ICLG

The International Comparative Legal Guide to:

Oil & Gas Regulation 2019

14th Edition

A practical cross-border insight into oil and gas regulation work

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EDITORIAL

Welcome to the fourteenth edition of *The International Comparative Legal Guide to: Oil & Gas Regulation*.

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of oil and gas regulation.

It is divided into two main sections:

Two general chapters. These are designed to provide readers with an overview of key issues and developments affecting oil and gas regulation.

Country question and answer chapters. These provide a broad overview of common issues in oil and gas regulation in 28 jurisdictions.

All chapters are written by leading energy lawyers and industry specialists and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editors Philip Thomson and Julia Derrick of Ashurst LLP for their invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.com.

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Moldova

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1 Overview of Natural Gas Sector

1.1 A brief outline of your jurisdiction's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.

In 2017, the natural gas for the Moldovan market was entirely acquired from the Russian company P.A.O. "Gazprom" (Gazprom) – 1,033.9 million cubic metres. Such a volume is 4.5 million cubic metres less than the volume of the natural gas acquired in 2016. It is to be mentioned that in 2017 the natural gas average acquisition price was USD 162.05/1,000 cubic metres, which was USD 31.45/1,000 cubic metres less than in 2016 (http://anre.md/files/raport/Raport%20anual%20de%20activitate%20a%20ANRE%20in%20anul%202017.pdf). The Republic of Moldova did not export natural gas in 2017.

Pursuant to the data published by the National Agency for Energy Regulation (*NARE*) (http://anre.md/ro/content/lista-titularilor-de-licen%C5%A3%C4%83), NARE issued two licences for the transmission of natural gas, 13 licences for the supply of natural gas at regulated tariffs, 25 licences for the distribution of natural gas, six licences for the supply of natural gas at non-regulated tariffs (by means of compressed natural gas stations) and two licences for the supply of natural gas at non-regulated tariffs (by means of gas network).

The main player on the Moldovan natural gas market is "Moldovagaz" S.A. (*MG*), an entity having as shareholders Gazprom (50%), Moldova (35.33%), the Committee of Management of the Property of Transnistria (13.44%) and other minority shareholders (1.23%), and a supplier of natural gas, which *inter alia*:

(a) concluded the agreement with Gazprom on the supply of natural gas (i.e. for the entire volume of imported natural gas of 1,033.9 million cubic metres);

(b) is the founder (sole shareholder) of 12 main natural gas distribution system operators (*DSOs*). Pursuant to the reports of the DSOs, the total length of the natural gas network of such operators is 21,750.50 km (http://anre.md/files/raport/Raport%20anual%20de%20activitate_2016.pdf); and

(c) is the founder (sole shareholder) of Moldovatransgaz SRL (*MTG*) – the main Moldovan transport system operator (*TSO*), *inter alia* ensuring the gas transit on Moldova's territory through trunk pipelines to the underground storage facility in Bohorodchany (Ukraine) and the Balkan region. The activity of transmission of natural gas of MTG is performed through its transmission network (including magistral pipelines with a total length of 656.24 km and pipeline branches with a total length of 903.42 km) (www.moldovatransgaz.md/ro/activities/transmission/map).

The Government of Moldova (*GoM*) seems to be aware of the fact that, in order to ensure a secured supply of natural gas, it has to take certain measures, including diversification of the supply sources (e.g. by identification of local sources), implementation of LNG-related projects and building of natural gas storage facilities (The Government Decision no. 102 dated 5 February 2013 "on the Energy Strategy of the Republic of Moldova until 2030").

In this context, in 2014 a new TSO was established – I.S. Vestmoldtransgaz (*VMTG*), a state-owned entity, which is to operate the Iasi (Romania)-Ungheni (Moldova) gas interconnector (with a total length of 43.2 km) and the projected Ungheni-Chisinau natural gas pipeline. On 27 October 2017 VMTG was put on sale by the Moldovan Public Property Agency. The tender book (regarding such sale) provided for the obligation of the potential buyer to invest up to EUR 93 million in the first two years after the acquisition (The Official Gazette of the Republic of Moldova no. 371-382 dated 27 October 2017). Eurotransgaz S.R.L. (a subsidiary of the Romanian entity Transgaz S.A.) was selected as the winner of the tender (https://app.gov.md/ro/content/comunicat-1). The representatives of Transgaz S.A. declared their intention to start exports of natural gas to the Republic of Moldova at the end of 2019 – beginning of 2020 (http://transgaz.ro/ro/comunicat-de-presa-15-iunie).

