



DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

**Decree-Law no. ____/07
of the ____ of ____ 2007**

**NATIONAL PETROLEUM, NATURAL GAS AND BIO-FUEL
REGULATORY AUTHORITY**

**AUTORIDADE REGULADORA NACIONAL DO PETRÓLEO, GÁS
NATURAL E BIOCOMBUSTÍVEIS (ARNP)**

[unofficial translation]

With the regulation of petroleum-linked activities in accordance with the provisions of the Petroleum Act, the Government now creates the National Petroleum, Natural Gas and Bio-fuel Regulatory Authority in order to establish and supervise compliance with the rules regarding the economic use of this resource of Timor-Leste.

Once it is fully operational, it is hoped that the ARNP will be able to ensure the energy security of the country by managing the country's minimum strategic fuel stock requirements and by ensuring minimum quality standards for petroleum derivatives and other available energy sources available in the domestic market and minimum standards of respect for consumers.

The Government accordingly decrees as follows, in accordance with paragraph "e" of no. 1 and no. 3 of article 115 of the Constitution of the Democratic Republic of Timor-Leste, combined with the provisions of article 2 of article 45 of Law no. 13/2005, of the 2nd of September, article 33 of Decree-Law no. 13/2006, of the 9th of August and article 10 of Decree-Law no. 17/2006, of the 26th of July:

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Nature and scope**

1. The National Petroleum, Natural Gas and Bio-fuel Regulatory Authority, hereinafter briefly referred to as ARNP, is a legal entity, with the structure of an *institute público*, a legal entity, administrative and financial autonomy, and its own patrimony.

2. The object of the ARNP is to act as the regulatory authority of the petroleum, natural gas, their derivatives and bio-fuel industry.
3. The ARNP office is in Dili.

Article 2 Control

Without prejudice to its administrative and financial autonomy, the ARNP shall operate under the auspices of the Minister of Natural Resources, Minerals and Energy Policy. The following shall be submitted for ministerial approval after consideration by the National Energy Policy Council:

- a) The annual activities plan;
- b) The annual activities and budgetary implementation report.

CHAPTER II POWERS AND DUTIES

Article 3 Powers and duties

1. The ARNP shall be responsible for the regulation, contracting, supervision and control of the economic activities of the petroleum, natural gas, their derivatives and bio-fuel industry and shall:
 - a) implement, the national petroleum, natural gas and bio-fuel policy included in the national energy policy, within the area of its jurisdiction, with emphasis upon guaranteeing the supply of derivatives of petroleum, natural gas and their derivatives, and bio-fuel throughout the country and upon the protection of the interests of the consumers in relation to the price, quality and supply of products;
 - b) promote studies with a view to the creation of blocks for the purpose of the of the award of exploration, development and production agreements, both in Timor-Leste's exclusive terrestrial and marine development area and in the Joint Petroleum Development Area (JPDA) with Australia, in accordance with the Timor Sea Treaty;
 - c) regulate the execution of geological, geochemical and geophysical services applied to oil prospecting, with as view to the collection of technical data in the Timor-Leste development area and in the JPDA, for sale on a non-exclusive basis;
 - d) draft the notices and conduct the auctioning of the award of exploration, development and production contracts and to sign the corresponding contracts and supervise the performance thereof both in the Timor-Leste exclusive area and in the JPDA;
 - e) authorise refining, processing, transport, import and export, stocking, distribution, resale and commercialisation, in accordance with this Decree-Law and its regulations, within the Timor-Leste exclusive area;
 - f) establish criteria for the calculation of tariffs for transport by oil pipeline within the Timor-Leste exclusive development area and to fix the level thereof, in the event that an arbitration opinion is requested by the parties interested in this economic activity;

- g) supervise the activities carried on by the petroleum, natural gas and bio-fuel industry and impose the administrative and pecuniary sanctions provided in the law, regulations or contracts, either directly or via agreements with other Government or Civil Society agencies;
- h) commence proceedings with a view to the delimitation and expropriation of the areas required for exploration, development and production of petroleum, and natural gas, and the construction of processing plants, pipelines and terminals;
- i) ensure good practices in the conservation and rational use of petroleum, natural gas, their derivatives and bio-fuels and the preservation of the environment;
- j) stimulate research and the use of new technologies in development, production, transport, refining and processing;
- k) organize and keep all of the information and technical data regarding the regulated activities of the petroleum, natural gas and bio-fuels industry;
- l) annually, to consolidate the information regarding the national petroleum and natural gas reserves provided by the companies and to be responsible for the dissemination thereof;
- m) establish and supervise the proper working of a national fuel stocks system and an annual strategic fuel stocks plan;
- n) collaborate with other regulatory authorities in the energy sector with regard to matters of common interest, including for the purpose of the provision of technical support to the National Energy Policy Council;
- o) regulate and authorise activities related to the national fuel supply and supervise them directly or via agreements with other Government agencies;
- p) regulate and authorise activities related to the production, import, export, storage, stocking, distribution, resale and commercialisation of biodiesel, by supervising them directly or via agreements with other Government agencies;
- q) require regulated agents to submit information regarding production, import, export, refining, improvement, treatment, processing, transport, transfer, storage, stocking, distribution, resale, allotment and commercialisation of the products subject to its control;
- r) specify the quality of petroleum, natural gas, and their derivatives and bio-fuel.

