

**LABOUR AND MIGRATION SPECIAL REGIME
APPLICABLE TO THE BAYU-UNDAN PROJECT**

Taking into consideration that Timor-Leste and Australia have recently concluded the definitive delimitation of the maritime boundaries between the two States pursuant to the terms of the Maritime Boundaries Treaty, signed between the Democratic Republic of Timor-Leste and Australia on the 6th of March 2018;

Considering that that said delimitation has had implications in terms of ownership of, jurisdiction over, and management of the Petroleum resources in the Timor Sea;

Acknowledging that certain corporations were already carrying out Petroleum activities in the areas that will transition to the exclusive jurisdiction of Timor-Leste, notably in the Bayu-Undan field, and that such activities are crucial to the collection of revenue by Timor-Leste;

Recognizing that Article 22 of the Timor Sea Treaty determined that Petroleum activities of limited liability corporations or other limited liability entities entered into under the terms of the Treaty shall continue even if the Timor Sea Treaty is no longer in force under conditions equivalent to those in place under the Timor Sea Treaty;

Also acknowledging that in order to implement the transitioning of the Bayu-Undan field to the exclusive jurisdiction of Timor-Leste under the Maritime Boundaries Treaty it is necessary to make certain changes to the existing Timor-Leste Labor Law and the migration rules and procedures, to allow for the State to comply with its international obligations arising out of the Treaty, and notably to fully implement national sovereignty, guarantee our Nation's territorial integrity, and to fully respect international law as required by Article 9 of the Constitution;

Now, therefore, under Article 97.1 (c) and 115.2 (a) of the Constitution of the Republic, the Government presents the National Parliament the following law proposal:

**Article 1
Scope and Purpose**

This law sets forth the special labor and migration regime applicable to the Bayu-Undan project, so as to ensure conditions equivalent as required by the Maritime Boundaries Treaty, and shall be interpreted and applied in conjunction with the remainder statutes aimed at implement the transition of the Bayu-Undan field to Timor-Leste's exclusive jurisdiction.

**Article 2
Employment Rules**

1. Timor-Leste employees working in offshore Petroleum Activities in the Bayu-Undan Field shall be subject to the Labour Law in force from time to time, as amended by this law.
2. Foreign employees working in offshore Petroleum Activities in the Contract Area shall be subject to the employment laws of their country of origin or as otherwise agreed between the parties in writing.
3. Any employees engaged in activities conducted in support of the Bayu-Undan operations from onshore Timor-Leste, irrespective of their nationality, shall be subject to Timor-Leste labour law.

4. The Bayu-Undan Contractor shall have a period of 12 months as of the effective date of this statute to bring its operations in compliance with the employment rules set forth in this law, and no infraction proceedings, fines or other penalties shall be imposed upon the Bayu-Undan Contractor for breach of employment rules during the said 12-month period.
5. Written or oral instructions and any applicable policies, guidebooks and handbooks on rendering of work in offshore Petroleum Activities and the operation of the Bayu-Undan Field shall be provided to employees in English, except where the employee is not fluent in the said language.
6. The supervision of employment relationships under this law and the inspection of any related infractions shall always be conducted by a joint team including representatives of the ANPM and of the respective labour authorities.

Article 3

Health and safety for employees

1. The ANPM shall develop, and the Bayu-Undan Contractor shall apply, occupational health and safety standards and procedures for persons employed on structures in the Contract Area that are aligned with international oil industry standards, and that are no less effective than those standards and procedures that would apply to persons employed on similar structures in Australia and Timor-Leste.
2. The ANPM may adopt, consistent with this Article 3, international best standards and procedures.

Article 4

Employment Contract

1. All Timor-Leste employees shall hold employment contracts, which shall be drawn up in writing in one of the official languages and in one of the working languages of Timor-Leste, signed by both parties, and include the following minimum information:
 - (a) Identity of the employer and the employee;
 - (b) The position and if necessary to clarify the employee's functions, a summary of the activity to be performed by the employee;
 - (c) The place where the work will be rendered;
 - (d) Normal hours of work and rest periods;
 - (e) The amount, form and frequency of remuneration;
 - (f) The employee's occupational category, if different from the position as described in relation to Article 4.1(b) above;
 - (g) The date on which the contract is entered into and the date of the start of execution, if these are not the same;
 - (h) The duration of the probationary period, if not set aside by agreement between the parties;
 - (i) In the case of a fixed-term contract, the duration of the contract and the reasons that justify the stipulated duration; and
 - (j) Any applicable collective bargaining agreements.

