Overview of the RIGI regime.

A new bill in Argentina (the "Bill") creates an incentive investment regime called the "RIGI" to foster significant investments in certain sectors.

Under the RIGI regime, the qualification as a "Large Investment" project requires that the project's sponsor certifies that the acquisition, production, construction, and/or development of assets that involve an investment amount, per project and in computable assets, is equal to or higher than USD 200,000,000. The Executive Branch may increase such threshold per productive sector or stage up to USD 900,000,000. RIGI may apply to the following sectors: forestry, infrastructure, mining, energy & technology, tourism, oil & gas and steel.

"Large Investment" projects must comply with a minimum investment in eligible assets for the first and second year, counted as from the date of approval of the investment plan and the application to the RIGI. After the elapse of the first two years, this minimum investment must reach at least the equivalent of forty percent (40%) of the minimum investment amount, as a condition to keep the rights under RIGI.

The Bill mandates to provide a Local Supplier Development Plan, allocating at least 20% of the investment amount to hire local suppliers under competitive conditions.

In principle, there is a two-years term to join the RIGI as from the RIGI's enforcement date.

Single Project Vehicles (SPV) with an investment in computable assets equal to or greater than USD 1 billion in projects that may place Argentina as a new long-term supplier in global markets in which it does not have a relevant participation may be qualified as "Long-Term Strategic Exports", and secure and vest the benefits and incentives described below.

A project qualifies as long-term if the ratio between the net present value of the expected cash flow (excluding investments) for the first three years counted as from the first capital disbursement, and the net present value of the projected capital investments during that same period is not higher than 30%.

The following investments may qualify as computable assets to comply with the minimum investment requirements, among others:

1. acquisition, production, construction, and/or development of assets affected to projects included in the RIGI,

2. acquisition of units, shares, and/or equity interests in corporations, if applicable requirements and limitations are met,

3. acquisition of units, shares, and/or equity interests in a VPU,

4. land or property,

5. usufruct rights on land or property, and

6. mining, oil, and/or gas concessions.

In addition, all assets allocated to the execution of the investment project, regardless of their qualification as investments in computable assets and of the form of contract they were affected thereto, shall be comprised in the incentives, rights and guarantees provided for in RIGI.

Suppliers of goods and services with imported commodities may adhere to the RIGI provided that their imports shall be used for registered VPUs.

The following entities may qualify as VPUs:

a) public limited companies, including sole proprietorship companies and limited liability companies;

b) branches established by foreign companies under article 118 of the General Companies Law;

c) Focused Branches are defined in the Bill as the different companies or branches of a company that wish to join the RIGI and develop one or more activities that will not be part of the investment project; and

d) joint ventures (such as UTEs) and other associative contracts.

Holders of concessions related to the execution and/or exploitation infrastructure construction works and/or provision, operation and/or administration of services that are performed in competition with other domestic or regional concessionaires, operators or providers and suppliers of goods or services with imported merchandises, may join the RIGI if they:

(i) present an investment plan that qualifies as a Large Investments under RIGI, and

(ii) (ii) satisfies the other requirements and conditions for their inclusion in RIGI.

I. Tax benefits:

Income tax. VPUs adhered to the regime may be subject to a special tax treatment.

1. Income tax rate be determined in 25%, and the progressive scale of Income Tax Law will not apply.
2. VPUs may, for the investments they make, choose to practice the corresponding depreciation of the assets, in accordance with the rules provided for in the Income Tax Law, or depreciate movable goods in 2 yearly installments or regarding mines and infrastructure in yearly equal installment according to the usable life reduced in a 40%.
3. Accumulated NOLs are transferable to third parties after 5 years. NOLs not barred by statute of limitations and adjustable due to inflation (using the IPIM index).

Dividends and profits. When dividends and profits from the VPUs are distributed a 7% income tax rate applies, and this rate will drop to 3,5% after 7 years from the date of adhering to the RIGI.

Transactions between VPU and related parties. Transfer pricing rules of section 17 of the Income Tax Law apply.

Value Added Tax (VAT). The Bill establishes a system of "Tax Credit Certificates": VPUs may pay VAT to their suppliers, or to the Argentine tax authorities in the case of imports of goods, by delivering or offsetting Tax Credit Certificates. Suppliers will consider Tax Credit Certificates as a balance in favor of such tax. Under certain conditions, the Tax Credit Certificates may be transfer to third parties without need of prior approval.

Tax on Debits and Credits on Bank Accounts. VPUs may deduct 100% of the amounts paid and/or received for the tax as a credit for Income Tax.

