DEMOCRATIC REPUBLIC OF TIMOR-LESTE

NATIONAL PARLIAMENT

LAW No. 3/2003
of 1 July

ON THE TAXATION OF BAYU-UNDAN CONTRACTORS

The Timor Sea Treaty signed between Timor-Leste and Australia on 20 May 2002, and ratified by the National Parliament on 17 December 2002, allows for the exploitation of petroleum resources to continue to be carried out in the Timor Sea area referred to as Joint Petroleum Development Area.

The Timor Sea Treaty authorizes, with certain restrictions, each of the Governments to apply its tax regime to petroleum activities in the Joint Petroleum Development Area. In accordance with the Treaty, Timor-Leste may apply its tax regime to 90% of the petroleum activities; Australia may apply its own tax regime to 10% of those activities.

The Bayu-Undan field is, to date, the biggest discovery in the Joint Petroleum Development Area. The production and fiscal revenues relating to this field shall represent a very significant stake in the national budget of Timor-Leste and in its GDP as from mid-2004, which is the planned date for the start of production.

The present Law establishes the tax regime for the development of the Bayu-Undan field.

The objective of this act is to encourage the Bayu-Undan Contractors to carry on the gas phase of the project, in addition to its liquid phase. The development of the project in its gas phase shall enable Timor-Leste to increase its overall revenues deriving from the Bayu-Undan field.

The present Law shall enter into force upon the approval by the Joint Commission of the Production Sharing Contracts JPDA 03-12 and JPDA 03-13 (including the annexes to those contracts stipulating the natural gas valuation), the approval by the Designated Authority of the alteration to the Development Plan connected with gas exports, and when the contracts for the transport and sale of natural gas by the contractors become binding and effective through the verification of the respective preconditions.

Pursuant to section 92, paragraph (b) of subsection 95.2 and subsections 139.1 and 139.2 of the Constitution of the Republic, the National Parliament enacts the following that shall have the force of law:

CHAPTER I
PRELIMINARY PROVISIONS

Section 1
Short title

The present Law may be referred to as the Taxation of Bayu-Undan Contractors Act, of 2003.

Section 2
Definitions

1. For the purposes of this law, the expressions below shall have the following meanings:

“Petroleum activities” shall be deemed to be all activities carried out to produce petroleum, whether authorized or contemplated within the scope of a contract, concession or licence, and shall encompass the exploitation, development, initial processing, production, transport and trading of petroleum, as well as the planning and preparation of those activities.

“Designated Authority” is deemed to be the Designated Authority as established under Article 6 of the Timor Sea Treaty;

“Bayu-Undan” is deemed to be the discovered Bayu-Undan field, as defined in the Production Sharing Contracts JPDA 03-12 and JPDA 03-13;

“Petroleum Mining Code” is deemed to be the Code referred to in Article 7 of the Timor Sea Treaty;

“Joint Commission” is deemed to be the Joint Commission established under Article 6 of the Timor Sea Treaty;

“Commissioner” is deemed to be the Commissioner of the Timor-Leste Public Revenue Service;

“Contractor” is deemed to be a taxpayer who:

(a) has entered into the Production Sharing Contract JPDA 03-12 or JPDA 03-13, or a Production Sharing Contract superseding the previous ones, in accordance with Annex F of the Timor Sea Treaty; or

(b) succeeds to a taxpayer mentioned in paragraph (a), or who is the assignee thereof, under the terms provided for by the Production Sharing Contract JPDA 03-12 or JPDA 03-13, as the case may be, and who is registered as a contractor under the terms of the *Petroleum Mining Code*;

“Elang Kakatua Kakatua North” is deemed to be the discovered area of Elang Kakatua Kakatua North, as defined in the Production Sharing Contract JPDA 03-12;

“ Law on the General Tax Regime and Procedures” is deemed to be the Law on the General Tax Regime and Procedures, applicable in Timor-Leste, under the terms of UNTAET Regulation No. 1999/1;

“Law on Income Tax” is deemed to be the Law on Income Tax, applicable in Timor-Leste, under the terms of UNTAET Regulation No. 1999/1;

“Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods” is deemed to be the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, applicable in Timor-Leste, under the terms of UNTAET Regulation No. 1999/1;

