

[unofficial translation from Portuguese by La'ó Hamutuk]

Law no. [...] / 2019, of [...] August

2nd amendment to Law no. 9/2005, of August 3

[as approved by the Council of Ministers on 8 July 2019]

Since the independence of Timor-Leste, petroleum exploration, research and production activities in the Timor Sea, in an area beyond our territorial sea to the south, have been conducted under the Timor Sea Treaty regime.

This regime provided for a regime of shared development of the petroleum resources there with Australia, and for the existence of a structure for this purpose, which included not only the Joint Petroleum Development Area (JPDA), but also a sharing of regulatory functions among various national and supranational entities created under those regulations. This regulatory framework had an impact on revenue collection for Timor-Leste, and was, of course, reflected or referred to in various texts of national law, including the Petroleum Fund Law.

The Treaty Between the Democratic Republic of Timor-Leste and Australia Establishing Respect for Maritime Borders in the Timor Sea ("Treaty"), signed in New York on 6 March 2018, has finally delimited our maritime border in the Timor Sea with Australia by extinguishing, as from the date of its entry into force, the JPDA and all related supervisory and coordination structures, passing all regulatory and supervisory functions of maritime areas transiting to the exclusive jurisdiction of Timor-Leste by the national authorities. At the same time, the revenue previously generated for the State of Timor-Leste in the JPDA becomes the internal revenue of Timor-Leste, and the new Greater Sunrise Special Regime Area has been created, from which Timor-Leste is expected to receive significant revenues in the future.

It is, therefore, necessary to amend the Petroleum Fund Law in order to reflect this new reality.

On the other hand, it is considered opportune to incorporate into the Petroleum Fund Law the rules pertaining to the use of the Fund for investment in petroleum operations by the State of Timor-Leste, which have been dispersed in the Petroleum Activities Law since the amendment made to that Law by Law no. 1/2019, of January 18. Finally, proceeding with small amendments to the Petroleum Fund Law to facilitate its respective interpretation and application.

This legislative amendment is thus intended to enable and implement the entry into force of the Treaty, and to harmonize the rules provided for in the Law on Petroleum Activities with the Law of the Petroleum Fund.

Accordingly, the National Parliament decrees, pursuant to Article 95.1 of the Constitution of Republic, to be valid as law, the following:

Article 1
Purpose

This law approves the second amendment to Law no. 9/2005, of August 3, as amended by Law 12/2011, of September 28, which creates the Petroleum Fund of Timor-Leste.

Article 2
Amendment to Law no. 9/2005, of 3 August

Articles 2, 6, 15 and 20 of Law no. 9/2005, of 3 August, shall be replaced by the following revision:

“Article 2

1. [...]

a) Revoked

b) [...]

c) [...]

d) [...]

i. [...]

ii. An authorization or production-sharing contract, or any contract entered into in relation to an authorization or contract, granted or concluded pursuant to Annex B of the Treaty, the Code or the Implementing Decree-Laws of Annex D of the Treaty;

e) [...]

f) Code means the Interim Petroleum Mining Code or the definitive Code referred to in in Article 11 of Annex B to the Treaty, including any repeal, derogation, modifications and additions that may be made, as well as the regulations issued under it;

g) Decree-Laws Implementing Annex D of the Treaty means the approved Decree-Laws to effect the transition of rights as provided for in Annex D of the Treaty or in the exchange of notes between Timor-Leste and Australia, with any revocations, derogations, modifications and additions that may be made, as well as the regulations and directives issued, or deemed issued, under it;

h) previously g)

i) previously h)

j) previously i)

k) previously j)

l) previously k)

m) previously l)

n) previously m)

o) previously n)

p) previously o)

q) previously p)

r) previously q)

s) previously r)

t) previously s)

u) previously t)

v) previously u)

w) Treaty means the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea, signed on March 6, 2018 in New York.

Article 6
Revenues of the Petroleum Fund

1. [...]
 - a) [...]
 - b) any amount received by Timor-Leste from the Designated Authority under terms stipulated in the Treaty;
 - c) [...]
 - d) [...]
 - e) [...]
2. [...]
 - a) [...]
 - b) [...]
- 3) [...]

Article 15
Investment Rules in Financial Markets

1. [...]
2. [...]

Article 20
Burden or charges on the assets of the Petroleum Fund

1. The capital invested pursuant to Articles 14, 15 and 15-A shall, irrespective of the form of their investment, be owned by the State of Timor-Leste.
2. [...].”

Article 3
Addition

It is added to Law no. 9/2005, of August 3, as amended by Law no. 12/2011, of September 15, Article 15a, with the following wording:

“Article 15-A
Investment in Petroleum Operations

1. The Petroleum Fund may be applied directly to Petroleum Operations in the national or foreign territory, as provided for in Article 22 of the Petroleum Activities Law, through the conclusion of commercial transactions, intermediated by Timor Gap, E.P.

2. The investments of the Petroleum Fund in Petroleum Operations provided for in the previous paragraph are an autonomous asset class, which, by virtue of its nature, is not subject to the requirements of the previous article.
3. No more than 5% of the Petroleum Fund shall be invested in this asset class, and this limit shall be calculated taking into account the total value of both the Petroleum Fund and the investment, at the time of the initial investment.
4. Investments in Petroleum Operations under the provisions of this article shall not only be to promote the development and diversification of the national economy, but also to provide financial return to the Petroleum Fund, and the expected economic and financial benefits of the investment shall be taken into account in determining the terms of the investment.”

Article 4 Revocation

Article 2(a) and Article 48 shall be revoked.

Article 5 Republication

Law no. 9/2005, of August 3, with the changes introduced by Law no. 12/2011, of September and by this Law, is republished in its current wording attached to this Law. *[not translated yet]*

Article 6 Entry into force

This law shall enter into force on the date of entry into force of the Treaty.

Approved by the Council of Ministers on 8 July 2019

Approved on [...] July 2019.

The President of the National Parliament,

Arão Noé de Jesus da Costa Amaral

Promulgated on [...] August 2019.

To be published.

The President of the Republic

Francisco Guterres Lú Olo