DOING BUSINESS IN ARGENTINA

BASIC LEGAL MATTERS TO BE CONSIDERED FOR

CARRYING ON BUSINESS ACTIVITIES IN ARGENTINA

1) CORPORATE AND CREATION OF LEGAL ENTITIES

I. Legal aspects involved in carrying out on-going activities in Argentina.

For purposes of conducting business in Argentina, a foreign investor may either incorporate a company under one of the types provided for by the Argentine Companies Law ("ACL") – subsidiary- or it may set up a branch of its company and appoint a representative thereto.

Foreign investors normally elect to set up a subsidiary under the type of Corporations *(Sociedades Anónimas "SA")* or Limited Liability Companies (*Sociedades de Responsabilidad Limitada "SRL"*), for in both cases the foreign investors liability is limited to the stock capital amount invested in the subsidiary. The corporation is the most commonly used legal entity in Argentina for the development of all kind of activities and businesses. Limited liability companies are not as common and in general they are used for smaller business. However, for certain jurisdictions (such as the US), the local SRLs are considered as transparent or pass through entities for tax purposes.

In August 1st, 2015 an entire amendment of the Argentine Civil Code authorized the incorporation of companies with only one shareholder: *Sociedades Anónimas Unipersonales* or "SAU" for its acronym in Spanish.

Foreign investors seldom prefer the branch structure, as unlike corporations and limited liability companies, branches do not enjoy limited liability. Branches are not considered to be a separate entity from their parent companies, and therefore, all such acts carried out by the branches are considered as directly performed by the parent company itself. This implies that foreign entities are fully liable for all the transactions carried out by their branches.

Both legal structures (subsidiaries and branches) require that the foreign investor be registered with the Public Registry of Commerce in Argentina.

II. Differences between a corporation, a limited liability company and a branch or representative office of a corporation domiciled abroad

1. Registration and by-laws

Corporations and limited liability companies**:** No more than 50 quotaholders are permitted in the limited liability companies. No limit in the number of shareholders for the Corporations.
The shareholders of an SA or partners of an SRL can be either foreign or local companies or individuals, and no nationality or residency requirements apply.

It is necessary to previously register the Articles of Incorporation and By-laws of the foreign company forming a subsidiary, with the Public Registry of Commerce. When this is completed the formal act of the formation may take place establishing the By- laws of the new corporation or limited liability company (name, corporate purpose, duration, capital, administration, shareholders meetings, etc.).

Branches**:** It is necessary to register the Head Office Articles of Incorporation and By- laws and the decision to register the branch in Argentina. The branch will act in accordance with the Head Office's By-laws.

2. Capital

Corporations**:** At present a minimum capital of $ 100.000 (for an updated US$ / Ar $ exchange rate, please visit http://www.bna.com.ar/ section "Cotizacion divisas") is required to form a corporation. However, corporate capital stock must be appropriate for the development of the corporate purpose. Therefore, the Public Registry of Commerce may request that companies fix an amount of capital higher than the referred to minimum. At least 25% of said capital must be paid up at the time of formation of the corporation. The remaining 75% must be contributed within a term of two years as of that moment.

Limited liability companies**:** No minimum capital is required to form a limited liability company. As in the case of the corporations, the corporate capital must be appropriate to the development of the corporate purpose and the Public Registry of Commerce may request the companies to fix an amount higher than the one decided by the partners. At least 25% of the capital must be paid up at the time of formation and the remaining 75% must be contributed within a term of two years as of that moment.

Branches**:** There is no required assignment of capital to the branch with the exception of branches acting in certain industries such as banking or insurance. In these cases, a minimum capital should be assigned to the branch. The capital must be paid up in full from the very beginning.

3. Liability

Corporations and limited liability companies**:** The liability of the shareholders and quotaholders is limited to the amount of the capital invested. The sole limitation to this rule is the "lifting of the corporate veil" doctrine, applicable when companies have been organized or used with fraudulent purposes, abusing of the right to organize such separated legal person.

Branches**:** Obligations undertaken by a branch of a foreign corporation are binding for the parent company without limitation of liability.

4. Books and Records.

Corporations**:** The following registered commercial books are necessary: Board of Directors' Meetings Minutes Book, Shareholders' Meetings Minutes Book, Book of Deposit of Shares and Registry of Attendance to Shareholders' Meetings, Registry of Shares, Daily Journal, Inventory and Balance Sheets.

Limited liability companies: Only a Book of Meetings of Managers and Quotaholders, Day book , and Book of Inventory and Balance Sheets are required.

Branches**:** Only the Daybook and the Book of Inventory and Balance Sheets are required.

Any of the entities may also use whatever manual or mechanic records they may deem convenient, in which case annual filings before the Public Registry of Commerce are required.

5. Management.

Corporations**:** Are managed by a Board of Directors appointed by the Shareholders' Meeting. Directors are not required to be shareholders but the majority must be resident in Argentina. The Board may function with even one member if the By-laws establish such a minimum.

The Board of Directors must hold meetings at least quarterly.

Limited liability companies**:** Are managed by managers who are appointed indefinitely or by the Quotaholders' Meeting. Managers are not required to be Quotaholders and also the majority must be resident in Argentina. The managers have the same rights and obligations as directors of corporations.

Branches: Local operations are directed by the legal representative of the branch or representative office. No meetings are required.

6. Supervision

Corporations: the appointment of a syndic is optional unless the capital is AR$ 100,000,000 or more, in which case one or more syndic must be appointed. Corporations organized as SAU and corporations included in Section 299 of Law 19,550 (listed companies, among others) are subject to permanent supervision of the Registry of Commerce and must appoint three regular syndics and three

Limited liability companies: the appointment of a syndic is optional unless the capital is AR$ 100,000,000 or more, in which case one or more syndic must be appointed

7. Shareholders' Meetings.

Corporations**:** The Shareholders Meeting is the governing body of the corporation. At least one Ordinary Shareholders' Meeting must be called annually to consider the financial statements, the Board of Directors report, allocation of profits, and appointment of directors and statutory auditors, if applicable, as basic subjects.

Limited liability companies: Corporate resolutions are adopted by a partners' resolution as set forth in the act of incorporation. At least one Ordinary Quotaholders' Meeting must be called annually to consider the financial statements, the managers' report, allocation of profits, and appointment of managers and statutory auditors as basic subjects. Amendments of the by-laws, should a sole partner represent the majority vote, require the vote of another partner.

8. Financial statements, Balance Sheets and Accounts.

There are no substantial differences in the accounting obligations of branches and subsidiaries.

Corporations**:** Annual financial statements must be submitted for the consideration of the Shareholders' Meeting and filed with the Public Registry of Commerce. The statements must be audited by an independent public accountant.

Limited liability companies**:** Annual financial statements must be submitted for the consideration of the Quotaholders' Meeting. Same must be filed with the Public Registry of Commerce only if the capital exceeds the amount of $ 10,000,000 (for an updated US$ / Ar $ exchange rate, please visit http://www.bna.com.ar/ section "Cotizacion divisas").

Branches: Branches must keep separate accounting in Argentina. Revenues in Argentina must be consolidated in Head Office Financial Statements if the rules and regulations applicable to Head Office require said consolidation.

The financial statements of the branch must be submitted to the Public Registry of Commerce within 60 days following the closing of the fiscal year. In addition, within 60 working days as of the financial statements closing date, branches shall submit to the Public Registry of Commerce a certification subscribed by an officer of the foreign company (head office), which states the composition and the value of its current and non-current assets located outside Argentina and the identity of its shareholders.

III. Formation of a local company. Registration of a branch – Procedure

III. (i) Formation of a local company

The formation of a local company involves the following actions in the event the founding investors are companies incorporated outside Argentina:

(i) Registration of the foreign entity wishing to act as a shareholder of the local company.

In order to participate in the incorporation of a company in Argentina, legal entities domiciled abroad must first produce evidence to the Registry of Commerce that it has been duly organized under the laws of its home country[1].

This registration is required to hold participation in a local entity but it does not imply the setting of a branch or permanent establishment of such foreign entity nor does such registration convert such entity in an Argentine taxpayer[2].

Within the jurisdiction of the City of Buenos Aires, in order to comply with the above-mentioned requirement, the foreign legal entity must file before the Superintendency of Corporations ("*Inspección General de Justicia*" or "*IGJ*") the following documents: (a) Articles of incorporation and by-laws of the company, and any amendment thereof.
(b) Certificate of Good Standing.
(c) Certified copy of a formal minute of the board of directors' meeting of the company,

resolving to register the company with the IGJ, for the purpose of being holder of shares or quotas of Argentine companies and participate in their formation. The legal representative does not need to be resident in Argentina.

Pursuant to the regulations of the IGJ the only one entitled to vote and exercise the rights and interests of a foreign corporation -and therefore to vote at the shareholders / quotaholders' meetings of the local companies in which the foreign company holds a participation- is its legal representative duly registered before the IGJ or any attorney exclusively appointed by such representative. Furthermore, the legal representative of a foreign entity is subject to an information regime before the AFIP (Federal Tax Bureau) in case it participates in certain transactions vis-à-vis the company in which the foreign entity holds a participation.

(d) Affidavit executed by Legal Representative, identifying the final beneficial ownership – individual person- of the foreign company, holding directly or indirectly at least 20% of its capital stock (name, passport, percentage of participation, nationality, date of birth, domicile, tax identification number).

Certain regulations issued by the IGJ have strengthened the control over foreign companies with investments in Argentina.

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[1] Section 123 of ACL.

[2] A simple registration with the Argentine federal tax authorities ("AFIP") is required for identification purposes only. Furthermore, the legal representative of a foreign entity is subject to an information regime in case it participates in certain transactions vis-à-vis the company in which the foreign entity holds a participation (i.e. transfer of capital contributions in the legal representative account for further transfer to the Argentine company).

These regulations are aimed at restricting the action of foreign companies formed for the sole purpose of avoiding the application of the Argentine Law, thus forcing such foreign companies to prove the contrary.

To such purposes, foreign companies shall prove:

1- That, according to the rules of the company's place of incorporation, the company is allowed to develop activities in the jurisdiction where it has been incorporated (that is not an "off shore" company).

2- That the company develops an economically effective business outside Argentina.

The IGJ will evaluate whether the activities performed outside Argentina are relevant – from an economic perspective – with respect of the value of the assets to be held and/or operated by the Argentine company. In other words, the value of the assets located outside Argentina should be relevant and substantial with respect of the local ones. In principle, this requirement may be complied with if the Company owns certain assets which, according to the regulations, are suitable to prove effective business outside Argentina

and then issue a certificate stating this ownership (the company should own outside Argentina one or more agencies, branches or current representations, and/or non-current assets or exploitation rights over assets belonging to third parties (non-current) and/or shareholding in companies (not subject to public offer) and or regularly performs investment transaction in stock exchanges or stock markets, as established in its corporate purpose.)

3- The identity of its partners.

In addition, with respect to companies incorporated in low tax jurisdictions (tax heavens) the IGJ might apply a more restrictive criteria and make additional requirements.

In the case where foreign companies are not able to comply with these additional requirements such foreign companies may request their registration as a "vehicle" entity, provided a direct or indirect shareholder of such vehicle does complies with such requirements. In this case, the foreign company would be registered for the sole purpose of being vehicle for investing in other companies.

(ii) Drafting and execution of the deed containing the articles of incorporation and the Bylaws of the new entity:

Information as of corporate name, corporate purpose, capital, shareholders, etc., shall be defined prior to execution of articles of incorporation and Bylaws. As of today, and prior to the inclusion of the SAUs in the ACL, the IGJ criteria was that the maximum participation allowed to be owned by a sole shareholder/quotaholder is 98% of the capital stock and the other 2% of the capital stock should be owned by at least another shareholder/quotaholder based on the requirement of "plurality of partners". Therefore the *Inspección General de Justicia* would in principle not register companies controlled by a shareholder/quotaholder holding over 98% of voting shares of the capital.

(iii) Constitution of the Directors' / Managers' guarantee pursuant to the provisions of IGJ General Resolution 7/2015.

Directors of corporations and managers of limited liability companies hall constitute a guarantee which shall consist of bonds, public securities, or national or foreign currency deposited in financial entities, or depositories, on behalf of the corporation, banking guarantees, or contingency insurance or insurance against liabilities to third parties. The amount shall be equal for each director and never below the 60% or the capital stock, as per a maximum of $ 50,000 and a minimum of $10,000 per director/manager.

(v) Publication for one day in the official gazette informing the constitution of the company

(vi) Deposit of 25% of the capital stock at *Banco de la Nación Argentina*

At least 25% of the capital stock must be paid in at the time of incorporation. The remaining 75% may be paid in during a term not exceeding two years from that date. Once the company is registered with the IGJ the amount is refunded to the company.

(vii) Registration of the Bylaws of the new entity at the Public Registry of Commerce.

Articles of incorporation and bylaws must be submitted to the Registry of Commerce, who shall verify compliance with all regulations applicable to corporations or limited liability companies at their inception.

