



PETROLEUM REGIME TIMOR-LESTE

Petroleum Regime Review

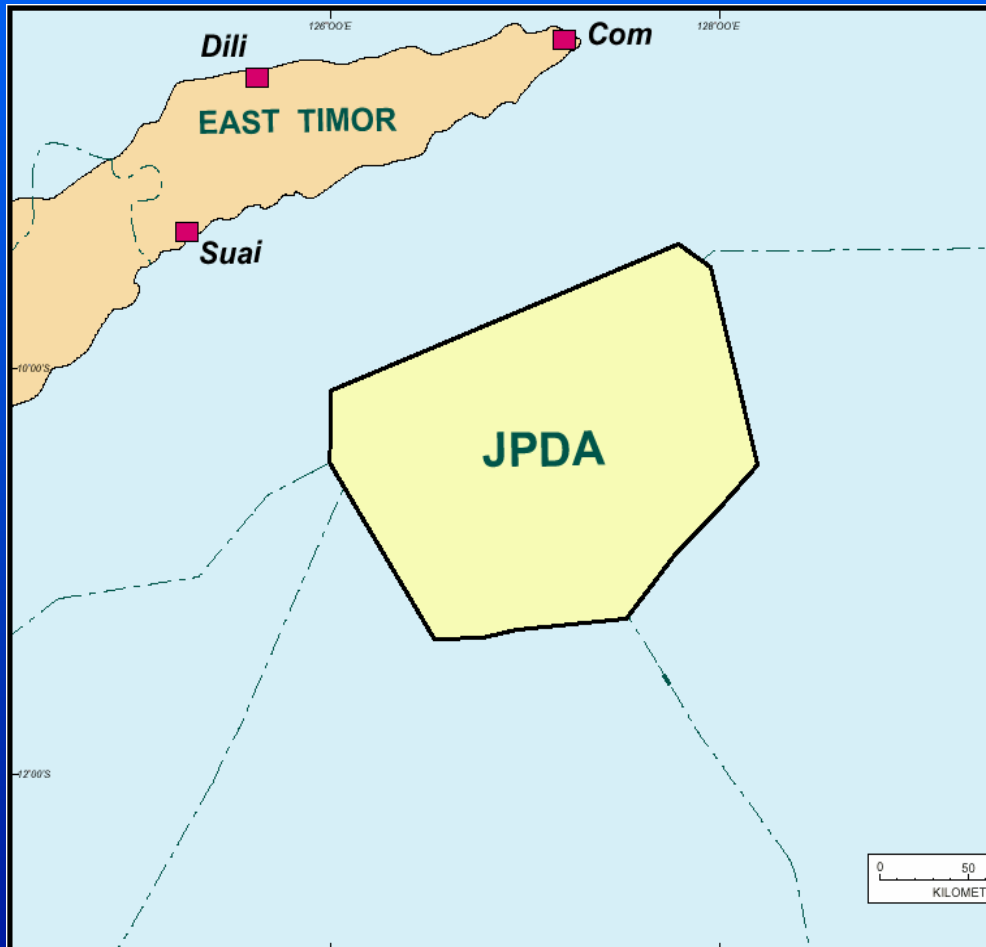


- Dual Petroleum Regime
- Structure of Proposed Regimes
- Choice of Regime
- Details of the proposed regulatory laws
- Details of the proposed model contracts