2. The absence of a written instrument shall not invalidate the employment contract or affect the rights and obligations of both the employer and employee under the contract.
3. In the absence of any reference to the date on which contract execution commences, it is presumed that the employment contract enters into force on the date it is concluded.
4. Employment contracts shall be entered into for a fixed term (where there are reasons to justify the stipulated duration) or open-ended term, subject to the rules applicable under the terms of the Labour Law.
5. The duration of traineeship contracts entered into with participants in vocational training or qualification programmes shall not exceed 18 months, unless otherwise justified by duly grounded reasons, including but not limited to situations of formal certification of employees that require a longer period.

Article 5

Rotational Work Schedule

1. Timor-Leste Employees engaged in offshore Petroleum Activities shall be subject to a rotational work schedule consisting of a maximum and consecutive period of work of four (4) weeks of effective work followed by an equal amount of rest weeks.
2. The system of work referred to in Article 5.1 above shall comply with the following rules:
 - (a) The period of rest shall include the time spent with travel home and return to the place of work;
 - (b) The regular working hours cannot exceed the maximum limits of eighty four (84) hours per week and twelve (12) hours per day, and on an average basis cannot exceed the general limits of forty four (44) hours per week over a reference period of six (6) months;
 - (c) In the month following the end of a reference period, time that exceeds the average working time limit of forty four (44) hours per week shall be paid as overtime work as set out in Article 4.5;
 - (d) Weekly rest days, complementary weekly rest days and public holidays comprised within the period of work shall be regular working days, and Employees will enjoy them as part of the following rest period;
 - (e) If due to the regime set out herein, the annual duration of work performed exceeds forty four (44) hours per week, and after the annual vacation period and mandatory public holidays are deducted, the extra time of work shall be considered overtime and be remunerated accordingly;
 - (f) The annual vacation period shall be counted within the periods of rest, and employees shall not be entitled to any additional rest on account thereof.
3. The work schedule shall be agreed between the Parties in accordance with Bayu-Undan Contractor's operational needs, and it may be changed considering the contractor's offshore operations, subject to prior notice to the employee.
4. The Bayu-Undan Contractor and the employee may agree on the applicability of combined regular and rotational work schedules depending on the employee's workplace at a given time. In this case, should the employee work on a rotational work schedule, the subsequent applicability of a regular work schedule shall only be possible after the employee has enjoyed his/her rotation cycle of rest.

5. Employees may be required to work overtime in excess of their regular work hours as directed by the Bayu-Undan Contractor. In such circumstances the following compensation shall apply:
 - (a) an additional fifty percent (50%) of the employee's normal hourly rate shall be provided in first two (2) hours of overtime; and
 - (b) an additional one hundred percent (100%) of the employee's normal hourly rate shall be provided for additional hour of overtime thereafter.
6. Employees recalled to work overtime after ceasing a day's scheduled work will be paid a minimum of two (2) hours at the appropriate overtime rate for each time recalled.
7. In scheduling overtime, the Bayu-Undan Contractor must ensure that employees are entitled to a minimum period of rest of ten (10) hours between consecutive working days.
8. The number of working hours during employees' rotation cycle of rest cannot exceed twelve (12) hours per day during a maximum period of two (2) consecutive weeks, being always qualified as over cycle work.
9. Over cycle work is compensated with an additional one hundred percent (100%) of the relevant employee's normal hourly rate, and employee shall be entitled to additional days of rest corresponding to the days of over cycle work rendered.
10. The provision of overtime or over cycle work due to cases of force majeure or to prevent or repair serious damage to the Bayu-Undan Contractor or the sustainability of operations for long term gain is not subject to the limits provided in Article 5.7 and Article 5.8 of this Decree-Law.
11. Article 28 of the Labour Law shall not apply to the rotational work schedule foreseen in this Article 5.
12. The probationary period of employees on a rotational work cycle will only be counted during the employees' cycle of work and shall be suspended during the respective rest period.

