period of (i) five years, if the project is located in the urban area of Dili, (ii) eight years, if the project is out of the limits of the urban area of Dili, and (iii) ten years, if the project is located in peripheral areas.

In alternative to the benefits statement, the investor may exceptionally enter into a special investment agreement with the Government, that may grant special benefits related to the hiring of foreign workers or to the rental of real estate from the State, as well as other special conditions not mentioned in the LIP. However, the investment agreements may not concede additional tax benefits.

Types of investment

The new law broadens the types of investment/reinvestment and includes the following new categories:

- Aquisition or import of capital equipment allocated to the investment, including the hiring of insurance and freight;
- Aquisition or import of feedstock or semi processed goods to supply the investment/reinvestment;
- Free transmission of trade secrets, copyright, industrial rights, trade signs or other rights of intellectual property;
- All the rights recognized by law or contract and all emitted licenses and authorisations; and
- Other values in cash or equivalent, exclusively for investment/reinvestment purposes.

Transitional provisions

All the investor certificates and special investment agreements entered into between investors and the State before the entry into force of the new LIP will still remain enforceable, but are subject to an annual audit by the competent authorities, for evaluation and quantification of the impact of the granted fiscal benefits.