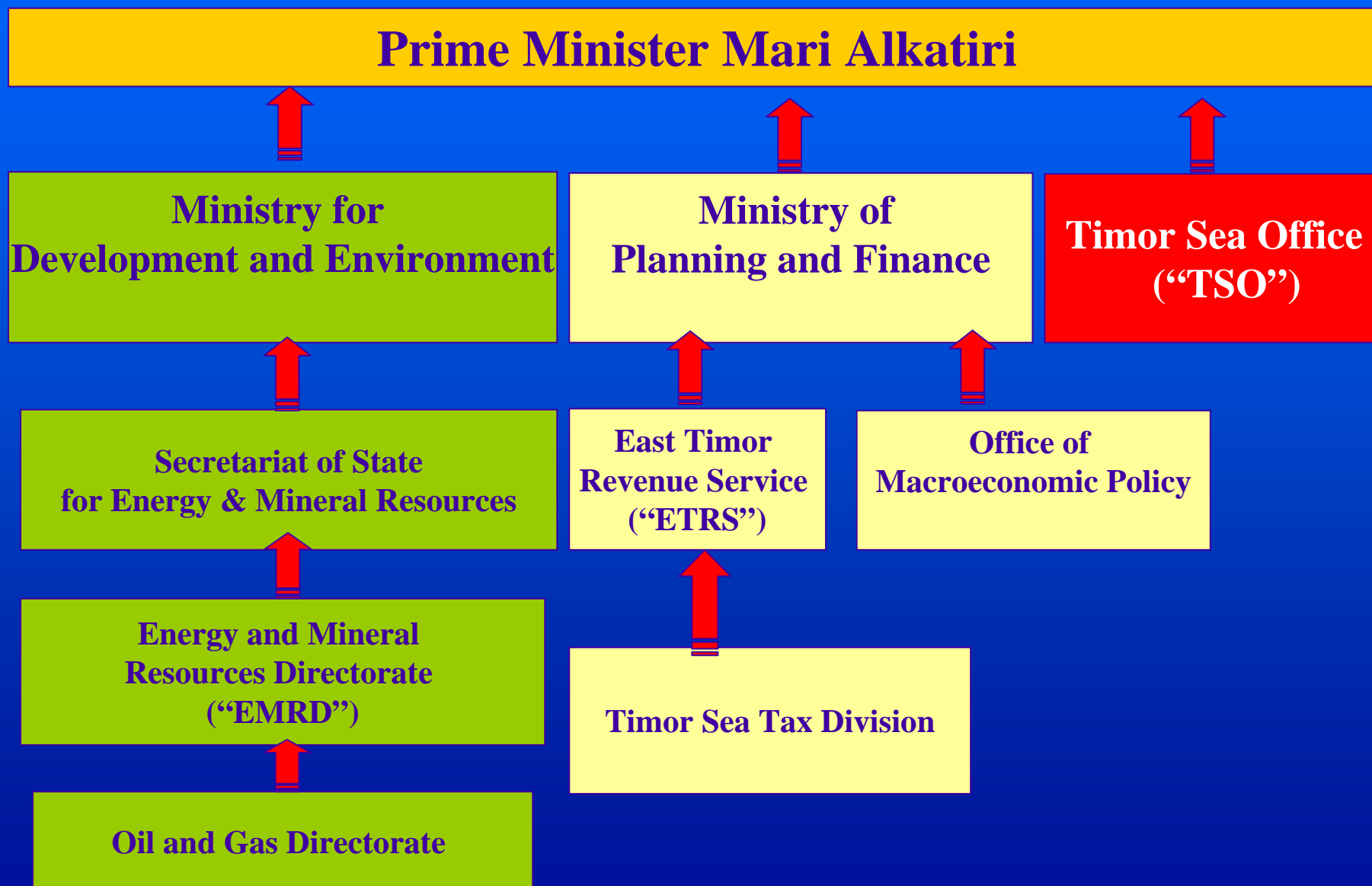
Dual Petroleum Regime

Dual Petroleum Regime

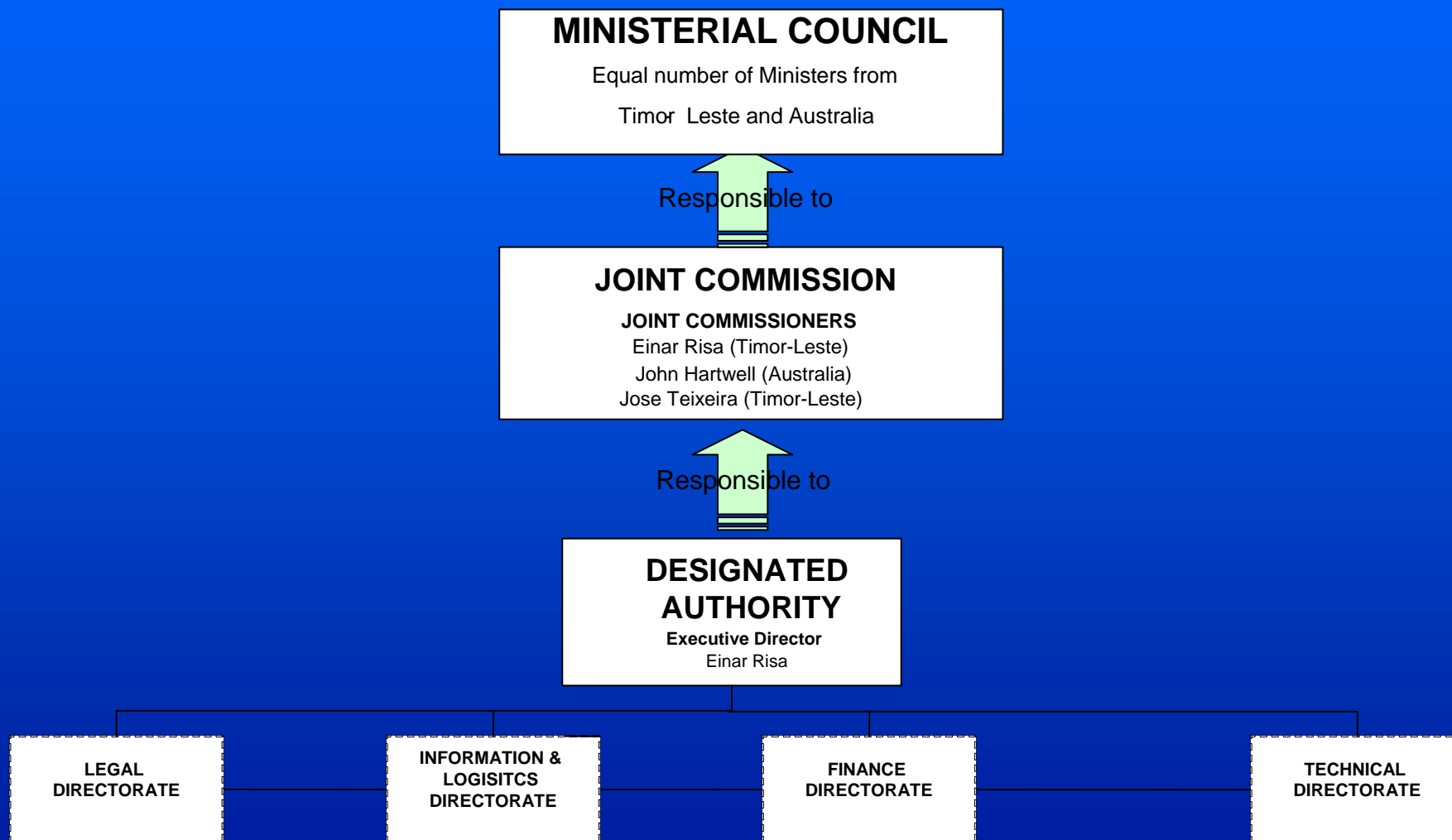


- Part of Timor-Leste's petroleum lies in areas covered by the *Timor Sea Treaty* with Australia: the JPDA
- Therefore, there is:
 - the JPDA regime (established jointly with Australia), and
 - the Domestic Timor-Leste regime.
- The Timor-Leste domestic petroleum regime and the *Timor Sea Treaty* petroleum regime were drafted to be as similar as possible.

Domestic regime management: Timor-Leste petroleum Sector



JPDA regime management



Existing JPDA Governing Documents



- **Timor Sea Treaty**

- **Interim Petroleum Mining Code**

- Regulations

- Directions

- **Pro forma Production Sharing Contract**

- **Taxation**

- 90% under Timor-Leste law

- 10% under Australia law

- **Treaty calls for development and approval of an updated PMC and PSC**



Structure of Proposed Regimes

Structure of proposed regimes



- Both the Domestic and JPDA regimes start from the premise that the State owns all petroleum.
- Put in place Petroleum Legislation:
 - Allows the state to authorize others to explore for and produce petroleum
 - Prohibits petroleum activities, except in accordance with the law, and
 - Designates a regulator to implement the law.
- Under legislation regulator empowered to:
 - Grant rights to companies to carry out petroleum activities, and