(viii) Licenses

Upon approval of the formation of a corporation or limited liability company, no further license to do business is required, except in specially regulated activities (e.g., banking, insurance, pharma, broadcasting and telecommunications, among others). Certain other administrative acts are necessary to assure the company is fully operative, including filing for a federal tax identification number and registering in the social security system. Activities such as import-export transactions, supply distribution to the public sector, and industrial operations will also require additional registrations with some regulatory agencies.

III. (ii) Registration of a branch

The installation of a branch of a foreign entity requires the registration of its organizational documents before the Public Registry of Commerce. This registration is required pursuant to Section 118 of the ACL and converts such entity into an Argentine taxpayer.

IV. Other Forms of Investment Entity

1. Partnerships

Generally speaking, partnerships are entities in which the participants' liability is unlimited. Partnerships in Argentina generally take the form of a Sociedad Colectiva. All the partners are jointly and severally liable for the obligations of the partnership, once its assets have been exhausted. No minimum capital is required and liquidation of partnerships requires unanimous consent.

2. Joint Ventures (UT)

The joint venture vehicle most commonly used in Argentina is the Unión Transitoria ("UT").

A UT is a group of corporations and/or individuals organized under a structure that supports the economy of each of the parties to the UT, without losing their economic and legal individuality. A UT is not a juristic person (corporation or otherwise). Although they are

treated as such for certain purposes including labor law, social security contributions and for value added and turnover tax. With respect to other taxes, such as income tax and the tax on assets, UTs are considered as transparent entities, and such taxes are therefore payable in the hands of the members.

A non-resident corporation may be a member of an Argentine UT subject to it complying with the same kind of registration proceedings with the IGJ as those applicable to a branch of a foreign company. All UTs and their representatives must be registered with the IGJ of the jurisdiction of incorporation (i.e. the City of Buenos Aires or one of the provinces).

Pursuant to Section 1463 CCC, a UT is a contractual means by which the parties thereto join efforts to develop or perform a specific work, service or supply, within or outside Argentina as well as any work or service complementary or supplementary thereto. UT's existence is temporary in the sense that it is limited to the duration of the work or service to be performed. Therefore, usually the purpose of UT is referred to the duration of the works or services to be rendered.

The UT's representative should be appointed in the UTcontract, it could be a physical or a juristic person and should have sufficient empowerment of any and all the UT members so as to exercise all rights and be bound by all obligations related to the development and performance of the work or service. Its appointment should be registered before the IGJ. The representation could be singular or plural and the appointment could refer to a member of the UT or any other third party.

Majorities for approval of the UT's decisions could be freely agreed upon by its members; failure to set forth the majority regime in the contract shall entail the applicability of the general principle that all decisions should be taken by unanimous consent of all the parties thereto (Section 1468 CCC).

Section 1467 sets forth the general principal that members of the UT are not jointly and severally liable (*responsables solidarios*) neither for the acts and operations to be developed or executed by them, nor for the obligations vis-à-vis third parties.

Since the UT is not a juristic person, its constitution does not release or limit its members' liability vis-à-vis third parties, in case of breach of the commitments undertaken by the UT´s representative. Although not a juristic person, the UT can be employer and have a tax number.
Joint ventures other than UTEs are also permitted under the general principles of law.

3. Trusts

Law No. 24,441 of January 1995 introduced the trust concept into Argentine law. It has been a pillar that allowed innovative financial techniques to be introduced into Argentine real estate and other projects financing. Since this law was passed, a number of major projects have been started using the trust as part of the legal structure. Law No. 24,441 was repealed on August 2015 and its provisions were mostly included in the new Civil and Commercial Code, which maintained the regulation with some minor changes.

This vehicle allows the intervening partners (whether developers, financiers or constructors) to isolate the property, the subject matter of the operation, from other assets and creditors, and ensures that the project is not jeopardized by extraneous factors. Trusts also permit securitization of funds flowing from projects, thus opening up access to the capital markets for financing purposes.

A trust will be created upon the transfer of certain assets by one person (the settlor) to another person (the trustee), who undertakes to exercise the rights attributable to ownership of such assets for the benefit of a person designated in the relevant agreement as the beneficiary (the beneficiary) and to transfer the assets, upon the expiry of the trust term or upon fulfillment of a certain condition, to the settlor, beneficiary or trustee.

Pursuant to Argentine law, assets held in a trust form a separate estate from the estates of the trustee and the settlor. They therefore will not be affected by any individual or joint actions brought by the trustee's or settlor's creditors, except in the case of fraud by the settlor.

The law contains specific regulations regarding financial trusts. The trustee of a financial trust may only be a financial entity or a corporation specifically authorized by the Argentine Securities Commission to act as financial trustee.

V. Mergers and Spin-offs

1. Mergers

The Argentine Companies Law regulates mergers. The law provides for two types of mergers:

a) mergers by consolidation, where two or more companies transfer their assets and liabilities to set up a new company which, as consideration, issues shares to the shareholders of the merged companies, which are then dissolved; and

b) mergers by absorption, where one or more companies (the absorbed companies) transfer their assets and liabilities to an existing company which, as consideration, issues shares to the shareholders of the absorbed companies, which are then dissolved.

Creditor's Rights - In order to protect creditors' rights, a notice of merger must be published in the Official Gazette in each company's jurisdiction and in a newspaper with nationwide circulation.

Right of withdrawal - Whenever shareholders of a company approve by resolution a merger in which their company is not the surviving company, any shareholder who voted against such a resolution or did not attend the meeting at which the resolution was approved may withdraw from the company and receive the value of the relevant shares, determined on the basis of the company's most recent audited balance sheet (i.e., the merger balance sheet).

Registration - The law requires that the merger be recorded at the Public Registry of Commerce. If the merger, the capital increase or modification of the charter or by-laws of the absorbing

company are not registered, the merger will have no legal effect as far as third parties are concerned.

Taxation -To encourage the aforesaid business re-organizations, Argentine tax law provides, in principle, that the transfer of assets as a result of such mergers shall not be levied with certain taxes (income, VAT, gross income tax, among others), provided that certain conditions are satisfied.

2. Spin-offs

Argentine law defines a spin-off as an operation by which a company:

a) separates off part of its assets and liabilities from its existing assets and liabilities and either (i) creates (together with another company) a new company to which these assets or liabilities are transferred; or (ii) merges such assets and liabilities into one or more existing companies (in the latter case the rules applicable to mergers will apply);

b) separates off part of its assets and liabilities from its existing assets and liabilities and creates one or more companies to which these assets and liabilities are transferred;

c) creates new companies into which all of its assets and liabilities are transferred.

Creditors' Rights - Creditors in spin-offs are entitled to rights similar to those applicable to mergers. Details of the spin-off must be published in the Official Gazette in each company's jurisdiction and in a newspaper with nationwide circulation.

Right of withdrawal - Similar rules to those applicable to mergers apply.

Registration - Once the periods provided for rights of withdrawal, objection by creditors and application for judicial liens have elapsed, without any claims pending, the by-laws of the new company and the amendment to the by-laws of the spinning off company will be executed and registered at the IGJ and the spin-off will be effective with respect to third parties

VI. Acquisition of an Argentine business

1. Introduction

There are basically two ways of acquiring a local company, namely, the purchase of stock or the purchase of assets. The choice between one and the other will depend upon the circumstances of the target company on the basis of the following considerations:

Since the purchase of shares implies the continuity of the legal entity, it is clear that the most relevant risk is associated to hidden liabilities, particularly tax and labor ones, which in Argentina can be a very sensitive and substantial matter. Sometimes this risk can be reasonably measured after a due diligence process and covered by appropriate guarantees in the stock purchase agreements.

On the other hand, the asset purchase option provides reasonable protection against past hidden liabilities through the procedure of sale of going concerns foreseen in the Law of Transfer of Going Concerns (or Bulk Transfer Law) nr. 11,867 and federal and provincial tax regulations. This law provides for specific procedures that allow the purchaser to separate and avoid certain liabilities related to the former owner or exploiter of the business that it's being transferred. However, tax and labor liabilities are usually transferred to the purchaser of the going concern.

Additionally, it is worth mentioning that shares of public companies may also be purchased in the stock market through a tender offer. This procedure is regulated by the CNV. However, the relatively small number of companies listed in Argentinean securities markets and the small percentage of its total number of shares being publicly traded makes this procedure only of interest to majority shareholders willing to purchase the remaining shares in ongoing private transactions.

2. Legal Implications of Each Alternative

a. Stock Purchase

There is no specific regulation as to the provisions of a share purchase agreement and, therefore, the parties are free to negotiate and agree on its terms, subject to the general rules applicable to contracts under Argentine law. From the perspective of the purchaser, it is important to mention that responsibility for hidden liabilities must be expressly established in the share purchase agreement because if no provision is stated in this regard, the prevailing doctrine arising from judicial precedents dictate that the seller cannot be held responsible for such liabilities.

From the tax standpoint the following considerations are to be taken into account:

- Capital gains derived from the sale of shares or other equity participations, such as quotas or a limited liability company (*sociedad de responsabilidad limitada*) will be subject to the Argentina Income Tax.

- The tax treatment of capital gains for foreign persons has been recently amended. Taking this into consideration, in principle, if the owner of the shares or equity participations is a foreign person (individual or legal entity), local payor will have to withhold the tax (15%, special rate for capital gains derived from shares and equity participations) from the purchase price; such withholding will be applied on the presumed net income: the ITL presumes, for the case of sale of shares and equity participations, that the net income is 90% of the gross amount paid, resulting in an effective tax rate of 13.5%. Also, the ITL provides that the foreign taxpayer may opt to pay tax at the rate of 15% on the actual net income, which is calculated by deducting the actual expenses incurred in Argentina in obtaining the taxable income from the gross amount; however, no regulations have been issued yet for the latter option.

- Also, the ITL establishes that if both seller and purchaser are non-Argentine residents, the purchaser should make the withholding. However, no regulations have been issued for this situation and there are legal obstacles for the Argentine Revenue

Service enforce the purchaser's responsibility.

- Other taxes that might be applicable are the stamp taxes, which levy written agreements in certain jurisdictions.

No other taxes are applicable to stock purchases. Once the parties accomplish the preliminary steps (due diligence, letter of intent, etc.) and the deal structure is agreed upon, they are ready to negotiate and execute the acquisition agreement. Local law authorizes parties to choose the law governing the agreement, but this selection needs to be based on some reasonable point of contact with the transaction or the parties. Similar comments apply to the jurisdiction chosen by the parties (i.e. local or foreign, ordinary courts or arbitration), although this aspect is usually more flexible than the "applicable law" issue .

In order to cover the purchases or investments, security interests under Argentine law may be obtained through mortgages, pledges (including registered and floating pledges), security assignments and trusts. Such securities may be taken over movable and immovable properties, shares, cash and receivables.

A mortgage and/or a pledge will generally secure the principal amount, accrued interest, and other related exenses owed by a debtor to its creditor.

Mortgages, under Argentine law, may be granted over real estate, ships and aircraft. All mortgages must be registered with the relevant public registry in order to become effective vis-à-vis third parties. In connection with pledges, the Argentine Commercial Code provides that unless the debtor and creditor agree upon a special sale proceeding, the pledged asset must be sold by public auction which shall be duly announced through the Official Gazette.

Furthermore, pledges over shares must be reported to the issuing company or the registrar (and must be recorded in the stock registry book of the involved company). Such pledge only takes effect vis-à-vis the company and third parties upon its registration in the aforementioned company's book.

b. Transfer of Going Concern ("TGC")

The purchase of all or part of a company's assets qualifies as a transfer of a going concern, governed by Law No. 11,867 (the "TGC"). Its purpose is to protect creditors from the transfer of the debtor's assets, which represent the guaranty of its credits.

The following considerations apply to this structure:

- The selling party is a local company, which will survive the sale.

- The purchaser of an on-going concern may identify and limit the liabilities that are transferred with the business. Such limitation will be granted if the sale of assets is implemented through the procedure set forth by the TGC.

- In most cases, the TGC involves the transfer of personnel. Labor regulations impose joint and several liability on the seller and the buyer of a TGC for labor obligations. In this case,

there is no legal mechanism to avoid such liability for the purchaser, which should be properly covered by the usual representations and warranties in the TGC agreement. However, one should note that employees of the going concern company may or may not be transferred to the new owner of the business, but the employees have the right to remain with their prior employer if they so wish. The seller and the purchaser may not compel the employees to accept the transfer to a new employer. Normally, when the employee does not wish to be transferred, he/she will be terminated after the payment of all applicable severance indemnities.

- The TGC provides for a special procedure, which basically consists of the announcement of the transfer in certain publications so the creditors have the opportunity to oppose to it, unless they receive full payment of their credits or satisfactory guarantees of their cancellation. Lack of compliance with the described procedure does not affect the validity of the transaction, but the buyer will be jointly responsible with the seller for the debts of the going concern up to the amount of the price.