“Export pipeline” is deemed to be an export pipeline as defined in the Production Sharing Contracts JPDA 02-12 and JPDA 03-13;

“Petroleum” is deemed to be:

(a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;

(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state;

(c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, as well as other substances produced in association with such hydrocarbons, and includes any petroleum as defined by paragraphs (a), (b) and (c) that has been returned to a natural reservoir;

“Petroleum project” is deemed to be petroleum activities taking place in and related to Bayu-Undan, excluding petroleum activities taking place in and related to Elang Kakatua Kakatua North;

“Subcontractor” is deemed to be any taxpayer providing goods or services to a contractor, whether directly or indirectly, in respect of a petroleum project;

“Timor-Leste” as a geographic area is deemed to be the Democratic Republic of Timor-Leste, as defined in section 4 of the Constitution of the Democratic Republic of Timor-Leste and in the Law on Maritime Boundaries of the Territory of Timor-Leste; and

“Timor Sea Treaty” is deemed to be the Timor Sea Treaty signed on 20 May 2002, between the Government of Timor-Leste and the Government of Australia.

The terms used in the present Law and not defined in subsection 2.1 shall, unless the context otherwise requires, have the same meaning as in the Law on Income Tax, in the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, in the Law on the General Tax Regime and Procedures (under the terms in which these laws are applied in Timor-Leste), in UNTAET Regulation No. 2000/18 (and the amendments thereto) and in the Timor Sea Treaty, as the case may be.

2. In case of conflict between the present Law and the Law on Income Tax, the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, the Law on the General Tax Regime and Procedures (as long as they remain applicable in Timor-Leste) or UNTAET Regulation No. 2000/18 (and the amendments thereto), the provisions of the present Law shall prevail.

CHAPTER II

TAX REGIME FOR CONTRACTORS EXECUTING A PETROLEUM PROJECT

Section 3
Taxation of a Contractor Executing a Petroleum Project

1. A contractor executing a petroleum project is liable to tax in accordance with the Law on Income Tax, the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods and the Law on the General Tax Regime and Procedures, as modified by UNTAET Regulation No. 2000/18 (and the amendments thereto), with the modifications contained in this Chapter.

2. The application of the Law on Income Tax, of the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, and of the Law on the General Tax Regime and Procedures, to a contractor engaged in the execution of a petroleum project, shall be done in accordance with the provisions of UNTAET Regulation No. 1999/1.

3. The rate of corporate tax imposed on a contractor, in each tax year, shall be 30%.

4. Notwithstanding subsection 3.1, taxpayers are exempt from the taxes of Timor-Leste, including the taxes applicable under the terms of the Law on Income Tax, of the Law on Value Added Tax on Goods and services and Sales Tax on Luxury Goods, and of the Law on the General Tax Regime and Procedures, as modified by UNTAET Regulation No. 2000/18 (and the amendments thereto), concerning income and building activities, installation and operation of an export pipeline.

Section 4
Reserve for Deactivation Costs

1. For the purposes of calculating the taxable income of a contractor in a tax year, and notwithstanding paragraph (c) of subsection 9.1, of the Law on Income Tax, a contractor may deduct the annual amount transferred to a reserve meant to deactivate a petroleum project.

2. The deduction of any deactivation expense incurred by a contractor in a tax year (referred to as “current tax year”) shall not be allowed, except to the extent that the total value of the deactivation expense, incurred by the contractor in the current tax year and in previous tax years, exceeds the amount calculated on the basis of the following formula:

$$\mathbf{(A + B) - C}$$

in which:

> **A** is the total value of the deduction a contractor has been authorised under the terms of subsection 4.1, in the current tax year and in previous tax years;
>
> **B** is the total value of the deduction a contractor has been allowed under the terms of this subsection in previous tax years; and

C is the total value included in the contractor's taxable income in the current tax year and in previous tax years, in conformity with subsection 4.5.

3. The reserve for deactivation costs is calculated by reference to the Total Deactivation Costs Approved. The value imputed to the reserve, in respect of a tax year, is the value authorised for that year, within the scope of the Production Sharing Contract that regulates a project, entered into between the Designated Authority and the contractor.