2. The ARNP shall also be solely responsible, in relation to the Joint Petroleum Development Area established by the Timor Sea Treaty, for:

- a) the administration and regulation of petroleum operations in accordance with the Timor Sea Treaty and any documents drawn up pursuant thereto, including directives issued by the Joint Commission referred to in article 6 of the said Treaty;
- b) the preparation of the annual budget regarding the activities connected with the Joint Petroleum Development Area;
- c) the preparation of annual reports to be submitted to the Joint Commission;
- d) seeking the assistance of the appropriate Australian and Timorese authorities, in accordance with the Timor Sea Treaty:
 - i. for search and rescue operations in the JPDA;
 - ii. in the event of a terrorist threat to the ships and structures involved in the petroleum operations in the JPDA; and
 - iii. for the air traffic services of the JPDA;

- e) seek the assistance of the appropriate Australian and Timorese authorities, or other agencies or persons, in connection with anti-pollution preventive measures, equipment and procedures;
- f) create security and restricted access zones, in accordance with international law, in order to ensure the safety of shipping and petroleum operations;
- g) control the entry to and exit from the JPDA by shipping, aircraft, structures and other equipment used to operate petroleum resources in accordance with international law and subject to the provisions of the Timor Sea Treaty;
- h) authorise access by employees of concessionary companies and companies to which contracts have been awarded and by their subcontractors, and other persons, to the JPDA;
- i) issue regulations and give instructions, in accordance with the Timor Sea Treaty, regarding all matters related to the supervision and control of petroleum operations, include health, safety, environmental protection and evaluation and working practices, in accordance with the Petroleum Mining Code applicable to the JPDA.

Article 4 **Powers and prerogatives**

1. The ARNP shall exercise State powers and prerogatives in order to comply with its regulatory and supervisory duties, limited to:

- a) Supervision of facilities, equipment and documents of entities in the regulated sector;
- b) Collection of the tariffs due as a consequence of its regulatory and supervisory activity;
- c) Coercive enforcement of its decisions regarding the regulated sector, if necessary by requesting the intervention of other administrative or police authorities;
- d) Imposition of fines applicable to the regulated sector for breach of the rules governing the same.

2. The ARNP shall, in the exercise of its regulatory powers, subject to the provision of article 8 paragraph 2, issue regulations, which establish the administrative obligations and procedures to be complied with by entities in the regulated sector, which carry on economic activities in the value chain of the petroleum industry, as described in Chapters V to VIII of this Decree-Law, on the date on which this Decree-Law comes into force.

3. The ARNP shall comply with the adversarial principle in the establishment of enforcement proceedings and shall ensure that the offender is entitled to make representations.

Article 5 **Resolution of disputes**

The regulations approved by the ARNP shall make provisions regarding the procedures to be adopted in order to resolve disputes between economic agents and between them and users and consumers, with an emphasis on conciliation and arbitration.

CHAPTER III Structure of the ARNP

Article 6 Organs

The ARNP shall have the following organs:

- a) Administrative Council;
- b) Chairman of the Administrative Council;
- c) Single Auditor.

Article 7 Administrative Council

1. The Administrative Council is the collegial organ responsible for the definition of the ARNP's activity and for the management of its services.
2. The Administrative Council is comprised by a chairman and two directors, who shall be appointed by the Minister of Natural Resources, Minerals and Energy Policy following approval of the persons in question by the Council of Ministers, for a renewable 4-year term of office.
3. The members of the Administrative Council may not be removed from office during the normal exercise of their term of office, other than by a court order or at the request of the member in question.
4. The members of the Administrative Council may not have any financial interests or holdings in companies in the regulated sector while they are in office and for the period of 1 (one) year after they cease to be board members.
5. The office of member of the Administrative Council shall be held in conjunction with the position of manager of the ARNP.
6. The members of the Administrative Council shall not provide any direct or indirect service to any companies in the regulated sector for the period of 1 (one) year after the end of their terms of office.

Article 8 Powers and duties of the Administrative Council

1. The Administrative Council shall:
 - a) Define the general orientation of the ARNP and manage its activities;
 - b) Prepare strategic plans and business plans and ensure compliance therewith;
 - c) Approve the internal regulations of the ARNP and other regulations necessary for the Authority's supervisory and regulatory activity;
 - d) Exercise direction, management, disciplinary and recognition powers in relation to its staff;
 - e) To collect revenue and authorise expenditure;
 - f) To manage the ARNP's patrimony;

- g) To practice such other acts as are necessary in order to comply with the ARNP's duties.