 - Set the terms and conditions for these activities.

Ownership of Petroleum



- Section 139 of the Timor-Leste constitution says:

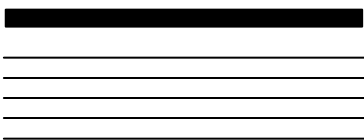
“Resources of the soil, the subsoil, the territorial waters, the continental shelf and the exclusive economic zone, which are essential to the economy, shall be owned by the state and shall be used in as fair and equitable manner in accordance with national interests”
- State ownership of oil and gas is international practice

Structure of proposed regimes

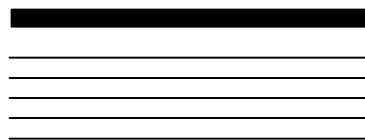


Petroleum Regime Framework

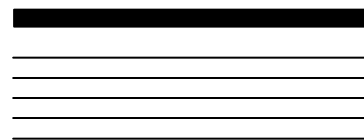
Legislation



Taxation



Petroleum
Contract



Structure of proposed regimes



Petroleum Regime Framework

Regulation

Taxation

Petroleum
Contract

Petroleum Legislative Framework

Regulatory
law

Regulations

Directions

Aims of proposed structure



- **Transparency**
 - Create terms that provide for the maximum amount of government transparency
- **Structure**
 - Create a structured environment for the granting of approvals for petroleum related activities
- **Enabling**
 - Write terms that broadly enable certain actions
 - Put descriptive terms in regulations and directions
- **Enforcement**
 - Empower appropriate governmental agencies to ensure oil companies comply with all pertinent obligations and commitments