On a parallel note, on 30 December 2016, the GoM issued a decision on approval of the results of a tender on selection of an entity, which is to perform works on geological exploration of hydrocarbons on the territory of Moldova. The company Frontera Resources International LLC was designated as a winner of such tender: it obtained the right to perform such works on geological exploration and the right of further exploitation (The Government Decision no. 1439 dated 30 December 2016) (pursuant to certain sources, on a territory of *cca.* 12,000 square km).

We are not aware of any current LNG-related projects in place in Moldova; LNG is currently not traded in Moldova. Also, there is no (underground) storage of natural gas in the territory of Moldova (www.infoeuropa.md/files/analiza-tematica-privind-prevederile-acordului-de-asociere-rm-ue-in-sectorul-energetic-gaze-naturale-si-energie-electrica.pdf).

1.2 To what extent are your jurisdiction's energy requirements met using natural gas (including LNG)?

In 2018, the total gross consumption of energy in the Republic of Moldova is expected to constitute 2,896 Mtoe, out of which the consumption of natural gas is to constitute 803 Mtoe (*cca.* 27.7%), of coal – 65 Mtoe (*cca.* 2.2%), of petroleum products – 948 Mtoe (*cca.* 32.8%), of bio-fuel and waste – 770 Mtoe (*cca.* 26.6%), and of electric energy – 310 Mtoe (10.7%) ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*").

Although the total gross consumption of energy in the Republic of Moldova has been increasing during the period from 2010–2017 (2,633 Mtoe in 2010, 2,643 Mtoe in 2013 and 2,844 Mtoe in 2016), the share of natural gas in such consumption is continuously decreasing (*cca*. 36.5% in 2010, *cca.* 31.5% in 2013 and *cca.* 28.8% in 2017) ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*").

1.3 To what extent are your jurisdiction's natural gas requirements met through domestic natural gas production?

In 2017, Moldova's natural gas requirements were met exclusively through imports – acquisition from the Russian company P.A.O. "Gazprom" (Gazprom) – 1,033.9 million cubic metres (http://anre.md/files/raport/Raport%20anual%20de%20activitate%20a%20ANRE%20in%20anul%202017.pdf). A similar situation is expected for 2018 ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*").

1.4 To what extent is your jurisdiction's natural gas production exported (pipeline or LNG)?

The Republic of Moldova did not export natural gas in 2017 and is not expected to export natural gas in 2018 ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*").

2 Overview of Oil Sector

2.1 Please provide a brief outline of your jurisdiction's oil sector.

Pursuant to the Activity Report of NARE for 2017 (http://anre.md/files/raport/Raport%20anual%20de%20activitate%20a%20ANRE%20in%20anul%202017.pdf), the consumption of oil products in Moldova is mainly ensured by imported petroleum products. In 2017 the volume of imported main petroleum products constituted *cca.* 809,272 tons:

- *cca.* 568,935 tons of Diesel;
- *cca.* 167,986 tons of Gasoline; and
- *cca.* 72,351 of Liquefied Petroleum Gas (*LPG*).

If compared to 2016, the volume of imports increased by 2.6% (+20,363 tons), mostly due to an increase in the volume of import of Diesel (+26,412 tons).

Similar to 2016, in 2017 the main supplier of petroleum products to the Republic of Moldova was Romania (with a share of 81.2% for Diesel and of 97.8% for Gasoline). Other suppliers of petroleum products worth mentioning are the Russian Federation (16.8% for Diesel and 0.25% for Gasoline), Belarus (0.5% for Gasoline and 1.2% for Diesel), Bulgaria (0.8% for Diesel), Lithuania (0.1% for Diesel and 0.09% for Gasoline), Slovakia (0.72% for Gasoline) and Hungary (0.59% for Gasoline). The LPG is mainly imported from the following countries: the Russian Federation (64.1%); Romania (31%); Belarus (2.5%); and Kazakhstan (2%).

Further, pursuant to the Energy Balance of Moldova for 2017, a volume of only 7 Mtoe of petroleum products is ensured by means of primary production. The same volume is forecasted for 2018.

Pursuant to the data published by NARE (http://anre.md/ro/content/titulari-de-licen%C5%A3%C4%83-0), 25 licences have been issued for the import and wholesale of Diesel and Gasoline, 11 licences for the import and wholesale of LPG, 88 licences for the retail of Diesel and Gasoline by means of fuel stations, and 72 licences for the retail of LPG by means of fuel stations.

2.2 To what extent are your jurisdiction's energy requirements met using oil?

In 2018, the total gross consumption of energy in Moldova is expected to constitute 2,896 Mtoe, out of which the consumption of petroleum products is to constitute 948 Mtoe (*cca.* 32.8%) ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*").