- Under tax law, and insofar as federal taxes are concerned, a specific notification must be given to the federal tax authorities at least 15 working days before the transfer of going concern takes place. The federal tax authority has a three-month term to assess undetermined liabilities. After that period has elapsed without any assessment by the tax authorities, the buyer is released from any responsibility arising from those contingent liabilities related to federal taxes.

The tax regime applicable to a TGC is the following:

- Income tax. The seller will be subject to the payment of income tax if a profit arises as a consequence of the sale of the going concern. In order to determine the existence of such eventual profit, income tax law provides for specific rules of valuation of the different assets of the going concern.

- Value added tax. This tax will be applicable on the transfer of movable goods, but not to the transfer of real estate. Presently the tax rate is 10.5% or 21% depending on the type of assets.

- Stamp taxes. The TGC agreement could be subject to these taxes in accordance with the rules described above for the share purchase agreement.

- Turnover tax. This local tax applies to movable property (like inventory) other than fixed assets, and is calculated on the gross revenue of such property.

The applicable tax rate is on average.

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2) TAX

I. TAX – LEGAL ENTITIES

The principal entities which can be used for carrying on business in Argentina are corporations (s*ociedad anónima*), limited liability company (*sociedad de responsabilidad limitada*) and the branch of a foreign company.

1 Argentine Tax System

There are three levels of tax authorities in Argentina: the Federal, State and Municipal governments. The most important taxes collected by the Federal government are: Income Tax (IT), Value Added Tax (VAT), Personal Asset Tax (PAT), Tax on Presumed Minimum Income (TPMI), Debit and Credit Tax (DCT) and Custom Duties. On the other hand, the principal taxes collected by the Provinces (States) are the Turnover Tax (TT) and the Stamp Tax (ST). Municipalities taxing rights encompass those taxes granting permissions, taxes levied on security and health control of taxpayers' activities, taxes on the right to use public spaces and taxes on advertisements made within the jurisdiction of the municipality.

1.1. Income Tax

This tax is levied on the worldwide income earned by Argentine residents, and only on the argentine-source income[1] derived by non-residents. Residents have the right to credit taxes of similar nature paid abroad against their income tax liability, to a maximum amount equal to the tax liability arising from such foreign-source income.

1.1.1 General Aspects

General Income Tax Rate. The general statutory corporate income tax rate for entities incorporated in Argentina, including branches or permanent establishments of foreign companies, is 35%.

Capital gains taxation. There are no special rules for capital gains obtained by corporate entities in Argentina. Gains from the sale or exchange of real estate and other capital assets (whether held short-term or long-term) are taxed at the ordinary corporate income tax rate (35%). As mentioned, corporate taxpayers are not allowed to use operating income to offset losses arising from the disposition of certain securities or derivative instruments. Such losses may only be applied against income from the same types of transaction within the respective basket.

Argentine does not recognise a participation exemption, nor any special relief for reinvestments[2]. However, certain features of the income tax regime might act as an indirect incentive for keeping profits in corporate solution; there is a 35% equalisation tax payable upon distributions whenever accounting profits exceed taxable income at the level of the distributing company.

Sale of Shares in Closely Held Corporations

[1] Argentine source income the one that arise from goods located, placed or used for an economic purpose in Argentina; from any act or activity capable of producing an income in Argentina; or from events occurring within the Argentine territory, without taking into account the nationality, domicile or residence of the owner or of the parties that intervene.

[2] Except from some particular regimes.

For individuals, capital gains on the disposition of shares in closely held corporations are taxable at a reduced flat rate of 15%. The same tax treatment applies when the transferor is a foreign entity or Permanent Establishment, in which case the 15% rate applies on a presumed net income basis of 90%, thus resulting in an effective rate on gross gains of 13.5%.

In the case that the said taxable transactions are executed between nonresidents, the acquirer would be liable for the tax triggered. Further regulations are expected to address the procedure to be followed under these scenarios.

Sale of Shares in Publicly Traded Corporations
Capital gains on the disposition of shares in publicly traded corporations are expressly exempt in the case of resident individuals, but no similar exemption applies to foreign shareholders.

Corporate Income Tax Taxable Base. All revenues are subject to income tax unless otherwise excluded by law from the taxable base. Excluded Items of income are subtracted from Gross Income. The result is the Gross Taxable Income from which all expenses incurred in obtaining taxable income are deducted. The after-deductions result is the Net Taxable Income. The Exempted Items of Income are subtracted, resulting in the Taxable Base to which the 35% statutory corporate tax rate is applied. The result of applying the 35% tax rate is the Resulting Income Tax from which applicable Tax Credits are subtracted to find the Income Tax Liability.

Deductions. As a general rule, all costs and expenses incurred in obtaining taxable income may be deducted, including organization costs, taxes (other than income tax, except for the grossing up paid by a local resident on behalf of a foreign contracting party), and donations to certain entities, amongst others. Expenses are generally allocated to the fiscal year in which they accrue.

Thin capitalization rules. The Argentine Income Tax Law (ITL) includes thin capitalization rules which impose limits on the deduction of interest payments made to affiliated parties in the cross-border context. In this regard, if debt/equity of the local company exceeds a 2:1 ratio, interest would not be deductible.

Proper capitalization of the Argentine entities is advisable to mitigate debt to equity re-characterization risks. As a result of the application of this rule interest exceeding the ratio should be re-characterized as a dividend and treated accordingly.

There are also some anti-avoidance rules that can limit interest deduction. In general interest payment can be deducted as they accrue. However, in the case of payments to related parties and/or entities located in non-cooperative jurisdictions that are deemed as argentine source income, the deduction would only be allowed when effectively paid.

Depreciation. Buildings used to generate taxable income may be deducted at a 2% annual rate calculated over the cost of such buildings. Other depreciation rates may be used if they are technically supported.

Annual depreciation of all other depreciable assets used to generate taxable income is determined by dividing the acquisition cost of the asset by its estimated years of useful life (straight line depreciation method). The ITL does not provide standard depreciation rates.

Other depreciation methods, such as those based on units of production or time of use, may be used if they are technically justified. Amortization of goodwill, trademarks and similar intangible assets is not deductible, except when they have a set useful life. At the taxpayer's option, organization costs may be deducted either in the year in which they are incurred or capitalized, and then amortized over a period not exceeding five years.

Tax Loss Carry-forward: Argentine taxpayers may carry-forward tax losses for a maximum term of 5 fiscal years. There is no carry-back possibility.

Losses arising from the sale or disposal of stock or shares may only be computed against capital gains of the same nature. Furthermore, losses arising from activities not considered to be Argentine source income may only be set off against foreign source income.

Tax losses cannot be transferred to other taxpayers (not even to the shareholders), except as provided in the cases of reorganizations.

Inflationary Adjustments. The deductibility of foreign exchange gains and losses was traditionally complemented (though working oppositely) by the inflationary adjustment norms. In this sense, taxpayers were conceptually allowed to net out differences incurred by foreign exchange differences with the inflationary adjustment.

The current scenario reflects an anomalous situation in which, in order to optimize income, the government has maintained norms referred to foreign exchange gains and losses but has ceased to publish inflationary adjustment indexes, so that the adjustment is no longer effective. There are a number of judicial claims on this matter.

1.1.2 Payment and Filing

For any given fiscal year the corresponding income tax return must be filed before the beginning of the fifth month following the end of the taxpayer's fiscal year. Note that for corporations the tax year must not necessarily coincide with the calendar year as is the case with physical persons. Companies, in fact, do have a fiscal year that overlaps the financial statement's year.

Corporations and foreign company branches are required to make ten monthly prepayments, as from the sixth month of the fiscal year. Prepayment amounts are established on the basis of the tax paid in the preceding fiscal year.

1.1.3 Penalties on Unpaid Tax or Tax Paid Belatedly.

The Tax Procedure Law ("TPL") sets forth certain penalties for incompliance with formal requirements and for incompliance with substantial obligations. Penalties for incompliance with formal requirements include not only different type of fines but also the close down of the business.

Amongst penalties for incompliance with substantial obligations: i) tax omission is fined with a penalty from 50%-100% of the omitted tax, whenever the omission is by means of: a) lack of presentation of sworn statement; b) when the sworn statement is inexact; c) withholding agents failing to act as such; ii) furthermore, the TPL sets the penalty for tax fraud at 2 to 10 times the amount of the evaded tax. The fine amounts may be reduced whenever the incompliance is not

repeated and upon rectification or voluntary filing of the tax.

The Criminal Tax Law also sets forth that in the case of tax fraud, evasion or willful misconduct the taxpayers are subject to prison, depending on the evaded amount, the type of willful conduct and whether third parties or supposed exemptions were used to evade the tax.

Interest rates are 3 % monthly and punitive interest rates are 4 % monthly.

1.1.4 Cross-border Payments - WHT

When Argentine source income is remitted abroad to a beneficiary that is a non-resident alien, individual, or entity, the payment should be subject to a withholding tax (WHT). In any of the cases set forth below, if the local payer assumes the obligation to pay the tax for the non-resident recipient, then the net amount must be grossed up in the amount of the tax. Note that the withholding rates set forth below are applicable in the absence of a pertinent DTT.

Dividends: Distribution of dividends, profits or branches' remittances are not subject to taxes in Argentina. However, whenever such profits are distributed in excess of a company's net taxable income a withholding rate of 35% is applied (i.e. equalization tax).

Royalties: Unless otherwise provided in a tax treaty, royalty payments are subject to an effective withholding tax rate of 28% -35% of a presumed net income of 80%-, in the case of registered trademarks, patents, industrial know-how and other technology transfers.

In order to obtain the reduced withholding tax rate of 28% (38.89% with grossing up), the contracts must be registered before the National Institute of Industrial Property ("INPI"). Otherwise, a 31.5% effective tax rate would apply.

Technical Assistance, Engineering and Consulting Services: If the given contracts refer to services deemed unavailable in Argentina and provided that the contract is registered before the National Institute of Industrial Property ("INPI") according to Transfer of Technology Law, such agreements are subject to a withholding of 21% (26.58% with grossing up). If the contracts are registered pursuant to the Transfer of Technology Law but the given contract is not included amongst the above, then a withholding rate of 28% applies (38.89% with grossing up). Unregistered transfers of technology are subject to 31.5% withholding.

Interest on Loans obtained abroad: Interest payments on loans obtained abroad are subject to a withholding rate of 35% (53.85% with grossing up). However, if the beneficiary is a bank or financial institution incorporated in a country not considered to be a low tax jurisdiction, or in a jurisdiction which signed agreements providing for the exchange of information and where bank secrecy or secrecy referring to stock exchange cannot be alleged upon request of information by the pertinent tax authorities, then the withholding rate is reduced to 15.05% (17.72% with grossing up).

Payments to non-resident individuals: Payments to non-resident individuals working on a temporary basis in Argentina for a period not exceeding 6 months are subject to a withholding of 24.5% (32.45% with grossing up).

Rental Payments on moveable property are subject to a withholding rate of 14% (16.28% with

grossing up).

Rental Payments on real estate property are subject to a withholding rate of 21% (26.58% with grossing up).

Proceeds from the sale property (except shares/quotas/bonds/securities) are subject to a withholding rate of 17.5% (21.21% with grossing up).

Others: The general withholding rate applicable to other cross-border payments not included within those mentioned above are subject to a general withholding rate of 31.5% (45.99% with grossing up).

1.1.5 Transfer Pricing

Argentina has OECD like transfer pricing rules applicable to: i) transactions with related companies, ii) transactions with parties located in tax havens; iii) transactions between Argentine residents and their permanent establishments situated abroad; iv) transactions carried out by permanent establishments situated abroad (owned by Argentine residents) with companies incorporated in low tax jurisdictions.

In the case of exports of cereal, seeds, hydrocarbons or other commodities, with a set price in transparent markets, where an international middleman who is not the beneficial owner of the good takes part in the transaction, the best method deemed to assess the Argentine source income is the quotation of the value in the transparent market of the good on the day of shipment, or the price agreed upon with the middleman, only if this price was greater.

Under the OECD like transfer pricing rules, the Argentine party must keep and file supporting documentation with the tax authorities; it must also perform a transfer pricing study showing that its prices or profit margins on the transactions are within the comparable arm's-length prices or profit margins ranges for its activity and similar transactions, with a detailed analysis as to the best method applicable to the taxpayer. Parties in tax havens are deemed as related parties for these purposes.

Law 11,683, as amended by Law 25,795, sets forth a wide range of penalties aimed at compelling taxpayers to comply with transfer pricing rules and regulations; be they compliance-type of provisions or substantive ones.

1.2 Value Added Tax (VAT)

1.2.1 General Aspects.

Tax Rates. The general VAT rate is 21%. There are reduced and increased rates for certain goods and services; e.g., a 10.5% rate applies on passenger transport services, health care and certain interest payments, amongst others, and an increased rate up to 27% applies on telecommunications, amongst others.