4. The deduction provided for in subsection 4.1, in relation to tax years prior to 1 January 2008, shall not be allowed.

5. When, in a given tax year, the total value of a deduction authorised under the terms of this section exceeds the Overall Deactivation Costs Approved, the excess value shall be included in the contractor's gross income, in the tax year in which that excess value occurs.

6. For the purposes of this section:

"Deactivation Plan", in respect of a petroleum project, means the Deactivation Plan approved by the Designated Authority, under the Production Sharing Contract that regulates a project, entered into between the Designated Authority and the contractor;

"Development Plan", in respect of a petroleum project, means a Development Plan approved by the Designated Authority, under the Production Sharing Contract that regulates a project, entered into between the Designated Authority and the contractor; and

"Overall Deactivated Costs Approved" is the total sum of the deactivation costs approved by the Designated Authority, in conformity with the Deactivation Plan for a petroleum project, with the revisions it has undergone at each stage.

[D4] Section 5
Reintegration and depreciation

1. The application of section 11 of the Law on Income Tax to a contractor executing a petroleum project shall be subject to the following alterations:

(a) The reintegration of elements of corporeal immobilised assets used in petroleum activities connected with the project shall be calculated individually and exclusively by the constant quotas method;

(b) For the purposes of applying the constant quotas method, in respect of corporeal immobilised assets used in petroleum activities connected with the project, the reintegration rates shall be as follows:

Useful life of assets	Reintegration rate
From 1 to 4 years	25%
In excess of 4 years	20%

(c) The reintegration of corporeal immobilised assets, dealt with in paragraph (a), either acquired or built before the start of the first production, shall be calculated as from the date of the first production; and

(d) [D7]Without prejudice to subsections 5.4 and 4.5, the deductible reintegration value of an element of the corporeal immobilised assets, in a tax year, shall be calculated in accordance with following formula:

A x B

in which:

A is the cost of the asset; and

B is the reintegration rate as determined in paragraph (b).

2. The application of Section 11-A of the Law on Income Tax on the income of the contractor of a petroleum project shall be subject to the following alterations:

a) The depreciation of the non-corporeal immobilised assets and of other expenditures of a non-corporeal nature (also referred to as “intangibles”), in respect of the petroleum activities of a project, shall be calculated individually and exclusively by the constant quotas method;

b) The depreciation rates, in accordance with the constant quotas method, applicable to an intangible used in the petroleum activities of a project, shall be as follows:

Useful life of intangibles	Depreciation rate
from 1 to 4 years	25%
in excess of 4 years	20%

c) The depreciation of an intangible, whether acquired or developed before the first production, shall be calculated as from the date of first production; and

d) [D10]Without prejudice to subsection 5.4 and 5.5, the deductible depreciation value of an intangible, in a tax year, shall be calculated in accordance with the following formula:

A x B

in which

A is the cost of the asset; and

B is the reintegration rate as determined in paragraph (b).

3. For the purposes of income tax in respect of the aforementioned activities, upon cessation of the petroleum activities in Elang Kakatua Kakatua North, if a contractor who has suffered losses takes over the execution of a petroleum project, the following provisions shall apply:

(a) the amount of losses that has not been deducted, under section 6.2 of the Law on Income Tax, shall be treated as an expense incurred by the contractor in connection with the project;

(b) The expense shall be deemed to have been incurred on the latest of the following dates:
   (i) upon the date on which the activities in Elang Kakatua Kakatua have ceased; or
   (ii) on the date of the first production of the petroleum project;

(c) The useful life of the expense shall be deemed to be 5 years; and

(d) The expense shall be amortised by the constant quotas method, under the terms of section 11-A of the Law on Income Tax, as amended by subsection 5.2 of the present Law, [D12].

4. In the tax year in which the first production occurs, the deduction value allowed under the terms of paragraph (d) of subsection 5.1 and paragraph (d) of subsection 5.2 shall be calculated in accordance with the following formula:

A x B/C

in which

A is the value calculated under the terms of paragraph (d) of subsection 5.1 and paragraph (d) of subsection 5.2, as the case may be;

B is the number of days as from the date of the first production until the end of the tax year in which the first production has occurred; and

C is the number of days of the tax year.