The volume of petroleum products consumed in Moldova, as well as the share of petroleum products in the total gross consumption of energy in Moldova, have been continuously increasing during the period of 2010–2017 (776 Mtoe (*cca.* 29.4%) in 2010, 785 Mtoe (*cca.* 29.7%) in 2013 and 922 Mtoe (*cca.* 32.4%) in 2017).

2.3 To what extent are your jurisdiction's oil requirements met through domestic oil production?

Pursuant to the forecasted energy balance for 2018 ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*"), a volume of petroleum products of 948 Mtoe is expected to be imported, whereas the expected volume of petroleum products primarily produced in the Republic of Moldova is of only 7 Mtoe (*cca.* 0.7% of the total petroleum products oil consumption).

2.4 To what extent is your jurisdiction's oil production exported?

Pursuant to the forecasted energy balance for 2018 ("*Elaborarea Balanţei energetice de perspectivă a Republicii Moldova pentru anul 2018*"), a volume of petroleum products of 15 Mtoe is expected to be exported in 2018.

3 Development of Oil and Natural Gas

3.1 Outline broadly the legal/statutory and organisational framework for the exploration and production ("development") of oil and natural gas reserves including: principal legislation; in whom the State's mineral rights to oil and natural gas are vested; Government authority or authorities responsible for the regulation of oil and natural gas development; and current major initiatives or policies of the Government (if any) in relation to oil and natural gas development.

The main legal framework in the domain of exploration and extraction of natural resources, including oil and natural gas, on the territory of the Republic of Moldova is constituted of the Natural Resources Code no. 3 dated 2 February 2009 [*Ro. Codul*

Subsolului] (*CS*), the Law of the Republic of Moldova no. 534 dated 13 July 1995 "on Concessions" [*Ro. Legea cu privire la concesiuni*] (*Concessions Law*) and the Law of the Republic of Moldova no. 179 dated 10 July 2008 "on Public-Private Partnerships" [*Ro. Legea cu privire la parteneriatul public-privat*] (*PPP Law*). Certain rules on the production of natural gas are stipulated in the Natural Gas Law no. 108 dated 27 May 2016 (*Natural Gas Law*).

The most important rules and principles on the exploration and extraction of natural resources, including oil and natural gas, on the territory of Moldova are, as follows:

(a) all the subsoil resources (including oil and natural gas) constitute the state's public property (Article 6(1) CS);

(b) the subsoil sectors cannot be alienated – only transferred into use (Article 6(2) CS);

(c) the period of extraction of subsoil resources depends on the period of operation of the minefield, in accordance with the approved technological documentation (Article 15(3)b) CS);

(d) generally, a right of use over a sector of subsoil (including for exploration and extraction of oil and/or natural gas) appears on the basis of:

(i) a decision of the GoM, as a result of the tender for the exploration and extraction of mineral resources (Article 16(1) CS); and

(ii) a concession agreement (Article 18 CS).

The main conditions of use provided by the concession agreement are:

- type and term of use;
- limits of the attributed subsoil sector;
- conditions of attribution of the subsoil sector;
- volumes of geological analysis works;
- implementation of subsoil and environment protection measures;
- forecasted volume of extraction of subsoil resources;
- forecasted deadline for putting the objectives into operation; and
- forecasted deadline for land remediation (Article 19(1) CS);

(e) the concession agreement is concluded between the user (investor) and the Ministry of Agriculture, Regional Development and Environment (*MARDE*) and contains the conditions of use of the conceded subsoil sectors (Articles 18(4), 19 CS);

(f) the activity of production of natural gas requires obtaining a licence issued by NARE (Article 12(2) Natural Gas Law); and

(g) certain other rules may apply, depending on the concrete circumstances of the project (e.g. rules on the authorisation of the construction works, rules on the industrial security of the dangerous industrial objects, etc.) (Law no. 163 dated 9 July 2010 "on authorization of execution of construction works" (*Law 163/2010*); Law no. 116 dated 18 May 2012 "on industrial security of dangerous industrial objects" (*Law 116/2012*)).