2. Whenever the Administrative Council decides regarding the budget, expenditure, regulatory or supervisory activities or other activities within the ambit of the powers and duties of the ARNP with regard to the Joint Petroleum Development Area, it shall submit its decision to the Joint Commission envisaged in number II, paragraph c) of article 6 of the Timor Sea Treaty.

3. Following approval by the Joint Commission, budgetary items referred to in the preceding number shall be included in the consolidated budget to be submitted to the National Energy Policy Council, accordance with letter h) of no. 1 of article 4 of the Decree-Law which regulates petroleum operations.

Article 9 Proceedings of the Administrative Council

The Administrative Council shall meet ordinarily once a month and extraordinarily whenever convened by its Chairman, or at the request of its other members, or of the Single Auditor.

Article 10 Chairman of the Administrative Council

The Chairman of the Administrative Council shall:

- a) Convene and chair meetings of the Administrative Council;
- b) Co-ordinate the activities of the Administrative Council and ensure compliance with its decisions;
- c) Determine the area of intervention of other members of the Administrative Council
- d) Represent the ARNP in legal proceedings and otherwise;
- e) Safeguard the relations of the ARNP with the Government and other public and private entities.

Article 11 Single Auditor

The Single Auditor is the organ responsible for monitoring the legality, regularity and proper financial and patrimonial management of ARNP.

Article 12 Appointment and term of office

The Single Auditor shall be appointed by a joint order of the Minister of Natural Resources, Minerals and Energy Policy and the Minister of Planning and Finance for a 3 (three) year term of office, renewable for one further 3-year term.

Article 13 Duties of the Single Auditor

The Single Auditor shall:

- a) Supervise and monitor the economic, financial and patrimonial management of the ARNP;
- b) Periodically examine the books and accounting records of the ARNP;

- c) Issue opinions regarding the acquisition and disposal of immovable assets;
- d) Issue opinions regarding the ARNP's budget and budgetary execution reports.
- e) Issue opinions regarding internal control proceedings;
- f) Submit reports and opinions to the Administrative Council, testifying to the regularity of proceedings;
- g) Inform the Ministry of Planning and Finances and the Ministry of Natural Resources, Mining and Energy Policy about any irregularities encountered during its activities.

CHAPTER IV

Employees, patrimonial and financial affairs

Article 14

Legal status of employees

1. The ARNP's employees shall be subject to the legal provisions governing individual contracts of employment and to the other provisions of its internal regulations.
2. Contracts of employment shall be governed by the employment law rules in force and by collective bargaining agreements.
3. Civil servants and public employees may seconded or requisitioned to work for ARNP.
4. The current employees of the Designated Authority shall become employees of the ARNP, on the same employment terms as are stipulated in their individual contracts of employment in force on the date of the establishment of the ARNP, which shall be the Designated Authority's successor as employer.

Article 15

Patrimony

The initial patrimony of the ARNP shall comprise the assets and all of the technical data of the Timor Sea Designated Authority together with other transfers by Public Administration agencies and particularly the Ministry of Natural Resources, Minerals and Energy Policy.

Article 16

Revenue

The following are ARNP's revenue:

- a) The sums in respect of the tariffs payable for the provision of services within the ambit of its powers and duties;
- b) The sums with regard to authorisations, certificates, approvals and other licences granted in the exercise of the ANRP's powers;
- c) The proceeds of fines imposed for breaches of the laws, regulations and technical requirements applicable to the regulated sector;
- d) Budgetary allocations by the Government;
- e) Any other income arising from its activity, or which belongs to it by law, internal regulation or contract.

Article 17
Expenditure

The ANRP's expenditure shall be all expenditure, which the Administrative Council considers to be necessary for the performance of its duties and the exercise of its powers, the operation of its services and the management of publicly owned assets.

Chapter V
Development and production of petroleum and derivatives

Article 18
Legal entitlement to rights

1. As defined in the Petroleum Act, all the petroleum and natural gas development and production rights in national territory, including the terrestrial part, the marine part, the continental shelf and the exclusive economic zone belonging to the State of Timor-Leste, and shall be administered by the ANRP.

2. The rights and obligations with regard to the Joint Petroleum Development Area are shared with Australia in accordance with the provisions of the Timor Sea Treaty.

Article 19
Nature of the technical assets

The technical assets, which comprise the data and information regarding the sedimentary basins of Timor-Leste and are also considered to be an integral part of the national petroleum resources, shall be collected, maintained and administered by the ANRP.