5. In the last tax year of [D13] reintegration or amortisation, the deduction value authorised under the terms of paragraph (d) of subsection 5.1 and paragraph (d) of subsection 5.2, as the case may be, in respect of any element of the corporeal or non-corporeal immobilised assets to which subsection 5.4 is applicable, shall be calculated in accordance with the following formula:

A-B

in which

A is the value calculated under the terms of paragraph (d) of subsection 5.1 or paragraph (d) of subsection 5.2, as the case may be, for the tax year of the first production, without consideration of subsection 5.4; and

B is the deduction value authorised for the tax year of the first production under the terms of paragraph (d) of subsection 5.1 or paragraph (d) of subsection 5.2, as amended by subsection 5.4.

6. For the purposes of the present section:

(a) The first production occurs when there are at least thirty (30) days of commercial production, and the start of the first production shall be the first day of the 30-day period; and

(b) The last tax year of [D14] reintegration or depreciation,

(i) in the case of an element of the corporeal or non-corporeal immobilised assets with a useful life of 1 to 4 years, shall be the fourth tax year after the tax year of the first production; or

(ii) in the case of an element of the corporeal or non-corporeal immobilised assets with a useful life in excess of 4 years, shall be the fifth tax year after the tax year of the first production.

Section 6
Special calculation rule

1. For the purposes of section 15 of the Law on Income Tax, the net income of a permanent establishment carrying on petroleum and natural gas exploration activities for a petroleum project shall correspond to six (6%) per cent of the gross income. This is the payment calculation base for tax instalments of a permanent establishment referred to in section 25 of the Law on Income Tax.

2. For the purposes of section 15 of the Law on Income Tax, the net income of a permanent establishment providing shipping or air transportation services for a petroleum project shall correspond to two point four per cent (2.4) of the gross income. This is the payment calculation base for tax instalments of a permanent establishment referred to in section 25 of the Law on Income Tax.

Section 7
Estimated Net Income

For the purposes of sub-paragraph 2 of paragraph (c) of section 23.1 of the Law on Income Tax, the estimated net income, as determined under the terms of section 23.2 of the Law on Income Tax, concerning:

(a) remuneration paid by a contractor or subcontractor for petroleum and natural gas exploration support services, meant for a petroleum project, shall be twelve per cent (12%) of the gross remuneration;

(b) remuneration paid by a contractor or subcontractor for technical, administrative, accounting, actuarial, legal and tax consulting services, meant for a petroleum project, shall be sixteen per cent (16%) of the gross remuneration; and

(c) remuneration paid by a contractor or subcontractor for rent or other income in connection with the use of property for a petroleum project, shall be sixteen per cent (16%) of the gross remuneration.

Section 8
Withholding Tax

1. For the purposes of sub-paragraph 3 of paragraph (a) of subsection 23.1 of the Law on Income Tax, the rate of withholding tax shall be six per cent (6%) of the gross value paid by a contractor or subcontractor in relation to a petroleum project.

2. The rates of withholding tax as determined in subsection 4.2 of the Law on Income Tax, applicable to remuneration paid for services connected with a petroleum project, shall be shall as follows:

(a) zero point eight per cent (0.8%) for building services; and
(b) one point six per cent (1.6%) for consulting services.

3. For the purposes of paragraphs (c) and (d) of subsection 26.1 of the Law on Income Tax, the rate of withholding tax applicable to remuneration paid by a contractor or subcontractor for services connected with a petroleum project, shall be eight per cent (8%) of the gross value of the remuneration.

4. For the purposes of paragraph (d) of subsection 26.1 of the Law on Income Tax, notwithstanding subsection 8.3, the rate of withholding tax applicable to remuneration paid by a contractor or subcontractor, to dependent employees, for services connected with a petroleum project, shall be twenty per cent (20%) of the gross value of the remuneration.

Section 9
Tax on Profits from Branches

Subsection 26.4 of the Law on Income Tax shall not apply to a contractor or subcontractor's income deriving from a petroleum project, including income obtained from the alienation of rights or stakes in the project.

Section 10
Gas Valuation

1. For the purposes of calculating the taxable income of a contractor executing a petroleum project;

(a) The valuation of natural gas produced and spared, and not used in field operations, shall be made in conformity with the Production Sharing Contract that regulates the project, entered into between the Designated Authority and the contractor; and

(b) The deduction of charges related to export costs borne by the contractor in a tax year, except to the extent that such charges have not been considered in determining the value of the natural gas produced and spared, under the terms of paragraph (a).