3.2 How are the State's mineral rights to develop oil and natural gas reserves transferred to investors or companies ("participants") (e.g. licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

The procedure of transfer (from the state to the user (investor)) of the right of possession and use over a sector of subsoil (including when it comes to the right of exploration and extraction of natural resources) implies the following general steps (Article 25 PPP Law):

(a) preparation by GoM of the list of goods to be conceded;

(b) elaboration of a feasibility study (on the technical and economic justification of the public-private partnership project);

(c) approval of the feasibility study by the Public Property Agency;

(d) preparing by the Public Property Agency of the documents, which are necessary for the tender (including description of the object, conditions of the private-public partnership, template public-private partnership agreement);

(e) appointment by the public partner of the commission on selecting of the private partner;

(f) publication by Public Property Agency of the information about the intended public-private partnership. Such information is to be valid not less than 30 calendar days and not more than 90 calendar days, as of the date of publication of such information with the Official Gazette of the Republic of Moldova (Article 26 PPP Law);

(g) publication of the website of the Public Property Agency of the documents for the tender on selection of the private partner;

(h) receipt and examination of the offers;

(i) adoption of the decision on appointment of the private partner. The results of the tender are approved by means of a decision of the GoM; and

(j) conclusion of the concession agreement. Pursuant to the PPP Law, the concession agreement is a form of the public-private partnership.

A concession agreement cannot be concluded for more than 50 years (Article 13(4) Concessions Law). In case of concession of the right to extract natural resources, the retribution for such extraction is made in the form of periodical payments (a share from the volume of production/sales) (Article 15 Concessions Law).

The Concessions Law expressly stipulates that the state guarantees the protection of the investments of the user (investor); it cannot interfere with the user (investor)'s business activity, unless such activity violates the provisions of the applicable legislation (Articles 18(2)d), 23(1) Concessions Law).

3.3 If different authorisations are issued in respect of different stages of development (e.g., exploration appraisal or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

For conclusion of the concession agreement, the potential user (investor) is to submit with MARDE the information on its financial means, special technological equipment and staff, which are necessary for the respective type of works on the subsoil sector.

Further, the investor's activity on the subsoil sector requires a list of permits (issuable by the Moldovan authorities). A general (non-exhaustive) list of such permits is indicated below:

(a) licence for production of natural gas (issuing authority: NARE, validity term: 25 years (Article 12 Natural Gas Law), state fee: Moldovan Lei (MDL) 3,250 (Article 12 Law no. 165 dated 22 July 2011 "on regulation by authorization of the entrepreneur activity" (*Law 165/2011*)) (*cca.* EUR 166));

(b) act on confirmation of the geologic limits [*Ro. perimetru geologic*] (issuing authority: Agency for Geology and Natural Resources, validity term: five years, state fee: free of charge) (Article 22 CS, p.32 Title III, Annex 1 Law 165/2011);

(c) conclusion of the state ecology expertise (issuing authority: Public Services Agency, validity term: the period of implementation of the project, state fee: free of charge) (Article 52 CS, p. 63 Title II, Annex 1 Law 165/2011);

(d) environment permit (as a result of the environmental impact assessment) (issuing authority: Environment Agency, validity term: four years, state fee: free of charge) (Article 56 CS, p. 59 Title II, Annex 1 Law 165/2011);

(e) emissions authorisation (issuing authority: Environment Agency, validity term: one to four years, state fee: MDL 500 (*cca.* EUR 25) – MDL 4000 (*cca.* EUR 205)) (P. 60 Title II, Annex 1 Law 165/2011);

(f) build-up certificate for projection of works of public utility of national interest (issuing authority: Ministry of Economy and Infrastructure (*MoEI*), validity term: 24 months, state fee: free of charge) (Chapter II Law 163/2010, p. 23 Title III, Annex 1 Law 165/2011);

(g) construction authorisation(s) for works of public utility of national interest (issuing authority: MoEI, validity term: for the period of construction works, state fee: free of charge) (Chapter V Law 163/2010, p. 7 Title II, Annex I Law 165/2011);

(h) positive conclusion of the expertise in the domain of industrial security (issuing entity: an authorised expertise entity, validity term: five years, fee: depends on the complexity of the activity, equipment, etc.) (Article 9 Law 116/2012, p. 1 Title III, Annex I Law 165/2011); and

(i) sanitary authorisation for the functioning of the facility (issuing authority: National Agency Public Health Agency, validity term: five years, state fee: free of charge) (Article 23² Law no. 10 dated 3 February 2009 "on state supervision of public health", p. 29 Title III, Annex I Law 165/2011).

3.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of oil and natural gas reserves (whether as a matter of law or policy)?

The Moldovan legislation neither contains a prohibition on the incorporation by the Moldovan state (as the owner of the subsoil resources), through the Moldovan authorities, of entities exploring and/or extracting oil and natural gas or on the participation of the state with the share capital of such entities, nor provides for a mandatory participation of the state with the share capital of the entities exploring and/or extracting oil and natural gas.