Taxable Transactions. Transactions subject to VAT are the sale of goods and the provision of services in Argentina and the importation of goods. In some cases, services rendered outside Argentina are deemed as subject to VAT because they are effectively used or exploited in Argentina.

Imports of services are taxable when the importer is a VAT registered taxpayer. VAT is paid at each stage of the production or distribution of goods and services on the value added during each of the stages.

Taxable Base. The taxable base is the price or value of the consideration paid for the goods or services.

Creditable VAT. As a general rule, VAT indicated in the invoices of the suppliers of goods and services is creditable against payable VAT. The VAT paid in the acquisition of goods that the company destines to exempt operations is not creditable against VAT. Acquisition of cars and services rendered by restaurants and hotels are not creditable against VAT either.

1.2.2 Payment and Filing.

VAT returns must be filed on a per month basis. In the case of definitive imports, the tax is determined and paid along with custom duties.

1.3 Other Taxes

1.3.1. Tax on Presumed Minimum Income (Federal Tax)

This is a 1% tax levying company assets (liabilities cannot be deducted). Some assets are tax-exempt, e.g. stocks and other capital share of other entities subject to taxation, or assets of mining companies. The acquisition of new fixed assets –except for automobiles- as well as investments in the construction of new buildings or refurbishing (for the first two years) is excluded from this tax.

IT determined for the same fiscal year is considered payment on account of TPMI provided the income tax obligation does not exceed the amount of the presumed minimum income tax. Otherwise the excess of income tax does not constitute a tax credit. The excess minimum presumed income tax of a given year over the income tax liability may be carried forward to offset income taxes.

A recent ruling by Federal Tax Authority[3] established that companies do not have to pay the tax if they can accredit losses in the accounting balance and fiscal losses in the Income Tax Affidavit.

According to a recent tax reform this tax would be repealed by 2019[4]. Another aspect to point out is that, according to Law Nº 27,264, the tax does not apply for micro, small and medium companies for fiscal periods starting from January 1st, 2017.

1.3.2 Personal Assets Tax (Federal Tax)

The Personal Assets Tax ("PAT") is a tax levied on the non-productive assets held by physical persons or undivided estates domiciled in Argentina by December 31, both within the country and abroad. Currently, the tax rate is flat: 0,75% for the fiscal year 2016 (the taxable minimum amount is

[3] AFIP's General Instruction -*Instrucción General*- Nº 2, May 18th, 2017 (not published at the Official Gazette).
[4] See Law Nº 27,260, Section 76.

AR$ 800.000), 0,50% for 2017 (the taxable minimum amount is AR$ 950.000) and 0,25% from 2018 onwards (the taxable minimum amount is AR$ 1.050.000). Taxable assets include both assets held within the country and abroad.

As regards individuals domiciled abroad (not living in Argentina), Argentina imposes a PAT with the same percent tax rates that applies to individuals domiciled in Argentina but only on assets held in our country at the end of the year. For these the non-taxable minimum amounts are lower: a non-taxable minimum of AR$ 34.100 for fiscal year 2016, a non-taxable minimum of AR$ 51.150 for fiscal year 2017 and a non-taxable minimum of AR$ 102.300 from fiscal year 2018 onwards.

Despite this tax has been designed to tax individual, in practice it does apply to foreign entities that own equity in Argentine companies. Non-resident aliens, in general, are subject to an annual 0.25% levied on the net-equity value of their participations in Argentine companies and branches[5] of foreign entities. The same tax applies on Argentine resident individuals -other than local companies- who are required to exclude their equity participations in Argentine companies from their annual PAT tax returns. Participation in the capital of a local entity by another local entity is not subject to PAT and is exempt of MPIT (Section 3, e) of the MPIT act).

The companies, who issue the stock or shares, or the branches, as the case may be, are responsible to collect and pay the tax to the government. In turn, such withholding agents are entitled to a refund from the equity holders.

1.3.3 Debits and Credits in Bank Accounts Tax (Federal Tax)

This tax is a federal level tax withheld by Argentine banks (and other savings institutions). It applies on any deposited funds that are either withdrawn or transferred from checking or savings account. The taxable base is the amount withdrawn or transferred. The tax rate is 6 per thousand. There are very limited exemptions. The tax rate gets doubled in set cases where the elusion of the use of banks accounts is deemed to take place. This tax is partially creditable against other Federal Taxes.

1.3.4 Social Security Taxes

Law Nº 24,241 (Argentine Integrated Pension System Law) establishes the territoriality principle, under which all persons providing remunerated services on an employment basis within the national territory on a permanent or temporary basis are covered by the Argentine Social Security System.

Local employers must on a monthly basis deposit the employer social security contributions jointly with the employee withholdings to the National Social Security Regime and the National Health Care Scheme.

[5] The implementing decree provides PAT is applicable to branches. There are outstanding discussions about this point, as taxpayers consider the implementing decree goes beyond the law. Recently Courts have ruled for the taxpayers´ position ("The Bank of Tokyo - Mitsubishi UFJ LTD c/EN AFIP DGI Resol 269/07 (GCN) s/ Dirección General Impositiva", Argentina´s National Chambers of Appeal Nº II, 22/11/2011) and considered PAT is not applicable to branches. However, unless litigation is conducted, in general a branch will have to pay the tax rate annually, which is calculated on the net worth of the local branch.

The employer social tax is payable on the total monthly compensation and is not subject to any cap amount.

The total employer contribution is 27% for companies whose main activity consists of rendering services or commerce, provided their annual sales exceed AR$ 48,000,000 and 23% for all other companies.

The employee social security withholdings that include pension fund, social health and social services are levied on the monthly compensation up to a monthly compensation cap of AR$ 72.289,62 except for June and December where the cap is increased by 50% due to the 13th salary. This salary cap is adjusted in March and September of each year The total employee social tax rate is 17% which consists of contributions of 11% to the pension fund, 3% to social health and 3% to social services.

Should any employee serve as Director of the same Company, the social security liability shall be limited to the contributions made as a self-employed individual for the management duties performed. The employee's enrollment to the Social Security System will be voluntary in regard to his salary as employee. Thus if the Director opts not to pay these contributions, the Company is not obliged to pay any employer's contributions.

1.3.4 Gross Turnover Tax (State tax)

The Gross Turnover Tax is a local tax applicable on gross income. Although the rate may vary from jurisdiction to jurisdiction (States), the general rate is 3%, being burdensome tax rates on other activities, like financial intermediation. The different jurisdictions have signed an agreement (the "Multilateral Agreement") in order to avoid double taxation whenever activities subject to taxation have been carried out in more than one jurisdiction. The Multilateral Agreement sets forth a formula in order to allocate income between the different provinces.

1.3.5 Stamp Tax (State Tax)

The Stamp Tax is a local tax levying the instrumentation of onerous contracts. In the City of Buenos Aires, the tax applies on all contracts and monetary operations as of 1.1.09. Although the rate may vary from jurisdiction to jurisdiction, the general rate is 1% (except in the sale of real estate property where the rate is increased in most jurisdictions to about 4%). The tax is paid by means of sworn statements or fiscal stamps. Several Federal Supreme Court rulings have decreed the inapplicability of the tax whenever acceptance of the contract takes place through unwritten means (e.g. the written offer provides that the contract will be considered accepted if the party performs a certain activity) or if in the acceptance there is no transcription of the main parts of the contract.

1.3.4 Customs Regime

Custom Duties: Importation of goods and the rendering of services abroad which are effectively utilized in Argentina are subject to import VAT at a general rate of 21% plus 10.5% VAT withholding and 3% Income Tax withholding. In addition to import VAT, imports of goods are also subject to custom duties that range between 0% and 35% (i.e. standard ones), also depending on the type of asset imported, and except for assets with special treatment. The Ministry of Economic

Affairs may alter rates and does so frequently. Other taxes include a statistics tax, established on the CIF value of the good and excise taxes.

Taxable Base: As a member of the WTO and having subscribed the Agreement for the Application of Section VII of the GATT, the value of the goods is established on account of the price paid. If this is not possible, other methods of valuation and the corresponding adjustments are applied. Duties are computed on the CIF value of the goods.

1.4 Tax incentives / benefits (national wide or regional wide) for the implementation and maintenance of presence in Argentina

Argentina has numerous incentive programs into place which have been designed to facilitate domestic and foreign investment in the country. These programs are implemented by the national, provincial and municipal authorities, and include horizontal and sector incentives as well as relocation, innovation, technological development, employment, investment financing and export promotion incentives.

1.4.1 Investment Promotion Law –N° 26,360

The regime grants tax benefits for investments in new movable depreciable capital assets that are used for industrial activities, excluding vehicles and civil engineering projects.

The tax benefits available under the regime, primarily, consist of either:

(1) the option of obtaining an early refund of the input VAT attributable to either the capital assets or the infrastructure project included in the investment project; or
(2) the application of an accelerated depreciation of specific assets, subject to certain conditions.

The benefits under (1) and (2) are only available together in respect to investment projects which are intended exclusively for the export market.

This benefit is granted through calls made from time to time.

1.4.2 Mining promotion

Eligible entities must develop mining activities in Argentina, or create an establishment in Argentina for that purpose. In order to be eligible, the project must be located in the territory of the provinces under the incentive scheme. The incentives are granted for the prospecting, exploration, development, preparation, extraction and certain processing of minerals.

Eligible projects receive, among others, the following tax benefits:

- Tax stability: Except for VAT and social security contributions, the total tax burden (federal, provincial and municipal taxes) may not be increased during 30 years from the filing of feasibility studies. Special rules regarding deductibility and depreciation apply.
- Royalties: Royalties charged by provinces are limited to 3% of the value of the mineral extracted and transported before any transformation process.

1.4.3 Tax credit regime for training institutions

There is a tax credit granted on qualifying gifts or expenses incurred by companies or sole entrepreneurs destined to support training institutions. For large companies, the tax credit may not exceed 0.8% of the annual payroll (8% for micro, small and medium-sized enterprises).

The tax credit may be used to pay any federal tax (e.g. Income tax, VAT).

1.4.4 Tax credit on research and development projects

A tax credit is granted on qualifying expenses incurred by corporate or individual entrepreneurs in research and development projects. The tax credit may be offset against the income tax due up to a certain limit established by the decree. The credit may not exceed 50% of the total amount of the project submitted.

1.4.5 Software industry regime

The law provides for tax benefits to certain activities undertaken in the software industry, including the creation, design, development, production and implementation of software systems and operating instructions. The tax benefits provided by this regime are available until December 2019, according to the regulations of Law 26692 (they may be extended for another 15 years by the Executive Branch).

Under the law, the tax benefits include:
• Tax stability: Under the new tax regime, taxpayers (both entities and individuals) will not be subject to raises in all national tax rates for a
10-year period.
• Bonus tax credit: taxpayers are allowed an additional tax credit in the amount equivalent to 70% of employers' contributions effectively paid to the social security systems. The bonus tax credit can be used to offset certain national taxes, except for the income tax.
• 60% exclusion in the income tax payable.

1.4.6 Promotion for Productive Investments of Micro, Small and Medium Companies (PyMEs).

The Promotion Act for productive investments of micro, small and medium enterprises (PyMEs) was approved by Law Nº 27,264, which establishes the implementation of a system of assistance and incentives for such companies in order to create new jobs.

This system is created to encourage productive investment for PyMEs, which will be valid until December 31, 2018. The benefit will encourage investment in manufacturing, import and purchase of new capital goods, or used, excluding the cars.

The category used currently to define a company as a Micro, Small or Medium depends on the average annual sales in the previous three years, with the cut off figure differing according to the company's activity sector:

- Farming $100.000.000
- Industry & Mining $360.000.000
- Trade$450.000.000
- Services$125.000.000
- Construction$180.000.000

The following is a summary of the benefits contained in that law:

- Tax stability.
- Abolition of the tax on minimum notional income for PyMEs.
- Offsetting the banking credit and debit tax: by up to 100% in the case of Micro and Small enterprises; up to 50% in the case of bracket 1 medium enterprises.
- For Micro and Small enterprises a month's worth of VAT is payable at 90 days; thus VAT for June is paid in September, July's in October, etc., deferring VAT payments.
- Small and medium enterprises engaged in productive investment will be entitled to compute as payment on account in respect of Income Tax 10% of the value of productive investment, but may not exceed 2% of the average net monthly income earned from sales – in some cases, 3%-, services or contracts for works or services.
- They may also get a tax refund for the unrecovered VAT from the investments made.

1.4.7 Provincial fiscal benefits.

Additionally, Provinces have specific schemes to promote productive investment in their jurisdiction. In general, the benefits include exemptions for a certain period of time, reduced utility rates and exemption of some provincial taxes, as gross income tax and stamp tax.

Other general tax incentives could be applicable depending on the type of investment and the business plan moving forward which should be scrutinized at a later stage.