2. For the purposes of this section:

"Charge related to export costs", on the part of a contractor in respect of a petroleum project, shall have the same meaning as in the Production Sharing Contract entered into between the Designated Authority and the contractor; and

"Natural gas" means every hydrocarbon in a gaseous state, including wet mineral gas, dry mineral gas, associated gas and residual gas that is left behind after the mining of liquid hydrocarbons of the wet gas.

CHAPTER III
ADDITIONAL PROFIT TAX

Section 11
Establishment of the additional profit tax

1. A contractor executing a petroleum project, which has a positive balance of accrued net revenues pertaining to the project, in a tax year, shall be liable to pay additional profit tax.

2. The additional profit tax due by a contractor, in a tax year, shall be calculated in accordance with the following formula:

$$\mathbf{A \times 22.5\% \ (1 - r)}$$

in which:

A are the contractor's accrued net revenues in a year; and

r is the rate of corporate tax as indicated in subsection 3.3.

3. The additional profit tax provided for in this section shall be accrued to income tax, which falls on the contractor's taxable income, in a tax year.

4. The additional profit tax paid by a contractor may be deducted in the calculation of the contractor's taxable income, in the tax year in which such tax is paid;

Section 12
Accrued Net Revenues

1. A contractor's accrued net revenues, in a tax year, related to a petroleum project, shall be calculated in accordance with the following formula:

$$\mathbf{((A \times 116.5\%) - (I \times (1 - r))) + B}$$

in which

A are the contractor's accrued net revenues, related to the project at the end of the previous tax year;

B are the contractor's net revenues, related to the project in the current tax year;

I is the expenditure with interest and other financial charges paid by the contractor in connection with the project in the current tax year (and forms part of the formula as a negative figure); and

r is the rate of corporate tax, as specified in subsection 3.3

2. Where the additional profit tax is due by the contractor in a given tax year, the value of the contractor's accrued net revenues, at the end of that year, shall be considered as zero for the purposes of calculating the contractor's accrued net revenues in the subsequent year.

3. Where the component **(A x 116.5%)** of the formula set out in subsection 12.1 is negative, in a given tax year, the subtraction of the component **(I x (1 –r)),** in that year, shall not reduce the value of **((A x 116.5%) – (I x (1 – r)))** to a value below **A.** The value of a possible surplus shall not be carried over into either previous or subsequent tax years.

4. The following provisions shall apply to contractors that are subject to the regime of the Production Sharing Contracts JPDA 03-12 and JPDA 03-13:

(a) The formula set forth in subsection 12.1 shall apply to a contractor, regarding the period from 25 October to 31 December 1999, assuming that the initial amount of the accrued net revenues of all contractors on 25 October 1999 was negative by US$ 233 million;

(b) The formula set forth in subsection 12.1 shall apply to a contractor, regarding the period from 1 January to 31 December 2000, assuming that the value calculated in paragraph (a) are the contractor's accrued net revenues on 31 December 1999;

(c) The formula set forth in subsection 12.1 shall apply to a contractor, regarding the period from 1 January to 31 December 2001, assuming that the value calculated in paragraph (b) are the contractor's accrued net revenues on 31 December 2001; and

(d) The value calculated in paragraph (c) are the contractor's accrued net revenues on 31 December 2001, for the purposes of applying the formula set forth in subsection 12.1 to the contractor, in the tax year that began on 1 January 2002.

Section 13
Net Revenues

A contractor's net revenues, in a tax year, deriving from a petroleum project, are the contractor's gross revenues in that year, related to project, minus the total value of the deductible expenditure incurred by the contractor in that year in connection with the project. A contractor's net revenues in a tax year may have a negative value.