From the currently available information, the GoM issued on 30 December 2016, a decision on the approval of the results of a tender on selection of the entity Frontera Resources International LLC to perform works on geological exploration of hydrocarbons on the territory of the Republic of Moldova. Pursuant to the Decisions of the GoM no. 895 dated 20 July 2016 and no. 1439 dated 30 December 2016, the works of exploration and potential exploitation (extraction) hydrocarbons on the territory of the Republic of Moldova are conceded to the investor on the basis of a concession agreement, the state being entitled to receive a share from the volume of production/sales. We are not aware of any participation of the state with the entity Frontera Resources International LLC or with another entity performing works of exploration and potential exploitation (extraction) of hydrocarbons on the territory of the Republic of Moldova.

3.5 How does the State derive value from oil and natural gas development (e.g. royalty, share of production, taxes)?

The exercise of certain activities in connection with oil and natural gas development (production) is done against payment of consideration. In particular, the following types of fees/taxes can be distinguished:

(a) statutory taxes (resources rents (Article 70 CS)) for certain activities, provided by the Tax Code of the Republic of Moldova:
- 2% of the contractual value of the works – for exploration activities (Article 309 Tax Code);
- 5% of the contractual value of the works – for geological exploration activities (Article 313 Tax Code); and
- 20% of the value of the extracted resources – for extraction of natural gas and oil (Annex 2, Title VIII Tax Code);

(b) compensation of the state's costs in connection with the exploration activity (Article 71 CS);

(c) the retribution provided by the concession agreement, in the form of periodical payments (a share from the volume of production/sales) – for extraction of natural resources (including natural gas and oil) (Article 15 Concessions Law). Generally, the amount of the retribution (calculation formula) is indicated in the investor's offer (bid) for participation with the tender, organised in respect of the conceded goods; and

(d) fees in connection with the issuance of certain types of permits (licence, authorisations, certificates).

3.6 Are there any restrictions on the export of production?

The Moldovan legislation does not provide for specific restrictions on the export of oil (petroleum products) or natural gas, except for crises or emergency situations (in respect of the natural gas).

3.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

Pursuant to the Law no. 62 dated 21 March 2008 "on Foreign Exchange Regulation" (*Law 62/2008*) the payments and transfers within the current monetary (currency) transactions [*Ro. operatiuni valutare curente*] between residents and non-residents are generally performed without restrictions. In this context, the law provides for a list of transactions qualified as current monetary (currency) transactions [*Ro. operatiuni valutare curente*], including the transactions performed within the international trade with goods with an initial repayment term of one year (Article 5(2)a) Law 62/2008).

On the other side, it is to be taken into consideration that the general rule under the Law no. 1466 dated 29 January 1998 "on the Regulation of the Repatriation of Money, Goods and Services Derived from Foreign Economic Transactions" (*Law 1466/1998*) is that the local (Moldovan) entities are obliged to register with their local bank account the financial means derived from the export of goods abroad within three years, calculated as of the date of shipment of the respective goods (Article 3(1)a) Law 1466/1998). There is a risk of application of a fine [of 0.05% of the amount of non-repatriated funds for each calendar day of delay (but not more than 18% of the amount of non-repatriated funds)] (Article 5(3),(4) Law 1466/1998) in case of the local entity's failure to repatriate the financial means derived from the export of goods abroad within the indicated statutory period. Payment of fines does not exempt the entity from its obligation to repatriate either the financial means or the goods (Article 5(5) Law 1466/1998).

3.8 What restrictions (if any) apply to the transfer or disposal of oil and natural gas development rights or interests?

Except for cases of reorganisation of the entity (Article 30 CS), the transfer, partially or entirely, to a third party of the conceded goods (rights or interests) is prohibited. Neither of the permits (licence, certificates, authorisations), issued for exploration and exploitation (extraction) of natural resources (including natural gas and oil), can be transmitted to a third party.

3.9 Are participants obliged to provide any security or guarantees in relation to oil and natural gas development?

Both the tender conditions and the concession agreement may contain an obligation for the investor (private partner) to provide guarantee(s) in connection with its offer (bid) and/or for the execution of its rights under the respective agreement.

3.10 Can rights to develop oil and natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

The PPP Law admits the right of the investor (private partner) to pledge the object of the public-private partnership (including rights to explore and extract natural resources (including natural gas and oil)), under the condition of procuring of the public partner (state authority)'s consent (Article 34(3) PPP Law). Such provision is, however, in conflict with the provision of the CS (as indicated at question 3.8 above), pursuant to which the transfer to a third party of the conceded goods (rights or interests) is prohibited (i.e. the pledge of certain rights (having as potential effect, the transfer of such rights to a third party) is also prohibited).