Article 6

Remuneration and Protection of Employees

1. The rules on remuneration set forth in the Labour Law shall apply to employees covered by this law.
2. Timor-Leste employees shall be entitled to full payment of their monthly base salary and all allowances not specifically related to the performance of work offshore during their rest period.
3. The Bayu-Undan Contractor and its sub-contractors shall take out and keep in force insurance coverage for their Timor-Leste employees which is in line with international oilfield practice.
4. The existing Bayu-Undan health and safety committee shall act as the joint health and safety committee foreseen in Article 37 of the Labor Law.

Article 7

Absences

1. Employees are entitled to 3 days of justified absence per year solely for the purposes of enjoyment of bereavement leave for immediate family members and second degree relatives.

2. Employees are entitled to sick leave to be enjoyed in accordance with the rules set forth in the Labour Law.
3. Any other absences, unless authorized by the Bayu-Undan Contractor shall be considered unjustified absences.

Article 8

Suspension of Employment Contract in a Force Majeure Event

1. In an event of force majeure that seriously affects the normal activity at the Bayu-Undan Field, the Bayu-Undan Contractor may temporarily suspend an employment contract, or reduce the normal hours of work, provided that such measures taken by the Bayu-Undan Contractor are shown to be essential to the viability of operations in accordance with international oilfield practice.
2. For the purposes of Article 8.1 above, “event of force majeure” means an event beyond the reasonable control of the Bayu-Undan Contractor, which prevents the Bayu-Undan Contractor from complying with any of its obligations, including but not limited to:
 - (a) fire, chemical contamination, earthquakes, lightning, cyclones, hurricanes, floods or such other extreme weather or environmental conditions, unanticipated geological or ground conditions, epidemic or other natural calamities and acts of God;
 - (b) explosion, accident, breakage of plant or equipment, structural collapse, or chemical contamination (other than resulting from an act of war, terrorism or sabotage);
 - (c) acts of war (whether declared or undeclared), invasion, acts of terrorism, blockade, embargo, riot, public disorder, violent demonstrations, insurrection, rebellion, civil commotion and sabotage; and
 - (d) blockades, lockouts, labour disputes, and such other industrial action by employees.
3. The suspension of any employment contract due to an event of force majeure shall be communicated to the ANPM within 24 hours.
4. Notwithstanding Articles 8.1 and 8.2 above, employment contracts cannot be suspended for periods longer than 6 months, except for exceptional justified reasons related with the Bayu-Undan Contractor’s normal activities, in accordance with international oilfield practice, and subject to approval of the ANPM when such period exceeds the initial 6 months.

Article 9

Disciplinary Action, Termination and Compensation for Termination

1. The Bayu-Undan Contractor may suspend Timor-Leste employees without loss of remuneration as from the date a disciplinary proceeding is initiated. In cases of suspension the Bayu-Undan Contractor shall make all appropriate arrangements to transfer the employee onshore while the suspension is in force.
2. The rules on disciplinary proceedings, disciplinary measures and termination set forth in the Labour Law shall apply.
3. In cases of termination for cause Timor-Leste employees shall not be entitled to compensation due to length of service.

Article 10

Employment Agencies

All employment agencies that hire Timor-Leste national employees for Petroleum Activities in the Bayu-Undan Field shall register a presence in Timor-Leste in accordance with the commercial law.

Article 11

Employment of Expatriates

1. Whenever the performance of Petroleum Activities requires the hiring of foreign employees, the Government, through the ANPM, shall assist the employer in obtaining all the necessary visas, permits or other approvals required for the employment and admission into Timor-Leste of such expatriate personnel.
2. Where necessary special immigration rules for the employment of expatriates may be created by the Government.

Article 12

Right to Strike

The Bayu-Undan offshore facilities shall be deemed a sea port and airport for the purposes of Article 7 of Law No. 5/2012, of 29 February 2012.