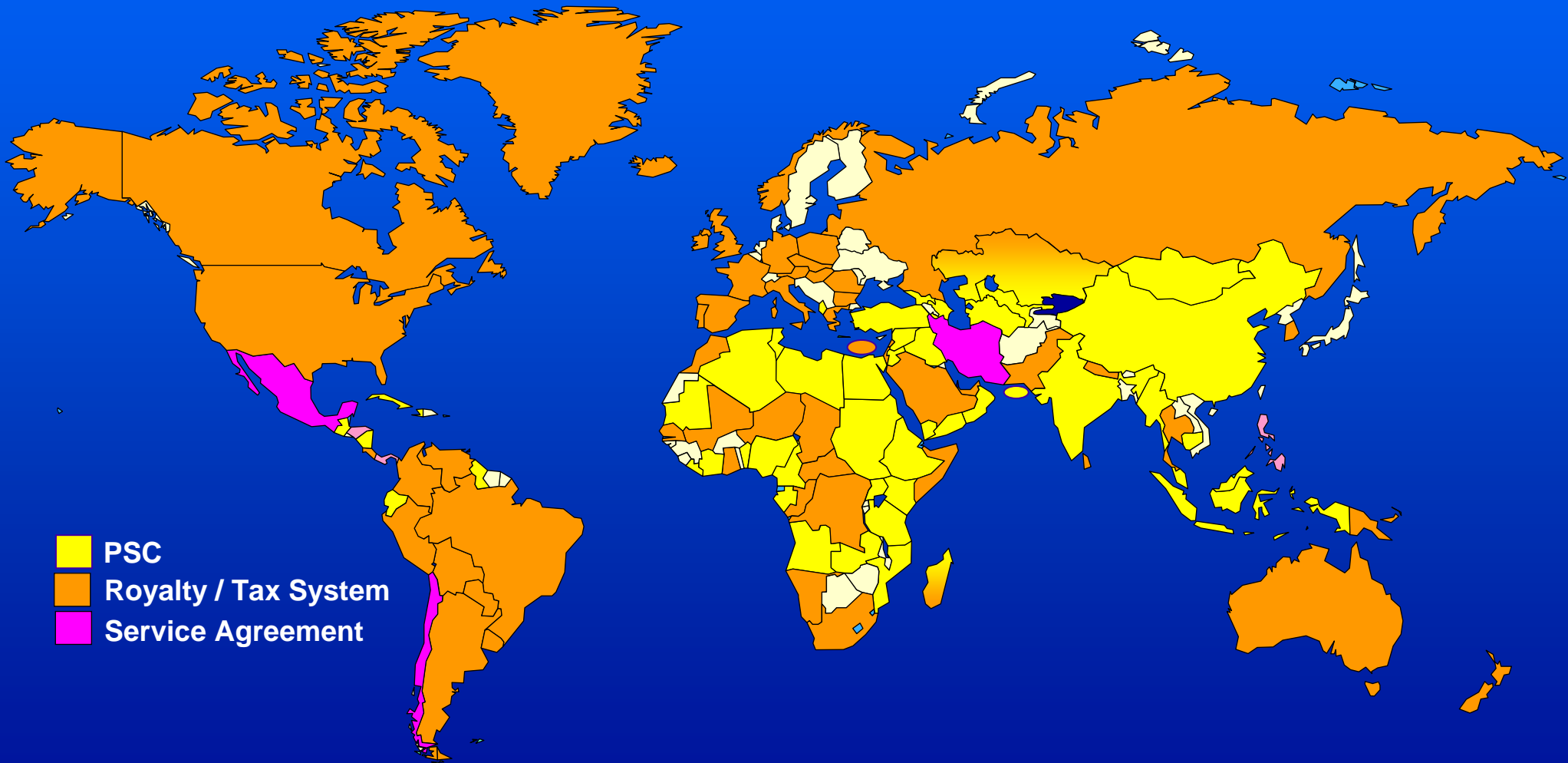
Choice of Regime

Choice of Regime



- Other countries were considered with a view to creating a petroleum regime for Timor-Leste that:
 - builds upon the experiences of others
 - is internationally competitive, and
 - is responsive to the resources and needs of Timor-Leste.
- The choice is:
 - “Concession Agreements” or “Licenses”;
 - “Production Sharing Contracts”; or
 - “Service Agreements”