3.11 In addition to those rights/authorisations required to explore for and produce oil and natural gas, what other principal Government authorisations are required to develop oil and natural gas reserves (e.g. environmental, occupational health and safety) and from whom are these authorisations to be obtained?

A general (non-exhaustive) list of permits (issuable by the Moldovan authorities for the investor's activity on the subsoil sector) is indicated at question 3.3 above.

3.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in oil and natural gas development? If so, what are the principal features/requirements of the legislation?

The CS provides for the obligation of the user (investor) to liquidate or conserve the mining workings, facilities and structures at the expiry of the agreement, when finalising the exploitation of the resources or at the early termination of use of the subsoil (Article 67 CS). Such user (investor) needs to ensure that the state of mining workings and drillings will cause no harm to peoples' life and health, environment, buildings and constructions, or possibility of use of the subsoil sector for other activities. The liquidation or conservation of the mining workings is to be conducted in accordance with the technical projects coordinated with the Agency for Geology and Natural Resources. In addition, the beneficiary of the subsoil sector (investor) is to create a fund for the liquidation of such mining workings, facilities and structures, as well as for the rehabilitation of the degraded plots of land. The size of such fund depends on the concrete project (Article 68 CS).

3.13 Is there any legislation or framework relating to gas storage? If so, what are the principal features/requirements of the legislation?

The Natural Gas Law is the primary legislation regulating the activity of natural gas storage. Such activity is performed on the basis of a licence, issued by NARE for a period of 25 years (Article 12(2)d),(9) Natural Gas Law). The number of such licences is not limited. From the currently available information, there are no licences issued by NARE for the activity of storage of natural gas.

The natural gas storage operator (*SO*), which is a part of a vertically integrated undertaking (*VIU*), is to be independent from other activities which are not connected with the activity of natural gas storage (Article 52(1) Natural Gas Law). To ensure the independence of the SO, the following minimum requirements are to be met:

(a) management separation, meaning that those persons responsible for the management of the SO may not participate in company structures of the VIU responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;

(b) appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of the SO are taken into account, in a manner that ensures that they are capable of acting independently; and

(c) the SO must have effective decision-making rights, independent from other parts of the VIU, with respect to assets necessary to operate, maintain or develop the natural gas storage (Article 52(2) Natural Gas Law).

Access to the storage and pipeline storage is to be granted to all the existing and potential users in a transparent, objective and non-discriminatory manner. In order to ensure the supply of natural gas to the consumers and organise access to ancillary services, access to the gas storage facilities is granted on the basis of the tariffs established in accordance with the methodology approved by NARE.

The SO has the obligation to publish on its electronic page the information required for ensuring an efficient access to the gas storage operated by such SO (Article 54 Natural Gas Law).

3.14 Are there any laws or regulations that deal specifically with the exploration and production of unconventional oil and gas resources? If so, what are their key features?

On 26 February 2016 the Parliament of the Republic of Moldova adopted the Law no. 10 "on promotion of use of energy from renewable sources" (*Law 10/2016*) (Law 10/2016 entered into force on 25 March 2018). In this context, it is to be taken into consideration that the activity of production of the bio-gas (which is to be supplied into the natural gas networks) and bio-fuel (which is to be acquired by the main petroleum products importers) are subject to licensing (Article 21(1) Law 10/2016).

In this context, the activity of production of bio-gas is performed on the basis of the licence for production of natural gas (Article 21(5) Law 10/2016) issued by NARE for a term of 25 years (Article 12(2)a) Natural Gas Law), whereas the activity of production of bio-fuel is produced on the basis of a licence issued by NARE for a term of 25 years (Article 21(9) Law 10/2016) to persons which are:

(i) registered in the Republic of Moldova and not involved in an insolvency process; and (ii) presenting the financial report for the previous year or a bank account excerpt (for persons initiating the activity) (Article 21(6) Law 10/2016).

The producers of bio-gas (which is to be supplied into the natural gas networks) and of the bio-fuel (which is to be acquired by the main petroleum products importers) need to comply with certain quality standards (Article 27(2) Law 10/2016).

Producers of bio-gas (which is to be supplied into the natural gas networks) have non-discriminatory and regulated access to the natural gas networks (against published (non-discriminatory, cost-based, transparent and foreseeable) tariffs) (Article 28(2) Law 10/2016).

On the other side, the importers of main petroleum products have the obligation to acquire annually (from local or foreign producers) quantities of bio-fuel to be used in the main oil products mix, in order to reach the minimum annual level set by NARE (Article 29(3) Law 10/2016).