Article 20
Production-sharing agreements

The exploration, development and production of petroleum and natural gas shall take place pursuant to production-sharing agreements, preceded by a public tender, in accordance with the provisions Article 13 of the Petroleum Act and Chapter V of the Petroleum Mining Code.

Chapter VI
Refining of petroleum and processing of natural gas

Article 21
Submission of bids

1. Any company or consortium, which complies with the legal requirements and regulations, may submit bids to the ANRP, together with the respective project, for the construction and operation of refineries and of units for processing and stocking petroleum, petroleum derivatives and natural gas, and to expand the capacity thereof.

2. The ANRP shall fix the technical, economic and legal requirements to be complied with by bidders, and the requirements of the Project in terms of environmental quality, industrial safety and the safety of the general public.

3. The provisions of the preceding number having been complied with, the ARNP shall grant the authorisation referred to in letter (e) of no. 1 of article 3 and define the subject matter thereof and the person to which it is granted.

4. Authorisations may be transferred to other persons with the express prior approval of the ARNP, provided that the new holder of the authorisation complies with the requirements stipulated in no. 1.

Chapter VII

Transport of petroleum, derivatives and natural gas

Article 22

Transport authorisations

1. Provided that the provisions of the relevant laws are complied with, any company or consortium of companies, which complies with the legal requirements and regulations, may be granted permission by the ARNP to construct facilities and effect any form of transport of petroleum, petroleum derivatives and natural gas, whether for domestic supply, import or export.

2. The ARNP shall approve the rules regarding the approval of interested parties and the conditions for the grant of authorisations and for the transfer thereof, in accordance with the environmental protection and traffic safety requirements.

Article 23

Use of pipelines

1. The ARNP may permit any interested party to use the excess capacity of pipelines and sea terminals, which exist, or are constructed in the future, in exchange for the payment of an appropriate sum to the owner of the facilities.

2. In the event that there is no agreement between the parties, the ARNP shall fix the amount and payment method of the appropriate sum and shall also confirm that the agreed amount is compatible with the market.

3. The ARNP shall regulate the preference to be given to the proprietor of the facilities with regard to the handling of its own products, in order to promote the maximisation of the use of transport capacity by the means available.

Chapter VIII

Import, export and commercialisation of petroleum, derivatives and natural gas

Article 24

Grant of authorisation

1. The ARNP may grant any company or consortium of companies, which complies with the legal requirements and regulations, an authorisation to import, export and commercialise petroleum and its derivatives and natural gas.

2. The carrying on of the activity referred to in no. 1 of this article shall comply with the directives of the National Energy Policy Council – CNPE.

Chapter IX

Final and transitional provisions

Article 25

Transfer of powers and duties

All the powers, duties, rights and obligations of a specifically regulatory nature, which were originally granted to the Ministry of Natural Resources, Minerals and Energy Policy by the Petroleum Act shall vest in the ARNP.

Article 26

Legislative changes

Proposed legislation or proposals to amend administrative rules, which affect the rights of economic agents or of consumers and users of goods and services of the petroleum industry shall be preceded by a public hearing convened and conducted by the ARNP.

Article 27

Preservation of rights

Companies which are already operating any of the activities described in articles 22 and 24, in Timor-Leste, on a lawful basis, when this Decree is approved, shall submit a formal authorisation application to the ARNP within 120 days.

Article 28

Preservation of rights

The provisions of this Decree shall not affect prior third party rights acquired pursuant to contracts made with the Timor Sea Designated Authority, in accordance with the laws in force and shall not invalidate the acts of the Minister of Natural Resources, Minerals and Energy Policy, within the ambit of the exclusive areas contracted.

Article 29

Economic offences

1. When the ARNP becomes aware, in the course of the exercise of its powers and the performance of its duties, of a fact which may amount to an economic offence, it shall immediately inform the proper agencies of the Ministry of Justice, so that they may take appropriate measures within the ambit of the relevant legislation.

2. Independently of the communication envisaged in the preceding number of this article, the Ministry of Justice shall inform the ARNP of the terms of decisions which impose penalties for economic offences committed by companies or persons in the course of activities related to the national fuel supply, within no more than twenty-four hours of the publication of the decision, so that the ARNP may take the legal measures within its powers.

Article 30

The initial term of office of the Administrative Council

In the composition of the first Administrative Council, the Chairman of the Administrative Council and the members thereof shall be appointed for 4 (four) year and 3 (three) years terms of office, respectively, with a view to the implementation of a system of non-concurrent terms of office.

Article 31
Entry into force

This Decree-Law shall come into force on the day following the day on which it is published.

Confirmed and approved in Council of Ministers, on the day of2007

The Prime Minister

José Ramos Horta

The Minister of Planning and Finance

Madalena Boavida

The Minister of Natural Resources, Minerals and Energy Policy

José Teixeira

Promulgated on

To be published.

The President of the Republic

"Kay Rala" Xanana Gusmão