

**PERENCO PERU LIMITED, SUCURSAL DEL PERU:  
MAIN LEGAL FRAMEWORK  
FOR HYDROCARBON ACTIVITIES IN PERU**

**Hydrocarbons Organic Law**

Published in 1993, Law 26221 establishes the legal structure that currently rules all the Hydrocarbons exploration and exploitation activities and promotes their development based on free competition and free access to the activity.

**Regulations of the Hydrocarbons Exploration and Exploitation Activities**

Approved by Supreme Decree N° 032-2004-EM, they contemplate the hydrocarbon exploration and exploitation activities in the national territory and aim that Contractor obtains from the hydrocarbon reservoirs the maximum efficient recovery, under safety conditions, while taking care of the environment.

**Contractual scheme**

In order to promote the private investment in exploration and exploitation of oil and gas areas, the Law 26221 created PERUPETRO as a public entity of private law. Also, PERUPETRO has full economic, financial and administrative authority consistent with the policies and strategies adopted by the Ministry of Energy and Mines (MEM) EM. PERUPETRO, on representation of the Peruvian Government, is the entity authorized to execute contracts for hydrocarbons exploration and exploitation activities in Peru under three different modalities: license contracts, services contracts or through other authorized contracts forms issued by MEM.

To execute these contracts, Contractor must be qualified by Perupetro, as an entity capable of performing hydrocarbon activities, by meeting several requirements (of technical, legal and economic nature). Contractor may be a natural person or legal entity, national or foreign.

Currently, the most hydrocarbon activities are performed under the modality of License Contracts (including Perenco's). Under this scheme, the contractor obtains permission to explore and exploit hydrocarbons in the Contract area. In this kind of Contract, Perupetro transfers to Contractors the ownership of the oil extracted in exchange of royalty scheme paid to Perupetro and calculated for each license contract in relation to the hydrocarbons controlled production.

The term on a License Contract can be divided in two phases: the exploration phase and the exploitation phase. The maximum period awarded for exploration activities is seven years, though exceptionally it may reach a ten years term counted as from the effective date. The exploration phase usually includes several sub-phases or periods, each considering a work program that it is mandatory until contractor either enters the exploitation phase under the different modalities considered in the contract or until it decides to relinquish the area. The total maximum term that includes both phases (exploration and exploitation) is of 30 years for discoveries of crude oil and 40 years for the discovery of natural gas.

**Main regulators entities**

MEM: is responsible for planning and coordinating all activities of the hydrocarbon sector, which includes activities of installation and operation, surface and subsurface exploration and exploitation, activities of storage, processing, pipeline transportation and hydrocarbons commercialization.

OSINERGMIN (Organismo Supervisor de la Inversión en Energía y Minería) is the Supervisory Agency of the Energy and Mining Activities in charge of controlling and supervising the entities of the Energy Sector (which includes hydrocarbons, mining and electricity). OSINERGMIN is also responsible for supervising the compliance of the environmental regulations and the quality of the service and products provided to the population. OSINERGMIN also regulates the tariffs and set the different electric service prices, as well as the hydrocarbon pipeline transport tariffs and the natural gas distribution tariffs. OSINERGMIN can impose fines to the entities conducting activities under its competence, if when exercising its fiscalization and supervising functions, discovers breaches to the applicable technical, security or environmental regulations and commitments.

## **MAIN OBLIGATIONS OF A COMPANY CONDUCTING E&P ACTIVITIES.-**

### **General Office for Environmental and Energetic Matters (DGAAE)**

The DGAAE (Dirección General de Asuntos Ambientales Energéticos) is the Competent Authority whose principal object is the environmental protection and conservation in the hydrocarbon and energy related activities.

According to the “*Environmental Protection Regulations for Hydrocarbon Activities*”, approved by Supreme Decree 015- 2006-EM, prior to the beginning, expansion or modification of any hydrocarbon activity, Companies must submit to the DGAAE an Environmental Impact Assessment (EIA) for approval. Also, the DGAAE is in charge to approving the following permissions:

- Temporary Abandonment Plan, if the Company decides to suspend its operations.
- Abandonment Plan, which are the documents that Companies have to submit if they take the decision to finish their activities.
- Partial Abandonment Plan.

### **Supervisory Agency of the Energy and Mining Activities (OSINERGMIN)**

OSINERGMIN, as the Supervisor of the mining and energy activities, is in charge to grant the **Favorable Technical Report** for the installation of production batteries, pumping stations or compression station. A Favorable Technical Report will be necessary to begin with the construction and installation of said facilities and to start activities such as the Installation of the hydrocarbon pipeline transport system and its operation, Installations for Liquid Fuel Direct Consume, and other activities.

### **Hydrocarbons General Office (DGH)**

DGH is the technical regulation agency responsible for evaluating and proposing the politics of the Hydrocarbon Sector and of issuing regulations in that matter. Also the DGH acts in name of the Estate as Grantor in the Hydrocarbon activities. Moreover, the DGH grant the following permissions:

- Granting of easements rights.
- Modification to the granted easement rights.
- Contingency Plan for the Construction Stage Approval.
- Contingency Plan for spills and emergencies approval.
- Authorization for the main pipeline installation and operation.
- Registration as Hydrocarbon Direct Consumer and the issuance of the Registry Constance.

### **National Water Authority (ANA)**

ANA (Autoridad Nacional de Agua) is the specialized technical agency of the Agriculture Ministry responsible for issuing the regulations and procedures for an appropriate management of water resources. It is also responsible for granting rights for water use and to updating the Administrative Register of Water Use Rights. It is important to mention that given that ANA is a new agency, until its implementation is completed, the water use rights, will be issued by the Irrigation District Technical Authority (Autoridad Técnica del Distrito de Riego- ATR).

### **Forest and Wild Fauna General Office**

The Forest and Wild Fauna General Office of the Agriculture Ministry is in charge of undertaking the necessary measures for the correct use of forest and wild fauna resources. This Office is also in charge of the forest control and of the issuance of the deforestation and scientific investigation authorizations, among others.

### **National Institute for the Development of the Andean, Amazonian and Afro-Peruvian communities (INDEPA)**

INDEPA (Instituto Nacional de Desarrollo de Pueblos Andinos, Amazónicos y Afro-Peruanos) is the agency responsible of protecting the rights and defending the Andean, Amazonian and Afro- Peruvian communities rights, by implementing policies, coordinating supervising and protecting programs as well as following-up the development and well care of these communities. Among these, is also responsible for recognizing the existence of isolated tribes and communities initiating contact with the “developed” world. If the existence of these isolated tribes and first contacted communities is granted, INDEPA will also determine the area of territorial deserve to be implemented as a protected area for these tribes and communities to inhabit.

### **Environment Ministry and dependent bodies**

Recently established (2008) the Environment Ministry is the national environmental leading organism in charge of coordinating within local, regional and national levels, all environmental matters.

The Environmental Fiscalization or Evaluation Agency - OEFA (Organismo de Evaluación y Fiscalización Ambiental) is the Specialized Technical Public Agency, directly related to the Environmental Ministry. OEFA is in charge of supervising, controlling, evaluating and sanctioning environmental matters. Nevertheless their functions have not been defined yet. For this reason, within the Hydrocarbon sector, all environmental supervision and sanctions are still falling under OSINERGMIN competence.

Finally it is important to mention that the National Service of Protected Natural Areas (SERNANP - Servicio Nacional de Áreas Naturales Protegidas) is the specialized technical agency of the Environmental Ministry. Within its functions, it approves the regulations and issues technical opinions on matters of its competence. It also grants rights for the use of protected areas, through concessions, authorizations and permits.

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