Although the incentives, the conditions and the sectors promoted differ across provinces, most provincial promotional programs include:

- Exemptions from provincial taxes for a specific period of time.
- Reduction in public service rates.
- Support for infrastructure works and acquisition of equipment.
- Facilities for the purchase and location of assets owned by the province.
- Priority in the award of contracts in public tenders launched by the provincial government authorities.
- Reduction in the charges for notarization of deeds of transfer or conveyance to the province.

In most provinces there are also industry-specific incentive programs which include exemptions from provincial taxes.

In addition, many provinces have industrial parks which offer companies a complete service infrastructure.

1.5 Other relevant tax matters and recommendations

DTT signed (in force): Argentina has tax treaties presently in force with the following countries: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Norway, Spain, Sweden, Switzerland, The Netherlands, The Russian Federation, Uruguay and the United Kingdom.

Fiscal unity: Argentine tax laws do not provide for the taxation of groups of companies or economic groups.

Holding corporations: Argentina tax law does not have a holding corporation regime.

Rulings: Argentina does not have a ruling system in place, but there is a binding consultation regime that requires the compliance of certain requirements.

IFRS: Argentina has already adopted IFRSs for all companies whose securities are publicly traded and that are regulated by the CNV.

Exit. Foreign exchange regulations: Please see our responses on the Financial Section on this regard.

2 BUSINESS TAXATION

Argentine tax residents are subject to tax on worldwide income, with a tax credit granted for tax paid abroad on their foreign income. Nonresidents without a permanent establishment in Argentina pay tax only on argentine-source income (in this case, tax is usually levied in the form of a final withholding tax at various rates depending on the type of income).

1. Business taxation of subsidiaries (corporations and limited liability companies)

Income tax: Corporations and Limited Liability Companies incorporated in the country would be taxed on their worldwide income at a 35% income tax rate. Foreign Tax credit is admitted on taxes paid abroad (as long as it qualifies as foreign source income) against their income tax liability, with limitations.

Distribution of dividends to foreign entities or individuals is not taxed. Distribution to local entities is not taxed. Equalization tax could apply in certain cases.

A 15% rate applies to capital gains realized on the sale of shares of Corporations and quotas of Limited Liability Companies.

VAT: Transactions subject to VAT are the sale of goods and the provision of services in Argentina and the importation of goods. In some cases, services rendered outside Argentina are deemed as subject to VAT because they are effectively used or exploited in Argentina. Imports of services are taxable when the importer is a VAT registered taxpayer. VAT is paid at each stage of the production or distribution of goods and services on the value added during each of the stages.

Debits and Credits in Bank Accounts Tax: this tax is withheld by Argentine banks (and other savings institutions). It applies on any deposited funds that are either withdrawn or transferred from checking or savings account. The taxable base is the amount withdrawn or transferred. The tax rate is 6 per thousand.

Turnover Tax: All Argentine provinces, as well as the City of Buenos Aires, levy Turnover Tax on the gross income of any company that carries on commercial, industrial or professional activities in its jurisdiction. Rates vary depending on the activity and the jurisdiction, but in general it is applied a 3% rate.

2. Business taxation of branches

The basic tax burden on branches and subsidiaries is similar. However, the following difference

may be remarked:

- Start-up losses of an Argentine subsidiary may be offset against its subsequent profits over a five-year period. However, generally such losses may not be offset against the foreign parent company's income from other activities. Conversely, start-up losses of a local branch may be also offset against the head office's other profits if so allowed by the law applicable in such jurisdiction.
- Taxable income of a branch or subsidiary is determined by deducting all allowable expenses from the entity's gross income. Expenses incurred abroad may also be deducted provided that the taxpayer demonstrates that they were incurred for purposes of generating taxable income in Argentina. Although this is a general principle applicable to domestic corporations and branches as well, in the case of overhead charges on a branch, they are subject to a stricter control by the tax authorities. Thus, the tax authorities may object the deductibility of various head office expenses such as research and development, administrative support, and similar items, in the proportion attributable to the local branch, unless it is properly evidenced that such expenses have been incurred on behalf of the local branch.
- Until September 23rd, 2013 there were some differences under an exit scenario: the transfer of a going concern by the branch was subject to income tax, while the sale of the Argentine-subsidiary stock (only shares of corporations, not limited liability companies) by a foreign shareholder was exempted. Nowadays all three situations are taxed.

Branches of foreign entities are subject to IT in the same terms and conditions as local corporations. Consequently, the flat corporate income tax rate of 35% applies. Further, branches are subject to the same reporting and payment obligations as local corporations. Their activities are also subject to VAT and Turn over Tax.

A branch must carry out separate accounting from its head office, as well as to file annual financial statements with the Public Registry of Commerce. Profit distributions from the branch to the foreign head office are allowed when they are based on closed and audited financial statements. Distribution is not subject to IT.

3. Conditions under which a PE is configured – relevant tax effects

The existence of a permanent establishment ("PE") in Argentina determines a minimum threshold of activity that enables the source country to tax a foreign entity similarly to its residents.

The IT law does not provide for a definition of PE, but refers to any "commercial, industrial, agricultural, mining or otherwise, organized as a fixed place of business, belonging to associations, companies or firms, whatever their nature, incorporated abroad or to individual residing abroad".

In absence of a clear definition, courts usually refers to definitions provided under the TPMI: fixed place of business which includes a branch, sole proprietorship, agency, permanent representation, rural immovable property (even if it is not exploited), construction or assembly site, and fixed place of business for acquiring goods or for collecting information for the enterprise.

DTTs signed by Argentina in general provide definitions for Permanent Establishments.

4. Specific tax procedures and impacts for operating under the figure of a Consortium

Argentina's legislation regulates the UTE which are allowed to develop or execute a specific task or service. Their duration is therefore limited to that particular task. They are not separate legal entities in their own right. Agreements are entered through private or public deeds. Participants may be resident businessmen, locally constituted entities, or non-resident companies that have established a separate branch or other type of presence in Argentina.

UTEs are not treated as independent legal entities, although they are treated as such for certain purposes including labor law, social security contributions and for VAT, Turn over Tax. With regards to other taxes, such as IT, UTEs are considered as look through entities, and such taxes are therefore payable in the head of the members.

5. Tax cascade impacts vs. tax credits (including cash flow impact – offset methodology)

Tax	Cascade effect	Comments
IT	No	Deductions of expenses are admitted. Expense should be reasonable, ordinary and necessary for the income-producing source. In the case of contracting with a foreign related party, methods for the avoidance of double taxation are provided under ITL and under DTT
VAT	No	Argentina follows the credit-invoice method
Turnover tax	Yes	It applies to all activities and stages without any credit for the taxes paid in the previous production chain
Debits and Credits	Yes	This tax is partially creditable against other Federal Taxes.
Stamp tax	Yes	This tax is payable in each contract executed

3 TAX – INDIVIDUALS

Residents are taxed on their worldwide income while non residents are taxed only on the argentine source income. Foreign individuals are considered residents for tax purposes if they have been granted a permanent residence visa or have remained in Argentina for more than six months (automatic criteria). Temporary absences will be disregarded to the extent they do not cumulatively exceed 90 days in a 12-month period.

Foreign individuals with a temporary visa, who are required to remain in Argentina by reason of their employment for a period not exceeding five years, are not considered Argentine residents for tax purposes.

Employment income, including most employment benefits, is taxable, as is income derived from the carrying on of any business or profession. Rental and interest income also is subject to tax. Most argentine-source financial income is exempt (i.e. interest on deposits in local banks, interest from bonds, etc.). Dividends paid by local companies are not taxed and capital gains from the sale of

shares/quotas/bonds and securities are subject to a 15% tax rate.

Resident employees: salaries earned in Argentina are subject to income tax at progressive rates which takes into account facts including whether the employee is single or married, with or without children. Tax rates vary from 9% up to 35%. Lower salaries are exempt from IT.

Non-resident employees: Generally, non-resident employees working for up to six months do not have to register with the Argentine tax authorities or to file income tax returns as their income tax liability is withheld by the Argentine employer. The withholding tax rate for non-resident employees is 24.5%. Foreign employees temporarily performing activities in Argentina and receiving salaries, fees, wages and similar compensation for more than six months are considered tax resident.

Deductions and reliefs: A number of personal allowances may be deducted in computing taxable income (i.e.: a special employee deduction, an additional deduction for a spouse or child, etc.), but certain requirements must be met.

Subject to restrictions, deductions are granted for, among other things, medical expenses, medic care, certain donations, mortgage interest, retirement annuities and the cost of domestic help.

Tax returns and similar tax obligations for individuals:
Individuals with only employment income (that does not exceed an annual threshold) are not required to file an income tax return to the extent tax is withheld at source by the employer.

Individuals with other types of income must make five prepayments at bimonthly intervals beginning in June of the tax year. Final payments of tax are made when the tax return is submitted (on an annual basis) in April or May of the year following the year in which the income was derived.

Foreign taxpayers are not required to file tax returns if their income tax liability is fully satisfied by tax withheld on their income from Argentine sources.

Other relevant tax matters and recommendations:
The worldwide assets of individuals domiciled in Argentina held as of 31 December each year are subject to the personal assets tax (PAT)

The PAT is a tax levied on the non-productive assets held by physical persons or undivided estates domiciled in Argentina by December 31, both within the country and abroad. Currently, the tax rate is flat: 0,75 % for the fiscal year 2016 (the taxable minimum amount is AR$ 800.000), 0,50 % for 2017 (the taxable minimum amount is AR$ 950.000) and 0,25 % from 2018 onwards (the taxable minimum amount is AR$ 1.050.000). Taxable assets include both assets held within the country and abroad.

As regards individuals domiciled abroad (not living in Argentina), Argentina imposes a PAT with the same percent tax rates that applies to individuals domiciled in Argentina but only on assets held in our country at the end of the year. For these the non-taxable minimum amounts are lower: a non-taxable minimum of AR$ 34.100 for fiscal year 2016, a non-taxable minimum of AR$ 51.150 for fiscal year 2017 and a non-taxable minimum of AR$ 102.300 from fiscal year 2018 onwards.

Despite this tax has been designed to tax individual, in practice it does apply to foreign entities that own equity in Argentine companies. Non-resident aliens, in general, are subject to an annual 0.25 % levied on the net-equity value of their participations in Argentine companies and branches[6] of foreign entities. The same tax applies on Argentine resident individuals -other than local companies- who are required to exclude their equity participations in Argentine companies from their annual PAT tax returns. Participation in the capital of a local entity by another local entity is not subject to PAT and is exempt of MPIT (Section 3, e) of the MPIT act).

The companies, who issue the stock or shares, or the branches, as the case may be, are responsible to collect and pay the tax to the government. In turn, such withholding agents are entitled to a refund from the equity holders.

Foreign individuals coming to Argentina for employment purposes for a period not exceeding five years are not considered domiciled in Argentina and, thus, are taxed only on their Argentine assets. Argentine and foreign individuals domiciled abroad are subject to personal assets tax only on their Argentine assets. Payments are made through a substitute taxpayer.

4 TAX – INTERNATIONAL LOANS

1. Withholding rate.

The general withholding tax rate applicable to interest paid in international financial transactions is 35%. It could be reduced to 15,05 % if:

- The borrower is a financial institution;
- The lender is a bank or financial institution located in a cooperative country;
- The interest relates to certain bonds that are registered in countries that have concluded an investment protection agreement with Argentina; or
- The transaction involves the financing by a seller of depreciable movable property.

Notwithstanding the foregoing, according to DTTs signed by Argentina with another countries, loans tax rate cannot exceed a percentage of gross income.

2. Deductions allowed – Thin capitalization rules.

Interest payments may be deducted unless the thin capitalization rules apply. Thin capitalization rules operate to deny an interest deduction if a company's debt-to-equity ratio exceeds 2:1 and interest is paid to a controlling financial institution. The excess interest is recharacterized as dividend payment. These rules apply despite of the existence of the DTT.

3. Transfer pricing rules.

Transfer pricing rules apply when transactions are entered into with foreign affiliates, entities in tax

[6] The implementing decree provides PAT is applicable to branches. There are outstanding discussions about this point, as taxpayers consider the implementing decree goes beyond the law. Recently Courts have ruled for the taxpayers´ position ("The Bank of Tokyo - Mitsubishi UFJ LTD c/EN AFIP DGI Resol 269/07 (GCN) s/ Dirección General Impositiva", Argentina´s National Chambers of Appeal Nº II, 22/11/2011) and considered PAT is not applicable to branches. However, unless litigation is conducted, in general a branch will have to pay the tax rate annually, which is calculated on the net worth of the local branch.

havens and foreign entities with an economic link. Under Argentina's transfer pricing rules, transactions between related resident affiliates must be at arm's length.

4. **Value Added Tax (VAT).**

Financing by foreign parties to Argentine taxpayers whose activities are subject to VAT and are registered as VAT-responsible are taxed by VAT. The general tax rate is 21%. However, a reduced 10.5% tax rate applies with regard to the following financial transactions:

a. Interest on loans granted by Argentine financial entities provided borrower is a VAT registered taxpayer;
b. Interest on loans obtained abroad, provided lender is a financial entity incorporated in countries that have adopted the Basle Banking Standards.