Section 14
Gross Revenues

1. A contractor's gross revenues in a tax year, related to a petroleum project, shall be the sum of the following values:

(a) Gross income obtained, for the purposes of income tax, in a tax year, in connection with a project, including values derived from staff hiring, leasing of, or concession of rights to use, property, excluding interest income;

(b) The consideration received by a contractor, in a tax year, for the alienation, destruction or loss of elements of the corporate assets (including materials, equipment, machinery, facilities and properties or intellectual rights), used in a project, in case the expense incurred in procuring those elements of the assets has been deducted in the calculation of the contractor's net revenues in any tax year;

(c) Any value received by the contractor, in a tax year, by virtue of having provided any information or data obtained from any survey, evaluation or study related to a project, in case the expense incurred in connection with the survey, evaluation or study related to a project has been previously deducted in the calculation of the contractor's net revenues in any tax year;

(d) Any other value received by the contractor, in a tax year, which constitutes a refund, return or reimbursement of a value that has been previously deducted in the calculation of the contractor's net revenues related to a project in any tax year; and

(e) In case elements of the corporate assets have been either destroyed or lost by the contractor, any compensation, indemnity or damage reparation received by the contractor [D19], in connection with those elements of the assets, under an insurance policy, indemnity agreement or agreement of another nature or under a court decision.

2. Notwithstanding subsection 14.1, and without prejudice to section 16, a contractor's gross revenues shall not comprise values received or obtained as consideration for the transfer of rights or stakes in a petroleum project.

Section 15
Deductible Expenses

1. The total value of deductible expenses of a contractor, in a tax year, related to a petroleum project, shall be the sum of the following values:

(a) Any expense pertaining to a project, incurred by the contractor, in a tax year, and authorised as a deduction (provided that it does not consist of a deduction by reintegration or amortisation) in the calculation of taxable income, including interest and financial charges;

(b) Any capital expenditure incurred by a contractor, in a tax year, in procuring or building assets, whether corporeal or non-corporeal, for use in the project;

(c) Any operating expense incurred by a contractor, in a tax year, in connection with the project; and

(d) A value, corresponding to the corporate income tax of Timor-Leste, charged to the contractor, in a tax year, and calculated by applying the rate of corporate tax, as set forth in subsection 3.3, to the contractor's annual taxable income, before the deduction of the additional profit tax.

2. Notwithstanding subsection 15.1, and without prejudice to section 16, a contractor's deductible expenses shall not include any value expended as consideration for the acquisition of any right or [D23] stake in a petroleum project.

3. Where the value referred to in subsection 15.1 is simultaneously imputable to a petroleum project or to any other activity carried on by the contractor, only the part pertaining to that project shall be considered as a deductible expense in the calculation of the net revenues of the petroleum project.

Section 16
Transfer of Rights or Stakes in a Petroleum Project

1. In the event all the stakes held by a contractor in a petroleum project are transferred or assigned to another contractor, the acquiring contractor shall be treated as if he or she had the same gross revenues and deductible expenses, concerning the rights or stakes held by the transferor or assignor, just before the transfer or assignment occurred. For the purposes of calculating the accrued net revenues of the acquiring contractor in the tax year in which such transfer or assignment occurs, the accrued net revenues of the transferring or assigning contractor, at the closure of the previous tax year, shall be treated as the [D28] accrued net revenues of the acquiring contractor in the previous tax year.

2. In the event that just a portion of the contractor's rights or stakes in a petroleum project is transferred or assigned to another contractor:

(a) The acquiring contractor shall be treated as if he or she had received the gross revenues and incurred the deductible expenses pertaining to that portion of the rights or stakes held by the transferring or assigning contractor, in relation to the totality of a right or stake, just before the occurrence of the transfer or assignment, multiplied by the percent transfer factor; and

(b) For the purposes of calculating the [D29] accrued net revenues of the acquiring contractor in the tax year in which the transfer or assignment occurred, the accrued net revenues of the transferring or assigning contractor, at the closure of the previous tax year, multiplied by the percent transfer factor, shall be treated as the accrued net revenues of the acquiring contractor in relation to the previous tax year.

3. For the purposes of this section, "percentage factor of transfer" is the percentage of a right or stake held by the transferring or assigning contractor, in a petroleum project, which is either transferred or assigned, divided by the total percentage of the right or stake held by the assigning contractor in the petroleum project before the occurrence of the transfer or assignment.

Section 17
Procedure Related to Additional Profit Tax

1. A contractor executing a petroleum project, in a given tax year, shall submit to the Commissioner an additional profit tax form pertaining to that year.

2. The additional profit tax form in respect of a tax year shall be provided in the same fashion and on the same date as the annual income tax form of the contractor in respect of that year.