Regime Types Today

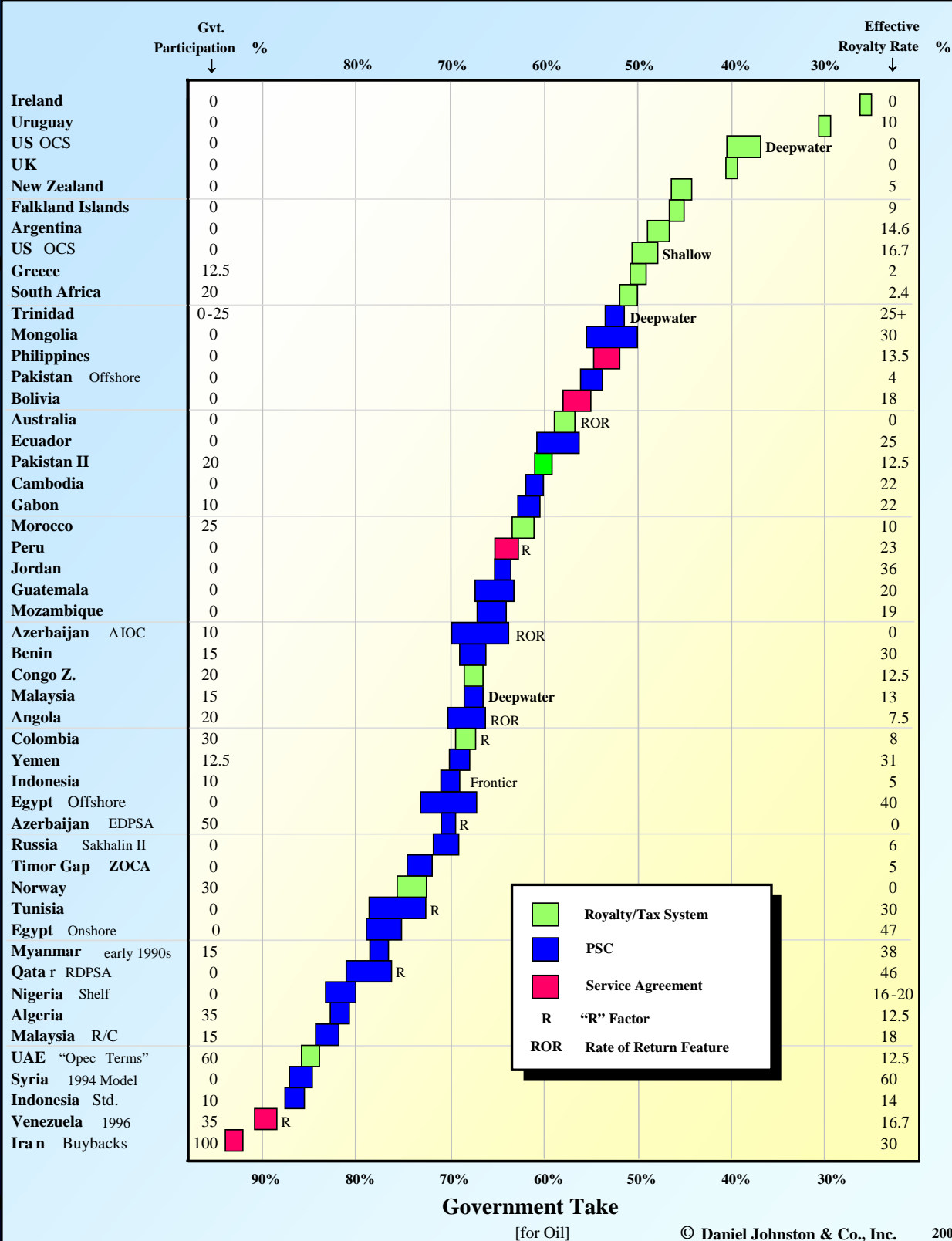


-  PSC
-  Royalty / Tax System
-  Service Agreement

Regime Characteristics



- **Concession or licensing system,**
 - the government issues licenses
 - income is derived from royalty and tax.
- **Production Sharing Contract system**
 - the government contracts with the companies to perform petroleum activities
 - Income is derived primarily through receipt of a share of the production.
- **Service Agreement**
 - The government subcontracts oil companies to develop resources
 - All income flows to the government, less fee to the subcontractor



Choice of regime does not presume the level of government share

Regime Choice: PSC



- A PSC regime was considered to be the most suitable for a country at Timor-Leste's stage of development because of:
 - its broad acceptance in the industry, as well as
 - its close similarity to the regime in place in the JPDA.
- A PSC regime permits both:
 - flexibility in the authorization process and
 - the establishment of a secure, contractually enforceable, basis for the large investments required in petroleum exploration and development.