4 Import / Export of Natural Gas (including LNG)

4.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

Pursuant to the Natural Gas Law, the transactions of the sale-purchase of natural gas, including import or export transactions, transactions of the sale-purchase of interconnection capacities, of other ancillary products, where the producers, TSOs, DSOs, SOs and suppliers participate, are performed on the wholesale natural gas market (Article 95(1) Natural Gas Law).

The sale-purchase transactions on the wholesale natural gas market are performed on the basis of bilateral agreements, taking into consideration the supply and demand, as a result of competitive mechanisms or of negotiations. All the natural gas market participants have the right to engage in bilateral transactions, including bilateral transactions of export or import of natural gas. The transactions on the sale-purchase of natural gas on the natural gas wholesale market are to be conducted in a transparent, public and non-discriminatory manner (Article 95(2),(3) Natural Gas Law).

5 Import / Export of Oil

5.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of oil and oil products.

The Law of the Republic of Moldova no. 461 dated 30 July 2001 "on the Petroleum Products Market" [*Ro. Legea privind piata produselor petroliere*] (Petroleum Products Market Law) indicates that the import of petroleum products is performed on the basis of a licence issued by NARE for a period of five years (Article 7(2^1) Petroleum Products Market Law).

To ensure the energy security of the country, certain special requirements are imposed to the importers of petroleum products:

(a) holding of Gasoline/Diesel storage with a capacity of at least 5,000 cubic metres and a capital of at least MDL 8 million (*cca.* EUR 400,000) – for the importers of Gasoline and/or Diesel; and

(b) holding of storages for the storage of LPG with a capacity of at least 150 cubic metres – for the importers of LPG (Article 14(1) Petroleum Products Market Law).

The farmers are exempt (in certain conditions) from the requirement to hold a licence for the import of petroleum products (Diesel). They are, however, required to request an authorisation from NARE (Article 19 Petroleum Products Market Law), issuable in case the respective farmers cumulatively fulfil the following conditions:

(a) own or lease agricultural land;

(b) own or lease Diesel storages; and

(c) own or lease agricultural equipment functioning on the basis of Diesel (Article 20(2) Petroleum Products Market Law).

The Diesel import authorisation is to indicate the quantity of Diesel to be imported (on the basis of the area of agricultural land owned and/or leased) (Article 20(3) Petroleum Products Market Law).

The export (re-export) of petroleum products can be performed only by the importers of petroleum products (i.e. by entities holding licences for the import of petroleum products) and on the basis of an authorisation granted by NARE (Article 21 Petroleum Products Market Law).

6 Transportation

6.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

The Law of the Republic of Moldova no. 592 dated 26 September 1995 "on the magistral pipeline transmission" [*Ro. Legea privind transportul prin conducte magistrale*] (*Law 592/1995*) stipulates that the transmission pipelines may be owned both by private entities or by the state. However, the plots of land, on which such pipelines are located, are owned by the state and transferred into the use of the private entities (TSOs) (Article 5(1) Law 592/1995). There are no specific limitations, when it comes to financing of construction of transmission pipelines, including of state importance. The sources of financing can be either the state budget, the funds of the pipelines transport operators, bank credits and loans.

Generally, agricultural plots of land with low quality [*Ro. bonitate scazuta*] or plots of land which are not suitable for agricultural purposes are used for the construction of transmission pipelines. Agricultural plots of land of high quality are used for the construction of transmission pipelines in exceptional cases and only on the basis of a decision of the GoM (Article 5(3) Law 592/1995). The expropriation of the plots of land (if needed) and the change of the destination of such plots of land which are to be used for the construction of transmission pipelines are also performed on the basis of decisions of the GoM.

Apart from those indicated above, the Natural Gas Law contains certain conditions for the exercising by the system operators (including of the TSOs) of the right of use over the (privately owned) plots of land for execution of works which are necessary *inter alia* for the construction, rehabilitation and modernisation of the network (e.g. consent, prior notification, obligations) (Chapter X Natural Gas Law).

6.2 What governmental authorisations (including any applicable environmental authorisations) are required to construct and operate oil and natural gas transportation pipelines and associated infrastructure?

The Law 592/1995 requires that the construction of transmission pipelines is to be ensured by specialised construction organisations. Such organisations are responsible for the compliance of the construction works with the applicable legislation, liable for the damages caused during the construction works (including compensation of the rehabilitation of the land), and obliged to correct the defects detected at the constructed pipeline during the first three years of exploitation (Article 11 Law 592/1995).

Given the impact of a potential project of construction of transmission pipelines and depending on the concrete circumstances of such project, certain permits (certificates, authorisations) are required (including the conclusion of the state ecology expertise, the environment permit (as a result of the environmental impact assessment), the build-up certificate for projection of works of public utility of national interest, the construction authorisation(s), the positive conclusion of the expertise in the domain of industrial security, the sanitary authorisation).