Article 13

Visas

1. Foreign employees of the Bayu-Undan Contractor and of any other companies engaged in Petroleum Activities in the Contract Area shall be required to obtain an appropriate visa to work in offshore Petroleum Activities.
2. Chapters VII and X of the Migration and Asylum Law shall apply on a subsidiary basis.
3. The following visa types may be granted to persons working at the Bayu-Undan Field or for work or visits related to Petroleum Activities at the Bayu-Undan Field:
 - (a) **Work Visa:** This visa is a multiple entry visa valid for 1 year, renewable, for personnel that work offshore on a regular basis including in offshore facilities and vessels;
 - (b) **Temporary Stay Visa:** This visa applies to technical, management and other specialized personnel that are associated with the Bayu-Undan activities and that will travel to the Contract Area or Timor-Leste territory multiple times a year but not on a regular basis, to carry out highly qualified tasks. It shall be granted for an initial period corresponding to their respective assignment and for a maximum period of 1 year, renewable, and, if so justified, allows for multiple entries; and
 - (c) **Bayu-Undan Short Stay Visa:** This visa may be used to support emergency or unexpected activities in the Contract Area, enabling one-off visits for personnel who need to travel to the field on an expedited basis, and it is valid for such period of time and as per Article 35.2 of the Migration and Asylum Law.
4. In exceptional circumstances, including but not limited to medical emergencies, Bayu-Undan Contractor employees may be authorized to enter into national territory by means of request filed in writing with the Directorate of the Migration Office with a copy to the ANPM. The entry into national territory in these cases does not require a formal reply from the migration authorities or the ANPM.

5. The request mentioned in Article 13.4 above shall state the purpose of the visit, the exceptional circumstances, and other requirements as approved by the Government.
6. The entry of employees holding international seafarers' identification into Timor-Leste shall be subject to notification to the ANPM and migration authorities as approved by the Government.

Article 14

Processing of visa applications and migration procedures

1. Applications for work visas shall be processed under the Migration and Asylum Law, as adapted by this Article 14.
2. The ANPM shall act as a point of contact for work visa applications from the Bayu-Undan Contractor as approved by the Government.
3. Applicants for work visas shall enter national territory under a tourism visa, and file the required application with the ANPM in accordance the rules approved by the Government.
4. The issuance of a work visa shall not require a personal interview of the applicant, or the use of the model employment agreement approved by the labour authorities.
5. The relevant migration authorities shall analyse and decide on the issuance of any work visa requested under this law within 30 days of submission of the application, in accordance with the rules approved by the Government.
6. The employees holding a work visa shall enter Timor-Leste under such work visa within 60 days as of its issuance.
7. The ANPM and the migration and labour authorities shall put in place any additional necessary special mechanisms to expedite and facilitate the issuance of work visas and the migration control of employees engaged in Petroleum Activities in the Contract Area.
8. Visa applications shall be accompanied by the following documents:
 - (a) Application form;
 - (b) Letter of support;
 - (c) Copy of employee's passport;
 - (d) Passport sized colour photograph;
 - (e) Copy of employment contract;
 - (f) Proof of competency or qualifications;
 - (g) Certificate of physical and mental capacity; and
 - (h) Criminal Record issued by the relevant entities of the employee's country of origin or of residency if the employee has resided therein more than a year.
9. Temporary Stay Visa applications shall be processed under the Migration and Asylum Law, as adapted by the rules approved by the Government.
10. Bayu-Undan Short Stay Visas shall be processed according to the same rules and subject to the same documentary requirements as foreseen in the Migration and Asylum Law for the Tourism Visa, as adapted by the rules approved by the Government.

Article 15

Fees

The issuance of any visas for personnel involved in the offshore Petroleum Activities at the Bayu-Undan shall be exempt from fees.

Article 16

Entry into force

The present law shall take effect as from the date in which the Maritime Boundaries Treaty enters into force.

Approved on [...] August 2019.

The President of the National Parliament

Arão Noé de Jesus da Costa Amaral

Promulgated on [...] August 2019

Be it published

The President of the Republic

Francisco Guterres "Lu-Olo"