Documentation



- Both regimes will consist of:
 - a regulatory law,
 - a model contract, and
 - relevant taxation laws.

Regimes compared



- **Territory of Timor-Leste**
 - Including areas of overlapping Claims

**Timor-Leste Petroleum Act
Model Contract**

- **Timor Sea Treaty Area**

**Petroleum Mining Code
Model Contract**

Timor-Leste Petroleum Taxation Act

Possibility of National Oil Company



- The prospective role of the Timor-Leste Government was considered, including interest in the eventual establishment of a national oil company.
- The *Timor-Leste Petroleum Act* is written in such a way that it will be possible for a Timor-Leste national oil company to engage in activities under it, but not in such a manner as would interfere with rights previously granted to other companies.



Details of the proposed regulatory laws:
Timor-Leste Petroleum Act & Petroleum Mining Code for the JPDA

Proposed Regulatory Laws



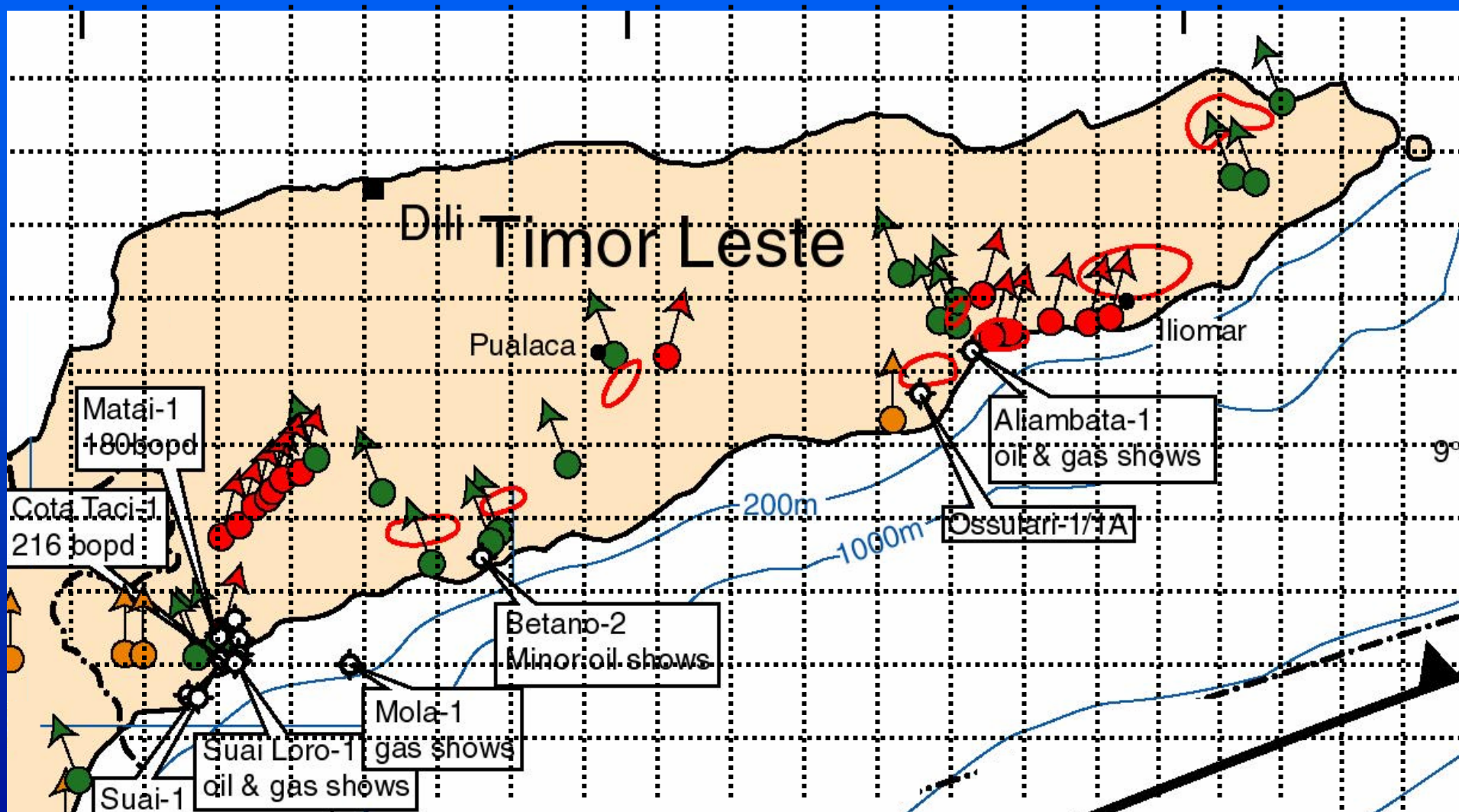
- License Area Definition
- Award of Petroleum Rights
- Types of Authorizations
- Transparency and Accountability
- Enforcement and oversight
- Data and Information