3.5.5 Important considerations.

In general, if it is properly implemented, for financing the project the use of debt would be preferable to equity as: (i) interest payments could be deducted at source as long they were related to the generation of taxable income; (ii) lower withholding rates may apply in a DTT context; (iii) in a country with regular devaluation of the currency debt would also be preferable over equity as foreign exchange losses could be deducted as well. Furthermore, for the time being, there is no countervailing effect of the inflationary adjustment which could have jeopardized those forex losses[7].

Nevertheless, foreign exchange regulations should also be considered and should be scrutinized specifically. Generally speaking, funds from a financial loan with a non-resident party should be transferred into an Argentine bank account (i.e. it would preclude payment abroad) and have a minimum term of 365 days as from the date the loan proceeds are transferred into Argentina. Except in some restrictive situations, the abovementioned compulsory non-transferable deposit of at least 30 % of the loan must be made in an Argentine bank (this mandatory deposit will not earn interest, will have a minimum term of 365 days, and cannot be used as collateral for any transaction).

Finally, it is worth mentioning that the ARS is very aggressive in re-characterizing loans to equity due to the above mentioned pros. Proper implementation of inter-company debt is a must in order to avoid such risks.

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[7] Generally speaking, since transactions are to be valued in Argentine currency for income tax purposes, fluctuations in foreign exchange currencies generate foreign exchange gains or losses. ITL provisions that govern the tax treatment of foreign exchange differences require Argentine resident companies to account both foreign exchange gains and losses on an annual basis, disregarding whether there has been realization or not of the underlying assets or liabilities that trigger such foreign exchange results.

3) LABOR

Employment and Labor matters - General Guidelines

Labor contracts executed in the Argentine territory are ruled by local labor laws, regardless of parties´ nationalities, place of contract execution, etc.

Argentine labor regulations are mandatory and operate mostly as minimum conditions that can be modified only in favor of employee.

Main employer´s duty is the payment of agreed remuneration, which cannot be lower than the minimum wage set forth by the Government. All employers must also pay a 13th monthly salary called "Sueldo Anual Complementario", in two installments in the months of June and December each year.

Employees and employers have to pay withholdings and contributions respectively, to statutory pension scheme and social security.

Employment agreements are meant to be for an indefinite period of time. Fixed -term employment agreements are an exception.

Terminations at will of labor contracts encompass the payment of severance and other mandatory disbursements upon termination.

Undue registration of labor relationships comprises a risk of high fines for employers and social security and tax contingencies.

2. Legal Framework

Law

Employment carried out in Argentina is governed by Local Argentine labor law. Most relevant legislation is Law 20.744 (Labor Contract Law) (LCL), Law 23.551 (Trade Union Law), Law 14.250 (Collective Bargaining Agreements) and Law 24.557 (Labor Risk Law) (LRL).

Legal and collective bargaining agreement conditions are mandatory for the parties. They may only be amended in favor of the employee. Any other amendment or waive shall be considered null and void.

Some specific activities in Argentina have special regimes. This is the case of traveling salesmen, rural workers, state workers and professional journalists.

Labor Contract

Except for particular cases, labor contracts are for an indefinite term and encompass a three month trial period. Within this trial period, relationship can be terminated within a 15 day prior written notice and no duty to pay severance compensations.

Indefinite term labor contracts do not need to be in writing. Written contracts, although not

compulsory, are generally used for hierarchical or high level positions where additional benefits are granted.

Fixed term contracts need to be agreed in writing. Employees can only be hired under fixed term contracts in specific cases. There must be a legal cause authorizing such an exception to general indefinite term contract principle (e.g. replacement of an employee on a sickness leave of absence). Five years is the maximum term for these contracts.

Foreign Employees

Companies must register themselves at the RENURE (National Single Registry for Foreigners) to hire foreigners.

The registration is free of charge and the number granted by the National Migration Bureau in Buenos Aires (NMB, Dirección Nacional de Migraciones) should be used in future filings.

The documentation required for the registration comprises: bylaws, evidence of registration with the Public Registry of Commerce, minutes evidencing the last appointment of authorities, taxpayer's identification number.

Foreign employees intending to work in Argentina must obtain a work residence directly at the NMB. Nationals of the MERCOSUR or its associated countries (Uruguay, Brazil, Paraguay, Chile, Colombia, Peru, Bolivia, Venezuela, and Ecuador) could obtain a residence based on his nationality and do not need a calling entity to process the work visa.

The formalities are conducted on a strictly individual basis and all the applicants shall appear personally at the NMB.

Main documents to be filed are passport, domicile certificate in Argentina, criminal records in Argentina, certificate of criminal records for individuals over 16 years old, issued by the countries in which the foreigner has resided over the last three years before arriving Argentina and evidence of registration of the calling entity with RENURE. The criminal records from abroad must be previously legalized by the Argentine Consulate with jurisdiction over the place of issuance or by means of the "Apostille" (The Hague Convention of 1961, which overrules the mandatory legalization of public instruments). The documents in a foreign language should be translated into Spanish by a public translator and legalized.

A Provisional Residence Certificate (Precaria) will be delivered to the applicant the day of the meeting at NMB that will allow him to obtain a social security ID number (CUIL) and immediately start working. Also, the Precaria will authorize the employee to leave and re-enter the country.

The Temporary Residence will be granted together with the DNI (National ID) about 90 days thereafter.

If the employee will travel with his family members, he must also bring personal documentation from partner and children, and marriage and birth certificates (originals with the apostille or legalization).

For foreign employees traveling for a short term assignments (3, 6 months) there is an

alternative to obtain a work permit.

Businessmen should apply for a business visa to visit Argentina and attend meetings. There are visa waiver agreements with certain countries (US, UK, Brazil, Australia, France, etc.).

US, Canadian and Australian nationals must pay a reciprocity fee previous to its travel to Argentina.

Background Checks

Background checks are carried out in Argentina, subject to some restrictions. Remuneration

Employer´s main duty is the payment of employee´s agreed salary. Salary cannot be lower than the minimum wage set forth and updated by the Government. It cannot be lower than those foreseen for each labor category in applicable collective bargaining agreements.

Depending on the kind of work, employees can be paid on a monthly, daily or hourly basis.

There is a thirteenth salary in Argentina called "Sueldo Anual Complementario" that has to be paid in two installments in the months of June and December. These installments are each equal to 50% of the employee´s highest salary of each semester.

Salaries have to be paid at least 80% in cash. Consequently, employers can only pay in kind up to a 20% of the employees' total salary.

Bonuses

Payment of bonuses has become a common practice in Argentina in the last years. There are different time schedules (eg. Annual or quarter payments) and different ways to calculate amounts to be paid for such bonuses (e.g. based on performance, etc).

Bonuses paid repeatedly become acquired rights and can be claimed by employees if not paid in the future.

There have been employees´ claims in recent years related to salary differences, severance pay, 13th month payments, holiday pay, social security taxes and acquired rights. It is most advisable to have clear written policies - dully notified to employees - regarding any bonuses payment. This will help to have clear rules for the bonus payment and grounding to evidence employers´ position before a labor court in case of employee´s claim.

Withholdings and Contributions

Employees performing works in Argentina, regardless of their nationality, are subject to social security withholdings. For such works as well, employers have to pay contributions.

Currently, employees´ withholdings amount a 17% of their gross salary. Employers´ contributions are 27% of the employee´s gross salary for employers whose principal activity is provision of services or commercial activities (with some exceptions) and anytime their sales do not exceed the amount set forth by the government as updated from to time to time. For the

rest of the employers, contributions amount 23% of employee´s gross salary. Although these percentages are applied to the gross salary, there is monthly taxable cap (updated in March and September each year). This means that the salary exceeding this taxable cap, is not subject to these social security contributions.

Special book / Receipts

Employers are compelled to have a special labor book foreseen in the LCL and where all relevant data regarding the labor relationship is documented.

Besides, employers have to provide employees with salary payment receipts containing mainly details regarding salary, social security contributions, hire date, payment date and employee´s identification number.

Work Day

Working week is 48 hours and daily working time is 8 hours. Hours exceeding this working time have to be paid as overtime.

Overtime worked in normal week days have to be paid at a 150% rate and those worked at national holidays, Saturday afternoon and Sundays, at a 200% rate (in both cases compared to normal hour and daily rates).

Temporary and Agency Employees

As indicated above, general rule is indefinite term contracts, hired directly by employer where services will be rendered.

In certain specific cases, labor law authorizes employer to contract an employee through a time limited contract (e.g. to replace an employee under a leave of absence, etc.). These contracts must be in writing, they are an exception to the rule and must be based on specific and restricted causes set forth in the labor law.

For exceptional cases, employer can hire agency employment companies dully registered and authorized to work as such. Special regulation limits the situations in which an agency employee can be hired and the length of such a contract (Law 24.013).

Employees hired through an employment agency or hired for a fixed term, have the same rights than those rendering services for an indefinite period.

Paid Leaves

Employees are entitled to the following paid leaves:

Annual holidays: range from 14 to 35 calendar days depending on the employee´s seniority.
Birth of child: two consecutive days (paternity leave). Marriage

leave: 10 calendar days.

Partner, parents or child death: 3 calendar days.

Brother/sister death: 1 day.

Studying examinations: 2 calendar days for each examination with a 10 day annual cap.

Maternity leave: 45 days before and 45 days after child birth.
Non-work related accidents or illnesses: range from 3 to 12 months depending on seniority and family responsibilities (e.g. child in charge of employee).

There are other special leaves foreseen in the different collective bargaining agreements.

Work Risk Insurance

According to the LRL, employers must either self-insure or hire a private and authorized Work Risk Insurer (locally known as "Aseguradoras de Riesgos de Trabajo" or "ART") to cover labor diseases and accidents. ARTs have a prevention role to try to reduce labor accidents and a compensation role whenever an accident occurs or regarding working illnesses by indemnifying the victim and providing medical and pharmaceutical assistance.

LRT regime sets forth a single payment compensation for damages. Such single payment is updated by an index called RIPTE (Remuneración Imponible Promedio de los Trabajadores Estables) published by the Ministry of Labor. The victim or interested party may receive such single payment or may try to obtain full damage reparation based on civil liability filing a claim before a Civil Court.

Several criteria of the system where challenged by workers in court, mainly regarding the labor nature of certain diseases (there is a pre-established list of occupational diseases set forth by the Government), compensation amounts and scope of liability.

Termination

In case of termination of indefinite term labor contracts for no cause, employers must grant a prior written notice and pay severance compensations for unjustified dismissal.

Prior written notice required ranges from 1 to 2 months depending on the employee´s seniority. Employers are entitled to replace such notice by paying the respective monthly amounts to the dismissed employee.

Compensations for dismissal are rated. According to LCL and applicable case law, employer has to pay a seniority severance compensation which has to be calculated by multiplying the highest monthly and normal remuneration of the employee of the last year, for his/her employment time in years (or fraction in excess of three months). The base salary used for this calculation is capped by LCL at an average amount resulting from compensations set forth in applicable collective bargaining agreements. National Supreme Court has ruled that such cap is unconstitutional anytime it encompasses more than a 33% reduction in the highest monthly salary to be used as base for this calculation. Consequently, it is a common practice to calculate this compensation using 67% of the employee´s highest monthly, normal

and habitual remuneration, multiplied by the year of services.

In addition to the above mentioned compensations, if employee is dismissed for no cause in a day different from the month´s last day, employers must pay an amount equal to the salaries relating to the days missing until the last day of the month of dismissal.

Employees can be dismissed for cause, whenever a serious fault is committed which will not enable the relationship to continue. Labor courts are strict when analyzing such causes, which have to consist of a serious offense to employer and be duly expressed and explained to employee in writing at the time of the dismissal. If such cause is challenged in court by the employee, employer bears the burden of proof.

Parties are also entitled to terminate by mutual consent and in such case also only salaries owed to that date (including thirteenth salary as accrued to that date, proportional annual bonuses, etc.) and pending holidays (accrued and non-enjoyed vacations) have to be paid.

Employees are entitled to resign and must give a prior written notice of 15 days.

In all such three cases, that is, dismissal for cause, mutual consent termination and employee´s resignation, no severance compensations are due to employee. Employers must pay salaries owed to that date (including thirteenth salary as accrued to that date, proportional annual bonuses if applicable, etc.) and pending holidays (accrued and non-enjoyed vacations).

There is a special aggravated compensation of one year of their salary for cases of unjustified dismissal of pregnant women, new mothers and newly married employees.

Regarding union representatives, they have a special working stability and may not be dismissed for no cause. In case of dismissal for cause, employer must follow a special procedure before the labor courts. In case employer does not follow such procedure, union representative may request its reinstatement or a severance compensation comprising not only compensations for unjustified dismissal -or dismissal for no cause- but an additional one comprised of the total wages it would have received until the end of this representation period plus one year of salaries.