3. The additional profit tax, pertaining to a tax year, shall become due and payable by the contractor upon the same date on which the income tax of the contractor becomes due and payable.

4. Without prejudice to section 18, the Law on General Tax Regime and Procedures, as modified by UNTAET Regulation No. 2000/18 (and the amendments thereto), shall apply, mutatis mutandis:

a) To the discharge and collection of additional profit tax, to the additional discharge of the same tax, arising, namely, out of the norms on the obligation to retain records and on monitoring;

b) To appeals lodged in connection with the discharge of additional profit tax, or the additional discharge of the same additional profit tax; and

c) To the imposition or return of additional profit tax overpaid.

5. Chapter XI of UNTAET Regulation No. 2000/18 (and the amendments thereto) shall apply to additional profit tax, considering that:

(a) The reference to "tax" in that chapter includes the additional profit tax stipulated by this act; and

(b) The reference to "tax form" in that chapter includes the additional profit tax form the submission of which is required by subsection 17.1.

Section 18
Tax Instalments

1. A contractor shall pay the additional profit tax pertaining to each tax year in monthly instalments. Instalments of additional profit tax shall be due on the fifteenth day after the end of the month to which they correspond. In the event the due date of an instalment of additional profit tax does not coincide with a business day, the due date shall be deferred until the next business day.

2. The value of each instalment shall be one-twelfth of the value of the additional profit tax estimated by the contractor as due in that tax year. Every contractor shall submit to the Commissioner an estimate of his or her additional profit tax, pertaining to the tax year, until the payment due date of the first instalment of the year.

3. An estimate submitted under subsection 18.2 shall be valid for the whole tax year, except where the contractor submits to the Commissioner a revised estimate. The revised estimate shall apply to the calculation of the instalments of the additional profit tax, due both before and after the submission thereof. The unaccounted-for balance of any instalment, paid before the submission of the revised estimate, shall be payable by the contractor along with the first instalment due, after the submission of the revised estimate. The credit balance of overpaid instalments shall be returned to the contractor within 30 days of submission of the revised estimate.

4. In the event the contractor does not submit an estimate of additional profit tax, as required by subsection 18.2, the estimated value of the contractor's additional profit tax, pertaining to the tax year, shall be determined by the Commissioner. An estimate made by the Commissioner shall be valid for the whole tax year, except where such estimate is revised by the contractor under subsection 18.3.

5. In the event an estimate made by the contractor (including a revised estimate) regarding the additional profit tax of a tax year is below ninety per cent (90%) of the actual amount due by the same contractor, and in regard to the same additional profit tax, the contractor shall be liable for the following additional discharge:

(a) in case the understatement results from premeditated action or serious negligence, fifty per cent (50%) of the value by which the actual tax liability on additional profits exceeds that year's estimated liability; or

(b) in any other case, ten per cent (10%) of the value by which the actual tax liability on additional profits exceeds that year's estimated liability.

CHAPTER IV
FINAL PROVISIONS

Section 19
Regulations

The Minister responsible for finance may issue regulations in order to ensure the effective execution of the provisions of the present Law.

Section 20
Entry into Force and Application

1. The present Law shall enter into force upon the date on which all conditions enumerated below are fulfilled:

(a) The entry into force of the Timor Sea Treaty;

(b) The approval by the Joint Commission of the Production Sharing Contracts JPDA 03-12 and JPDA 03-13, including the annexes to those contracts that provide for the valuation of natural gas;

(c) The approval by the Designated Authority of the alteration to the Bayu-Undan Development Plan (providing for the export of natural gas by way of the export pipeline and the relevant contracts for the transport and sale of natural gas by the contractors); and

(d) Contracts for the transport and sale of natural gas, referred to in paragraph (c), are binding, and provided that the preconditions are fulfilled.

2. With respect to the additional profit tax stipulated by section 11, the present Law shall apply to the tax year beginning on 1 January 2002 and the subsequent tax years.

Approved on 3 June 2003

The Speaker of the National Parliament

[Signed]
Francisco Guterres "Lu-Olo"

Promulgated on 6 June 2003

To be published.

The President of the Republic

[Signed]
Kay Rala Xanana Gusmão