License Area Definition



- **Create a grid over onshore and offshore areas of Timor Leste**
 - Establish a number of 'blocks'
 - Block size to be determined based on commercial, geologic considerations
- **Each license or authorized area could contain one or more contiguous blocks**
 - License area geometry should facilitate exploratory work
 - Environmentally sensitive areas ought to be excluded from license areas

Example License Area Grid

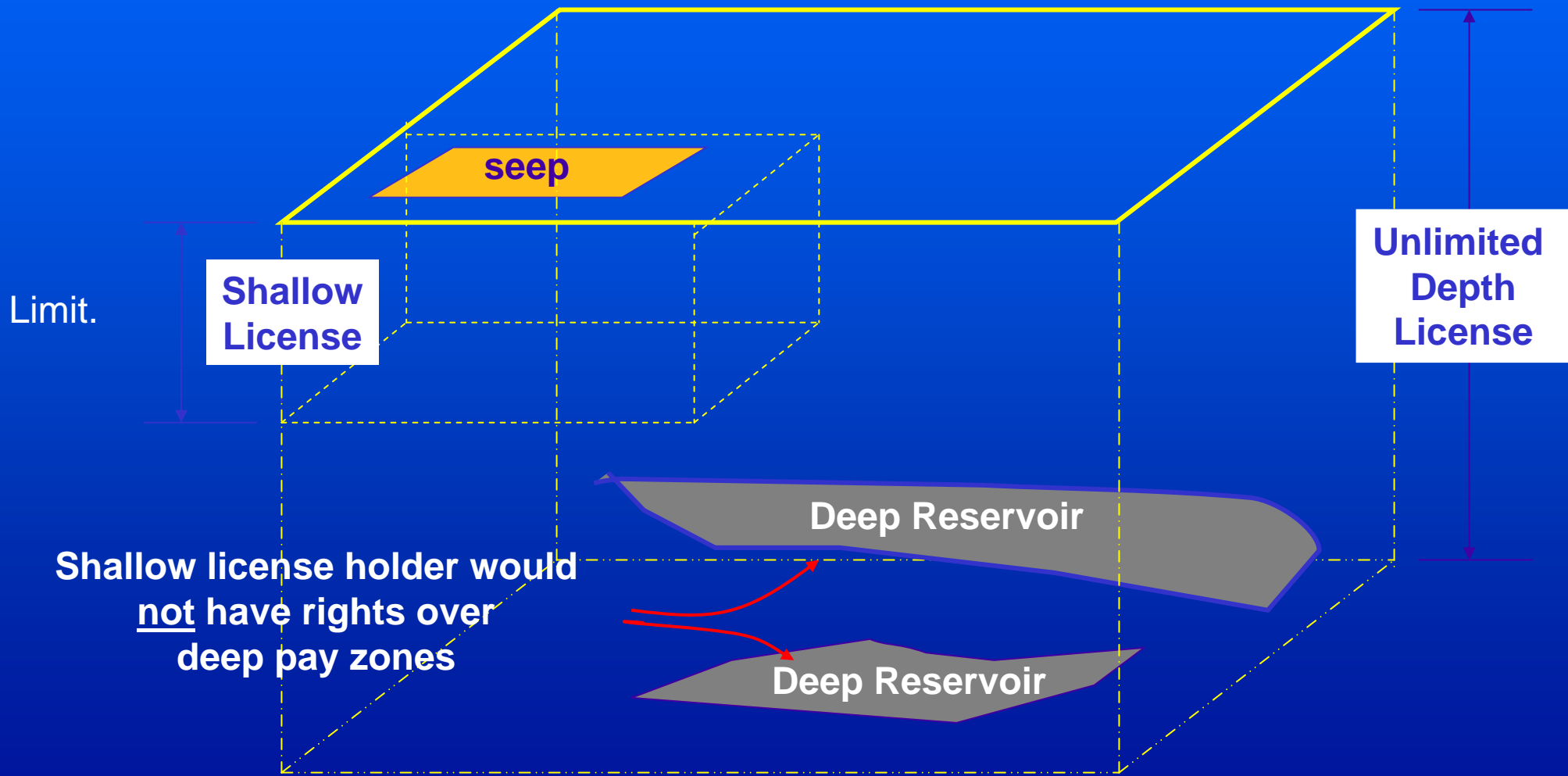


License Areas



- **Traditionally, licenses are granted for a surface area without limiting its depth.**
 - Multiple commercial reservoirs may be encountered stacked on top of each other
 - Hydrocarbon accumulations have been found at depths as shallow as 300 m. or as deep as 7,000 m.
- **Petroleum seeps are present in Timor Leste**
 - A contractor wishing to exploit a petroleum seep may be unwilling, or unable, to carry on deep exploration.
 - Will be able to issue authorizations of limited depth

Seep Exploitation License



Award of Petroleum Rights



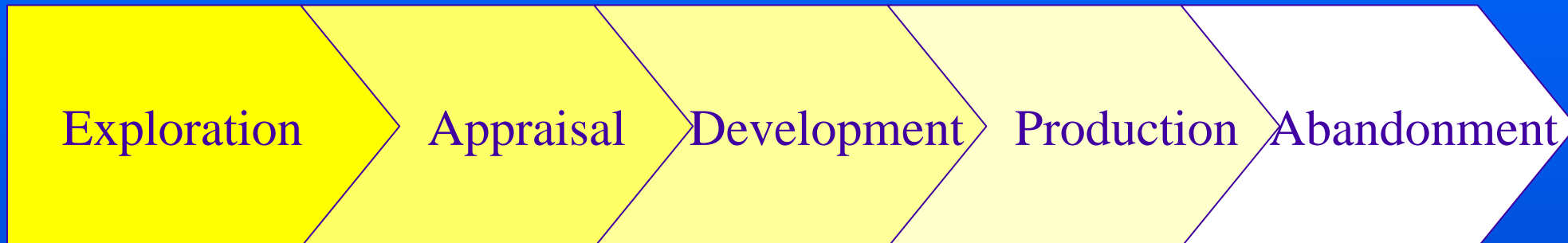
- Authorizations to be awarded after a bidding process.
 - Notice to be published
 - Selection criteria to be detailed
- Companies must pre-qualify to bid
 - Show financial capability, and
 - Provide evidence of technical knowledge and ability to carry out the operations concerned.
- Authorizations may be granted outside of a competitive bid; however, the law will require details of such an award to be made public

Example Bid Criteria



- Bid criteria will vary with the type of authorization and the size of the operation
- Prospecting and Production Authorizations
 - Work Program
 - Number of wells to be drilled
 - Kilometers of seismic to be shot
 - Timor Benefits
 - Utilization of Timor resources and local content
 - Hiring and training of Timorese

Types of Authorizations



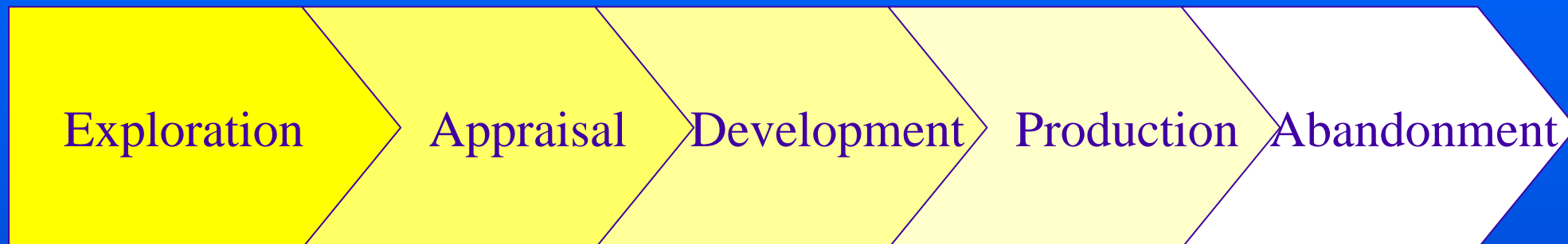
Seepage Use

Prospecting

Petroleum Contract

Access

Types of Authorizations



Seepage Use

A Seepage Use Authorization grants the holder the right to exploit existing natural seeps.