In case a dismissal is considered to be discriminatory (e.g. illness, religion, race, etc.), the affected employee is entitled to claim for his reinstatement (or other measures as to assured there is no discriminatory act towards it). Reinstated employees in this case are entitled to back wages.

In cases employers do not comply with their labor duties, employees are entitled to request for compliance and if the employer fails to do so consider themselves constructively dismissed. In any such cases, affected employees are entitled to claim for mandatory severance payments foreseen for dismissal for no cause or unjustified dismissals as indicated above.

Finally, for cases of undue registration of labor relationship, special laws foresee penalties that have to be paid to employees by infringing employers. In certain cases, these fines increase severance compensations considerably. Undue registration also comprises a contingency for employer from a social security and tax perspective.

In case of massive layoffs, local law foresees a special procedure before labor authorities and the trade union has to participate.

There is a reduced compensation (half of the one foreseen for seniority compensation in cases of dismissal for no cause) for the termination of fixed-term contracts whenever such contract is one year long or more and deemed fulfilled. If the termination occurs before the contract is deemed fulfilled, employee is additional entitled to claim full compensation (as foreseen for severance compensation for dismissal for no cause) and damages (salaries to be paid until the contract´s original term).

Maternity Rights

Women have a 90 day paid maternity leave that has to be executed 45 days before and 45 days after the childbirth (or at women´s choice up to 30 days prior to childbirth and 60 days after childbirth).

Salary paid to newly mothers during paid leave is paid by the social security system as a family allowance.

After the paid leave period ends, newly mothers can choose to extend such leave for an un paid leave of 3 to 6 more months.

Breastfeeding mothers are also entitled to two daily breaks, of thirty minutes each, to breastfeed for a one year period after childbirth. In case of dismissal, employer bears the burden of proof regarding the lack of connection between the dismissal and employee´s pregnancy or maternity. Else, employer shall pay the dismissed employee, in addition to severance payments for dismissal as indicated above, the aggravated maternity severance pay (indemnity worth one year's salary).

Trade Unions

Employees have the right to join trade union associations of their choice, without prior authorization. This right encompasses the right to join trade unions, not to join any trade union or to withdraw from a union.

Employees are entitled to set up unions of different levels (eg. Industry, branch, company level) and unions are entitled to set up federations and federations to set up confederations.

Despite the fact the right to set up and join unions is legally and constitutionally recognized, Argentina has been criticized as some understand that its union system does not fully respect freedom of association. In fact, only one trade union (in each branch or industry and geographical area) is granted formal certification or approval which is locally known as “Personería Gremial” (Union Personality) and is consequently the only union entitled to negotiate bargaining agreements. This means

that in practice the country has a single-union structure, since a union that is merely registered does not enjoy collective representation rights. It is the Labor Ministry that grants a union the Union Personality. Its decisions may be challenged before the National Labor Court of Appeal.

Trade union leaders have a four year mandate (with re - election possibility) and must be appointed by direct and secret ballot of the rank and file. As indicated in the termination section above, union representatives have a special working stability and may not be dismissed for no cause. In case employer does not follow established procedure for dismissal for cause, union representative may request its reinstatement or a severance compensation (for unjustified dismissal) plus the total wages it would have received until the end of this representation period, plus one year of salaries.

Collective Bargaining Agreements

Collective bargaining may be held at a national, provincial, local, industry or branch wide or at a company level. However, due to local system as indicated in the previous section, most workers are covered by national and industry-wide collective agreements signed by employers´ chambers on the one hand and employees´ federations on the other hand.

Collective agreements which have been approved by the Ministry of Labor are legally binding to all employers and employees in the industry or branch comprised in that territorial scope. Conditions there in agreed cannot be worse for employee in individual labor contracts falling under its scope.

Employee´s Delegates

Employees' representation at the enterprise level is held by employees' delegates. These delegates have to be union members with at least a year of seniority for such employer before the election takes place.

These representatives are protected as from the moment they are candidates and up to twelve months after the end of their mandates. Protection includes the impossibility to change their labor conditions, to suspend or transfer them or to dismiss such employee for no cause.

Data Protection

Private Data Protection Act (PDPA, Law 25.326) protects personal data of individuals, including employees. PDPA defines two main data categories: Personal Data and Sensitive Data. While the treatment, storage and processing of Personal Data is carefully regulated throughout the statute, no person may be forced to provide Sensitive Data and Sensitive Data may only be collected and treated when so authorized by law.

Data Owner may request a Database to rectify and update Personal Data and if applicable to delete or place under confidentiality Personal Data. Database Owner or Data User shall have 5 days to proceed as requested. If no action is taken, Data Owner will have the right to

judicially request its relief. Deletion shall not be allowed when third parties may be harmed or when a legal obligation to keep data exists.

Moreover, formation of Databases revealing sensitive data is forbidden, being the exceptions: the Catholic Church, and other religious and political associations, and unions that may solely keep records of its members.

Criminal records may only be treated by public authorities.

International transfer of Personal Data is forbidden save for to those countries having equivalent level of data protection.

The Data Protection Law also contains provisions on the protection or rectification of data, and administrative and criminal penalties for breach of the PDPA.

Statute of Limitations

Statute of limitations for labor and employment claims is two years.

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4) OIL & GAS

- Legal Framework´s Brief History

Until the 90´s, the oil & gas exploration, exploitation and transportation activities in Argentina were performed by the public sector, and besides Law N° 17.319 (enacted in 1967) allowed the Government to grant exploration permits and exploitation concessions to private companies, such permits and concessions were never granted. However, private companies performed exploration and exploitation activities through the execution of service contracts entered with the state-owned company YPF. The oil and gas prices were fixed by the Government generally at lower levels than international prices.

In the early 90s, besides Law N° 17.319 was not amended, substantial reforms were made to the Oil & Gas sector through different laws and regulations that deregulate the activity, by eliminating governmental fixed prices for well-head gas, crude oil and refined products, as well as performing public tenders for the acquisition of permits and concessions. Following that, oil and gas state-owned companies, such as YPF, were privatized.

The current hydrocarbons´ legal framework is still based on Law N° 17.319 (the "Hydrocarbons Law"), which regulates the national criteria regarding exploration, exploitation, industrialization, transportation and marketing activities.

In 2002, together with the Country's most devastating economic crisis, a Public Emergency Law was enacted, introducing major changes in the sector, as it main purpose was to control price increases in the domestic market, as well as to guarantee the provision of oil and gas to certain key demand segments.

In 2007, Law N° 21.197 reformed the Hydrocarbons Law, establishing that oil and gas fields belongs to the domain of the National or Provincial Government, depending their location, and putting to an end to a long constitutional discussion between both governments. According to the Hydrocarbons Law, such domain or ownership is different from the surface ownership that may belong to a third private or public party.

According to a 2011 study of the US Energy Information Administration (EIA), Argentina was ranked in the second place in shale gas resources and in fourth place regarding shale oil resources.

In 2012, Law N° 26.741 declared the Country´s hydrocarbons self-sufficiency as a public concern and expropriated the 51% of YPF assets, which became a state-owned company once again. Decree N° 1277/1212 then regulated the aforementioned Law N° 26.741, creating the "Hydrocarbons Investments National Registry", where any company carrying out hydrocarbon activities must register and annually file their Investment Plan for the following year.

Finally, the most important reform performed to the Hydrocarbons Law was enacted by the end of 2014, after the National Government reached an agreement with the productive Provinces (gathered together through the OFEPHI organization). Law N° 27.007 substantially reformed the Hydrocarbons Law, based on the premise of improving and updating an old law according with the last exploration techniques and Argentina´s potential

in unconventional fields, and also taking in consideration the Country´s main goal of reaching hydrocarbons self-sufficiency.

The new reform created incentives for investments in unconventional resources, which according to such Law´s definition include shale gas or shale oil, tight sands, tight gas, tight oil, coal bed methane or those fields characterized generally by the presence of low permeability rocks.

- Exploration permits and Exploitation Concessions

Fields	Exploration Permit Period	Exploitation Concession Period
Conventional	Basic period of 6 years (3 + 3) + 5 years Extension = 11 years	Basic period of 25 years + unlimited extensions of 10 years
Unconventional	Basic period of 8 years (4 + 4) + 5 years Extension = 13 years	35 (Pilot Plan includes 5 years) + unlimited extensions of 10 years
Off-Shore	Basic period of 8 years (4 + 4) + 5 years Extension = 13 years	30 years + unlimited extensions of 10 years
Extension requirements	- Fulfillment of compromised investments and other	- Fulfillment of obligations (information, environmental,
	assumed obligations - Reversion of the 50% of the Exploration Area	appropriate economic exploitation, etc.) - 1 year advance notice - The area must be producing Hydrocarbons - File an Investment plan - Pay for additional Royalties (monthly) and Extension Bonus Fee (only at the extension granting)

The exploration permits confers the permit holder an exclusive right to execute all related tasks that are required the search for hydrocarbons in the delimited area, as well as the right to obtain an exploitation concession over the area where hydrocarbons were found.

The Hydrocarbons Law establishes that permit holders and concessionaries should carry out all works observing the most modern, rational and efficient techniques, as well as to adopt the necessary measures to avoid damaging the fields and wasting Hydrocarbons.

Exploitation concessionaires must assure the maximum hydrocarbon production compatible with an adequate economic exploitation and the preservation of hydrocarbon reserves.

Exploitation concessionaires are entitled to one non-exclusive transport concession license for the same period as the hydrocarbon concession. Such concession entitles the concessionaires to construct pipelines, to have storage facilities, pumping stations and roads over the concession area.

– Royalties:

According to the Hydrocarbons Law, concessionaires must pay a royalty of 12% of the declared value of the oil and gas extracted minus the transport costs. The Government may reduce such royalty percentage down to a minimum of 5% considering productivity, condition and location of the wells. Also, unconventional concessions granted before November 2017 will pay 25% less of royalty, as an incentive to produce unconventional hydrocarbons.

With the granting of any extension of the concession, the concessionaire must pay an additional royalty of 3%, up to a maximum royalty of 18 %.

– Surface Fee (Canon)

The Hydrocarbons Law establishes an annual surface fee for each square kilometer of an Exploration and/or Exploitation Area, which increases depending each exploration stage or exploitation period, according to the amounts updated from time to time by the National Government.

– The Enforcement Authority

The Enforcement Authority of the Hydrocarbons Law is nowadays the Ministry of Energy and Mining or the pertinent Provincial enforcement authority, depending on the location of the hydrocarbon fields. However, the National Government is in charge of designing the national oil and gas general policies that the Provinces shall follow.

The Ministry of Energy and Mining is in charge of the different registries where the companies that perform Oil and Gas Activities must register.

Oil and Gas Companies Registry: The Oil and Gas companies must register as Operating or Non-Operating Companies. In order to do so, they should demonstrate financial capacity (at least assets of AR$ 2,000,000 for onshore areas and Ar$ 20.000.000 for offshore areas, or through the assets of their controlling companies, where the demonstration of more assets is required). If an Operating Company is going to be registered, besides the financial capacity, technical capability to develop hydrocarbon projects is also required, demonstrating sufficient background on these type of activities or provide a guarantee of assessment from a company that has such background.

Hydrocarbons Investments National Registry: Any company carrying out hydrocarbon activities must register and annually file their Investment Plan for the following year.

In order to assign any Exploration permit and/or Exploitation concession the companies must be registered in both registries and ask for authorization to assign such rights to the pertinent Enforcement Authority.

– Agreements used for Exploration and Exploitation Activities:

The Joint Operating Agreement (JOA), based on the AIPN´s terms and conditions, is the most frequently instrument used in the oil and gas industry. The JOA provides the contractual basis for the cooperative exploration, development and production of oil and gas between companies.

Together with the JOA, in Argentina another similar instrument, called "UNION TRANSITORIA DE EMPRESAS" or "UTE", is also used for tax purposes, as it is an agreement specially regulated by the law. These UTEs agreements are temporary unions between companies that do not imply the creation of a different corporate entity from those companies, but they are registered before a Public Corporations Registry.

– Pricing and Promotional Regimes

Until the early 90's Argentina´s economy has been characterized by the intervention of the Government in the determination of Oil and Gas Prices. After the deregulation of the economy and until the 2001/2002 economic crisis, oil and gas companies active in Argentina enjoyed free international trade and international prices to be applied to the domestic market. Together with the crisis, the Government established an export tax on crude oil exports with a sliding scale with nominal rates, depending on the international price of crude. Prices were again fixed by the Government generally at lower levels than international prices. However, in the last years domestic prices have been kept at higher levels than international prices, mainly in order to incentive investments in unconventional resources, considering the 2014/2015 international oil crisis.

Moreover, different promotional programs have been launched by the National Government in order to incentive new investment in hydrocarbons exploitation, granting an additional subsidized price to the new and additional Oil and Gas production (compared to previous production levels) put into market.