Deductions for interest and exchange differences linked to the financing of the Project. The regulation related to the limit on interest deduction (30%) will not apply during the first five years as from the date in which RIG was adhered to.

Accounting records in USD. VPUs may choose to keep their accounting records and financial statements in USD using International Financial Reporting Standards.

II. Customs-related benefits

Projects will benefit from:

- Free import and export of goods for the construction, operation and development of the eligible Projects.
- Regulatory protection on the provision, transportation and processing of supplies for such exports.
- Exemption on export duties after 3 years as from the date of inclusion in the RIGI.
- Exemption on import duties, statistical fee, and any other advanced payment regime on definitive and/or temporary imports of new capital goods, parts, pieces, components, and raw materials. Export duties will also be fully exempted for definitive exports of eligible projects during three years after their inclusion.
- Projects cannot be subject to direct or indirect restrictions, quotas or prohibitions on imports or exports, other than non-economic prohibitions.

III. Foreign Exchange Regime

The collection of foreign currency proceeds from exports of products of eligible “strategic long term” projects shall be partially exempted from their obligation to transfer and convert them to pesos in the local foreign exchange market (FX Market), according to the following scale:

a. 20% as from the first year,

b. 40% as from the second year,

c. 100% as from the third year.

These exemptions are postponed for one year each in case of projects not qualified as “strategic long term”, as follows:

a. 20% as from the second year,

b. 40% as from the third year,

c. 100% as from the fourth year.

The corresponding funds shall be freely available for VPUs. Likewise, they will not be obliged to repatriate and settle in the FX Market the foreign proceeds corresponding to other items (e.g., capital contributions) related to the approved investment plan, these also being considered freely available funds.

Foreign currency financial loans from local or external lenders borrowed by the VPUs will not be subject to restrictions either and shall be freely available funds both in Argentina and abroad and may be used for any purpose –provided that they are disbursed after the entry into force of the RIGI–. Regulatory caps on liquid and illiquid external assets positions shall not apply to VPUs. Nevertheless, VPUs may be bound to use such funds prior to access to the FX Market for certain transactions (e.g. foreign trade and financial indebtedness, dividends, and FDI repatriation).

Current or future foreign exchange regulations establishing any restrictions or requiring prior authorizations to access the FX Market to pay principal on loans and other financial indebtedness abroad, or FDI repatriation of non-residents, will not apply to VPUs insofar as the amount of foreign currency transferred and sold in the FX Market like loans and other financial indebtedness abroad and/or capital contributions or other direct investments by the VPU are at all times equal or greater than the amounts in foreign currency that they would require.

IV. Guarantees and Stability

Guarantees. Federal state guarantees to VPUs the full availability of the products resulting from their projects, without the obligation to sell them in the local market; the full availability of their assets and investments –which will not be subject to confiscatory or expropriation acts–, and the right to the payment of profits, dividends, and interest through access to the FX Market, as long as the funds from the Project have been repatriated and settled through the FX Market.

Regulatory stability: 30-year tax, customs and foreign exchange regulatory stability (the RIGI benefits and incentives may not be hindered or reduced by any future regulation, including the repeal of the RIGI Law).

Tax stability. The 30-year tax stability comprises:

- Taxes will be the ones in force on the date the VPU is included in the regime (After that date newly created taxes will not apply).
- VPUs may benefit from the elimination or reduction of taxes that could be established in the future (excluding VAT or social security).
- If the VPU pays any amount that does not apply due to the stability it could be used as a tax credit for Federal Taxes.

Customs stability. The RIGI provides for the stability of the customs regime for a period of 30 years, starting from the VPU's adherence. Additionally, it aims to ensure the possibility of drafting manual declarations and settlements to safeguard customs stability in cases of regulatory or rate changes.

Foreign Exchange stability. The RIGI also establishes the foreign exchange regime stability for said term, as from the VPU's adherence, unless there are more favorable conditions for the general transfer and liquidation of foreign exchange proceeds of export. The current foreign exchange regime cannot be affected by exchange regulations establishing more burdensome or restrictive conditions. This includes all foreign exchange regulations under the RIGI, except made of the exchange rate.

Stability of Long-Term Strategic Export Projects: the enforcement authority may extend the stability guarantee of these projects carried out in successive stages up to 30 years after the estimated launching date of each stage. In no case it may extend it beyond 30 years, as from the 10^{th} year after the launching of the first stage

The Bill establishes that the RIGI will only apply in those jurisdictions (Provinces and the City of Buenos Aires) that expressly adhere to the regime.

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