Types of Authorizations



Exploration

Appraisal

Development

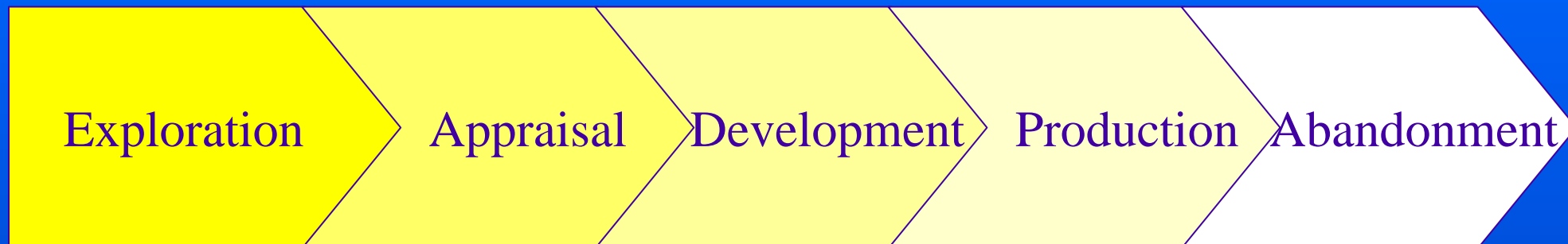
Production

Abandonment

Prospecting

A Prospecting Authorization grants the holder the right to conduct data acquisition activities, including the acquisition of seismic information

Types of Authorizations



Petroleum Contract

A Petroleum Contract, which will likely take the form of a production sharing contract, grants the holder the right to explore for, appraise, develop and produce oil and gas.

Types of Authorizations



Access

An Access Authorization grants the holder the right to construct ancillary facilities, such as pipelines.

Transparency and Accountability



- The Petroleum Act sets out ethical obligations and limitations regarding:
 - the disclosure of information;
 - conflict of interest;
 - corrupt practices; and
 - Limitations on involvement of government officials in petroleum activities
- The Ministry and the DA are required to exercise their powers to promote the sustainable and long-term economic development of Timor-Leste.

Enforcement and Oversight



- Ultimate regulatory authority rests with the Ministry (domestic) and the DA (JPDA).
- Regulations and directions
- Inspection

Regulations and Directions



- The Ministry (with the approval of the Council of Ministers) and the DA (with the approval of the Joint Commission) may make regulations – e.g.:
 - ❖ Measurement and sale of petroleum,
 - ❖ Resource management
 - ❖ Budgeting and work programs
 - ❖ Third party tariffs; or
 - ❖ Providing for security.
- The Ministry and the DA may also give binding directions in specific cases.

Inspection



- **The Act and PMC grant certain enforcement powers to the Ministry and the DA including powers:**
 - to require any person to provide information or documentation relating to petroleum activities,
 - to appoint an inspector, who has certain enforcement powers under the legislation, and
 - to audit petroleum companies.
- **The Ministry or the DA may either partly or completely terminate a contract or other authorization.**

Data and Information



- All data obtained pursuant to activities under any Authorisation shall be the property of Timor-Leste.
- The terms and conditions for the exercise of rights in respect of data shall be established by contract and by regulation .
- Work to be carried out via Annual Programs and Budgets
 - Submitted for prior approval
 - Periodic reporting



Details of the proposed
model contracts

Production Sharing Contracts



- Both the domestic and JPDA regimes envisage the use of “production sharing contracts” (PSCs).
- Under a production sharing contract, the host government derives revenue in two ways:
 - from its share of petroleum; and
 - from income taxes imposed on the petroleum companies’ share of petroleum revenue and other activities.

Model PSC



- **The model PSC will be the basis for ALL contracts:**
 - Domestically, the PSC will be made between the Ministry and the petroleum company concerned.
 - In the *Timor Sea Treaty area*, the PSC will be made between the DA and the petroleum company.
- **Only exceptions are the treaty “Annex F” PSCs (EKKN, Bayu-Undan and Sunrise).**
- **The provisions of the respective model PSCs for the domestic and *Timor Sea Treaty* regimes are identical.**

Rights and Obligations in PSCs



- Petroleum companies have the exclusive right, in a defined area, to explore for, develop, exploit, export and market petroleum, and to build and operate necessary facilities.
- Companies pay for and provide all required human, financial and technical resources needed for those purposes.
- Companies receive a share of the petroleum from the area that is equal to the cost of their investment, plus a reasonable profit, through a defined formula.

Conduct of Petroleum Operations



- The PSC separates petroleum operations into various phases:
 - exploration,
 - appraisal,
 - development and production, and
 - decommissioning.
- At each phase, the petroleum companies must submit work and expenditure plans meeting defined requirements to the Ministry or the DA for approval.

Development and Production



- Upon declaration of a commercial discovery, companies have 1 year to formulate and submit for approval a development plan.
- The development plan will set out:
 - Facilities and their costs
 - Forecasted annual production,
 - Decommissioning plans,
 - Environmental impact assessment; and
 - proposals for the training and employment of Timor-Leste nationals and use of Timor-Leste goods and services.
- Companies must submit for approval an annual work programme and budget.

Dispute Resolution



- Under the PSC, disputes between the Ministry or the DA, as the case may be, and the petroleum companies are to be settled by binding international arbitration.

Petroleum Regime Timetable



2004 Timetable for passage of Timor-Leste's petroleum regime is:

- Public consultation: Aug-Sep
- Redraft based on input: Sep
- All to CoM for approval: Oct
- Laws to Parliament and
PMC to JC for approval: Nov
- Promulgation: Dec