Finally, the recent reform (Law 27.007) to the Hydrocarbons Law established a promotional regime for the exploitation of unconventional resources, granting the right (from the 3rd year of execution of the project) to trade freely to the foreign market 20% of its production without export duties and the free availability of all currencies obtained from such exports. In case of supply shortage, the companies will be granted the same export price for domestic market sales, as well as the right to freely obtain foreign currencies for their sales to the domestic market, up to 20% of its production. In case of offshore exploitation, the above percentage will raise up to the 60% of its production. Also, import duties for certain capital goods and essential inputs were substantially reduced.

- Natural Gas Transportation and Distribution

Argentina has a very gas-intensive economy, as natural gas is the main energy resource used in the country (more than 50% of its energy resource matrix). Gas production and consumption has increased constantly since the early 90s, making Argentina the second largest producer in the region after Bolivia. That is also the reason why the country has a well-developed and interconnected gas transportation and distribution infrastructure all over the country, as well as exportation facilities, while the consumer demand keeps continuingly growing up.

Until the privatization that took place in the early 90´s, the state-owned company Gas del Estado monopolized the activities of transportation and distribution of natural gas in Argentina. After such privatization took place, Law 24.076 regulated the public services of transportation and distribution of natural gas.

Such legal framework provided for an open access, a non-discriminatory system for producers, consumers and distributors, and determined the conditions that the transportation and distribution licenses have to meet.

A special entity, called ENARGAS, was created in order to supervise and regulate the transportation and distribution of natural gas, as well as to resolve any dispute arising among the industry participants.

Such law also set the basis for the calculation of tariffs for transporters and distributors, as well as prevents anti-competitive practices within the natural gas sector.

The public services that before the enactment of the law were provided by a state-own company were divided by zones. Two companies were put in charge of providing transportation and other 9 companies were responsible for the distribution. They operate under 35-year licenses that can be renewed for an additional term of 10 years.

Argentina's 2001/2002 economic crisis had a particularly severe impact over the oil and gas industry. The devaluation of the Argentine Peso and subsequent measures to control the price of gas and to "freeze" public services tarriffs, resulted in a significant reduction in new investments in the gas sector.

In 2004, in order to promote the competition on the gas market, the national government issued the Decrees No. 180/04 and 181/04 that introduced important changes to the legal framework, such as the abandonment of the principle of uniform prices for all gas customers, resulting in a market price distinction between residential consumers, industrial consumers, GNC (gas used by cars) and energy generators.

The Decree No. 180/04 also created a Trust Fund for financing gas transport and distribution investments in order to increase the transport and distribution capacity, and also created the Electronic Gas Market ("EGM") which was aimed to give more transparency and efficiency to the industry.

Recently, after the new government had removed exchange controls measures and partially stabilized the value of the Peso, in March, 2016, the transportation and distribution tariffs were updated to reasonable levels.

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5) RENEWABLE ENERGY

On March 31st, 2016, the National Decree N° 531/2016 was published, setting forth a long-overdue regulation of the promotion regime for the use of Renewable Sources of Energy for Electric Power Generation.

After Law 26.190 was substantially amended by Law 27.191 on last October, in order to diversify the energy matrix on the short (8% of the electric power consumption until 31/12/2017), medium (with intermediate targets for 2019, 2021 and 2023) and long term (20% until 31/12/2025), such regulation was highly expected in the local energy market. Nowadays, renewable sources of energy represent about 1% of the local energy generation, besides Argentina´s great potential in Wind and Solar Energies.

- The General Legal Framework: Law Nº 26.190 as amended by Law Nº 27.191

Law Nº 26.190 declared the Use of Renewable Sources of Energy for Electric Power as a national concern, and established a Promotion Regime for such use in order to get a contribution from the Renewable Sources of Energy of the 8 % of the Energy Consumption Matrix in the following 10 years since such law entry into force (beginning of the year 2007).

Law Nº 27.191 amended such Promotion Regime by increasing the objectives of diversification of the Energy Consumption Matrix, as well as the Promotional Benefits that the Projects filed under such Regime will be entitled to, and also created a Trust Fund for the Renewable Energy Development (FODER).

- The Projects

The projects that could be filed under such regime include any investment carried out by individuals or companies domiciled in Argentina for the generation, self-generation and co-generation of electric power from renewable sources of energy defined by law (wind, solar, geothermal, biomass, hydraulic up to 50MW, etc, or other non-fossil sources included by the Enforcement Authority). The projects could include the construction of a new plant or the expansion of existing plants, provided that new assets are incorporated in the project.

The Ministry of Energy and Mining will act as the Enforcement Authority, although the Ministry of Treasury and Public Finances will understand in tax issues.

The Enforcement Authority will be responsible of extending the Certificates of Inclusion in the Program to the projects filed under such regime (and also to projects filed under other programs that comply with certain requirements), and of defining the "Merit Order" for the allocation of the promotional benefits.

- The Promotional Benefits

The Promotional Benefits for the first phase of the regime (until 12.31.2017) are subject to the condition that the beneficiary begins the execution of the project before the end of such phase. Besides the benefits are extended to the second phase of the regime (2018-2025), as

sooner the investment is made, the greater the benefits in the VAT and Income Tax treatment will be.

The Benefits include:

i. VAT and Income tax special treatment:
- Refund of the VAT after one fiscal period from the execution of the investments made after the project is approved.
- Accelerated amortization of income, with the condition that the assets purchased remain in the company during three years.
- Special credit lines to finance the cancellation of VAT.

ii. Compensation of losses arising from the promoted activity against profits arising from such activities for 10 years.

iii. Exemptions on the basis of calculation of the Tax on Minimum Presumed Income: the assets involved in the project and the assets of the company that files the project are not considered in the basis.

iv. Financial burden deduction in some cases contemplated by the Companies Act.

v. Tax exemption in the distribution of dividends that are re-invested in local infrastructure.

vi. Tax certificates issued when national components are used in the Project (60% or less, if lack of national components is proved -up to 30%-)

vii. Import duty exemptions during the first phase of the regime with regard to those assets that are needed to implement the project. It will require obtaining the Certificate of Inclusion in order to file it before the Customs Authority and to prove the absence of domestic production regarding such asset.

The failure to comply with the project´s construction deadlines will cause the loss of such benefits and the obligation to pay for any exempted tax plus accrued interests and penalties.

- Users' obligation to diversify their consumption matrix and the PPAs

Although any electricity consumer is obliged to diversify its consumption matrix according to the percentages and deadlines defined by law, Large Energy Consumers with an annual contracted nominal power that equals or exceeds 300 kW, will be subject to penalties in case they fail to comply with those percentages, with a 10% margin per year.

Those consumers will have 3 options:

i. Self-generation or cogeneration

ii. Direct contracts agreed with a generator or trader that produce energy from renewable sources.

iii. Participation in the joint purchases made by CAMMESA (the Wholesale Electric Market´s administrator).

If Large Consumers do not show their willingness to comply with their obligations under the Regime through the first 2 alternatives, before a deadline to be determined by the Enforcement Authority, they will automatically be included in the joint purchase mechanism held out by CAMMESA.

Once such deadline is reached, CAMMESA will call for a public tender in order to award Power Purchase Agreements (PPA). Such PPAs will have a price cap of U$S 113/MWh, that will include a Marketing Cost charge. Also an Administrative cost charge will be part of the agreement but not of the price cap.

- FODER

FODER´s purpose is to lend, make capital contributions and generally provide the Projects filed under the Regime with finance. The Enforcement Authority will be part of the Trust Agreement.

FODER´s assets will be constituted by:

resources from the National Treasury (For 2016 the decree allocates AR$ 12.000.000.000) that in no case may be less than 50% of the annual cash savings on fossil fuels by the use of renewable sources; specific charges to be paid by electricity consumers, which will also function as a guarantee of the PPAs (up to 12 months of the monthly payments to be made under such contracts); interests, fines and administrative expenses that arise from the finance agreements; dividends paid by the companies that filed projects under the Regime, where FODER hold shares as part of the financing scheme; others.

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6) ANTITRUST

a) Antitrust issues regarding economic concentrations

For purposes of conducting business in Argentina, a foreign investor is most likely to purchase of stocks or other equity interests in Argentina. The Argentinean Antitrust Act (Act Nr. 25,156 or "LDC", last amended on 2014 by Act Nr. 26,993) states that certain acts of economic concentration need to be approved by the Secretary of Commerce, with a previous opinion from the National Antitrust Commission (*"Comision Nacional de Defensa de la Competencia"* or "CNDC").

Acts of economic concentration of companies that need to be previously approved by the Secretary of Commerce and the CNDC are: (i) the merger of companies; (ii) the transfer of going concerns; (iii) the purchase of stock or other equity interests; and (iv) any other agreement transferring assets or vesting the decision-making power of the relevant company. The list is not exhaustive because even the acquisition of minority equity interests in some cases may be subject to notification and approval by the CNDC.

The LDC applies to all individuals or companies who operate in whole or in part of Argentina and to those who engage in economic activities outside the country, to the extent that may produce effects on the domestic (Argentine) market. The CNDC takes into consideration the "economic reality" principle in order to evaluate this matter.

The LDC provides for exceptions in which the transaction does not have to be previously approved by the Secretary of Commerce and the CNDC. These exceptions are interpreted restrictively by the CNDC.

The notification and, therefore, the approval by the enforcement authority are mandatory if the aggregate of local sales volume of all affected companies within the country for the last fiscal year exceeds ARS 200 million.

If the transaction fits into the description, the previous approval procedure must be initiated before the CNDC prior to completion or within one week –5 business days– following: (i) the execution of the purchase or transfer agreement between the parties; or (ii) the acquisition of the controlling interest, whichever occurs first. The previous approval procedure does not entail the suspension of the transaction. Nevertheless, it should be taken into consideration that the transaction will only be effective among the parties and vis-à-vis third parties once approved. Its common practice to include among the provisions of the purchase or sales agreement several clauses: (i) suspending the effects of the transaction until it is approved; and/or (ii) regulating the procedure in case of its rejection.

Failure to comply with LDC may give rise to the imposition of fines amounting to up to ARS 150 million. Furthermore, fines of ARS 1 million may be imposed per day of delay if the parties fail to notify following the expiration of the term to notice.

Within the process, the CNDC will review certain aspects regarding the transaction and its impact on competition: (i) the relevant product market and the relevant geographic market, (ii)

the market shares of the competitors within the relevant market, (iii) barriers to entry of new competitors; and (iv) productive efficiency gains generated by the merger.

The CNDC will also analyze the existence of "no competition" clauses in the purchase or sales agreement between the parties (e.g. know-how, goodwill, etc.). The CNDC described in several legal opinions the terms of validity of such clauses.

The Argentinean Secretary of Interior Commerce, based on the CNDC recommendation, can decide to do any of the following: (i) approve the transaction; (ii) approve the transaction subject to conditions established through commitments submitted by the parties itself or restrictions imposed by the CNDC (e.g., structural and/or behavioral constraints); or (iii) reject or prevent the transaction. Tacit approval is admitted in this process, as well as the expiry of the procedure.

b) **Antitrust issues regarding practices**

(i) General Prohibition

The LDC lists a series of acts which are considered restrictive practices, provided that the requirement of harm to the general economic interest (*"daño al interés económico general"*) is met. This list, which is not exhaustive, includes:

- price fixing;
- allocation of zones, markets, customers or sources of supply;
- refusal, without justified cause, to satisfy effective orders for the purchase or sale of goods or services;
- exclusion or obstruction of one or more competitors from entering into a market;
- imposition of discriminatory conditions for the purchasing or transfer of goods or services without reasons based on usual commercial practices;
- tie-in practices; and
- predatory pricing, among others.

The LDC also prohibits the abuse of monopoly power (the abusive use of such dominant position provoking damaging effects on competition). The monopoly power occurs when - for a certain type of product or service - that person is the only supplier or buyer in the national market or in one or several parts of the world, or when without being the only one, he or she is not exposed to substantial competition or when, because of the vertical or horizontal degree of integration he or she is able to impact the economic potential of a competitor or participant in the market.

There are no safe harbors provided by the LDC for low market shares nor is there a legal presumption of dominance for high market shares. The CNDC decides dominance cases on a case-by-case basis. A firm accused of abusing its dominant position can justify the anti-competitive practice on the basis of the potential efficiencies derived from the practice.

(ii) Sanctions

The following sanctions could be applied if an infringement to the LDC is detected:

- the cessation of the acts or conducts and, if relevant, the removal of its effects;
- fines of up to ARS 150,000,000 on those engaged in any prohibited activities;
- fines of up to ARS 1,000,000 per day on those who violate the obligation to notify the CNDC of an economic concentration, or who disobey cease and desist orders issued;
- the compliance with measures aiming at neutralization of the distorting aspects on competition.

It is important to note that the fines imposed by CNDC should be paid in order to appeal the sanction before a court of appeals. The appeal will only be granted if payment of the fine has been carried out unless "irreparable harm" can be shown.

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