6.3 In general, how does an entity obtain the necessary land (or other) rights to construct oil and natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

As indicated at question 6.1 above, the plots of land, on which such pipelines are located, are owned by the state and transferred into the use of the private entities (TSOs). The Natural Gas Law indicates that such transfer into use (for the purpose of construction, maintenance, exploitation, rehabilitation and modernisation of the natural gas transmission and distribution networks) is performed on a free-of-charge basis (Article 74(1) Natural Gas Law).

The (privately owned) plots of land needed for construction of transmission pipelines can be expropriated by the GoM, if the respective construction works are to be considered of public utility [*Ro. cauza de utilitate publica*] and under the condition of payment to the expropriated owner of a compensation (Article 78 Natural Gas Law).

Also, as indicated at question 6.1 above, the Natural Gas Law provides for a right of access by the system operators (including the TSOs) through privately owned plots of land for execution of works, which are necessary, *inter alia*, for the construction, rehabilitation and modernisation of the network (consent, prior notification and obligations).

6.4 How is access to oil and natural gas transportation pipelines and associated infrastructure organised?

A TSO is obliged to grant to existing/potential users access to its natural gas transmission network in a transparent, objective and non-discriminatory manner, on the basis of an agreement and at tariffs established in accordance with the methodology approved by NARE (Article 55(1) Natural Gas Law). The TSO has the obligation to publish on its electronic page the information necessary for ensuring efficient access to the gas transmission network operated by such TSO (Article 55(7) Natural Gas Law).

6.5 To what degree are oil and natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

Pursuant to the Natural Gas Law, in order to execute its duties, including with regard to the cross-border transmission of natural gas, the TSO is to cooperate with the TSOs from the neighbouring countries, in compliance with the agreements concluded with such operators (Article 55(4) Natural Gas Law).

Also, the individuals/legal entities are generally entitled to request the connection of their use/production/storage facility to the transmission network of the TSO performing the activity within the territory indicated in its licence.

6.6 Outline any third-party access regime/rights in respect of oil and natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport oil or natural gas compel or require the operator/owner of an oil or natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

Further to questions 6.4 and 6.5 above, a TSO is obliged to grant to existing/potential users access to the natural gas transmission network in a transparent, objective and non-discriminatory manner. In order to manage the access of third parties to the gas transmission system, the TSO is under obligation to keep an electronic register indicating the information with regard to each access point, including the identity of the third party, the existing supplier, the address of the consumption point, the contracted flow, the connection point, the delimitation point, the pressure in the delimitation point and the characteristics of the measure equipment (Article 55(5) Natural Gas Law).

Access to the natural gas transmission network can generally be refused: (a) in case of absence of system capacity; (b) when granting access would prevent the TSO from executing its public service obligations; or (c) in cases of serious economic and financial difficulties which have incurred due to the "take or pay" obligations (Article 58 Natural Gas Law).

The TSO refusing access to the system due to absence of capacity is obliged to take necessary measures to ensure the access of the third party to the system, under the condition that (a) such measures are economically justifiable, or (b) when the third party requesting access is ready to bear the costs in connection with such necessary measures (Article 58(4) Natural Gas Law).

The TSO is obliged to inform NARE on each case of congestions and of refusal of access to the natural gas transmission system, as well as on the measures which are intended to be taken to resolve such situations (Article 58(6) Natural Gas Law).

6.7 Are parties free to agree the terms upon which oil or natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

Generally, under the Natural Gas Law, the access of third parties to the natural gas transmission system is performed based on an agreement and at tariffs established in accordance with the

methodology approved by NARE. However, we understand that the terms which are not expressly regulated by NARE may be negotiated between parties.

7 Gas Transmission / Distribution

7.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

Both the activity of transmission of natural gas and the activity of distribution of natural gas can be performed on the basis of licences only; such licences are issued by NARE, for a period of 25 years and against a state fee of MDL 3,250 (*cca.* EUR 160) (Article 12 Natural Gas Law). The TSO is to also obtain a certificate confirming the compliance with the independence and unbundling rules.

There are currently two licences for transmission of natural gas and 25 licences for distribution of natural gas issued by NARE. The general principles on access to the natural gas transmission network (which are similar to those of access to the natural gas distribution network) are outlined at question 6.6 above.

In order to ensure a general view over the Moldovan natural gas legislation, please note that the Third Gas Directive (*Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC*) has been fully transposed into the Natural Gas Law. However, TSOs are currently exempted from complying with the TSO unbundling rules of the Third Gas Directive (until 1 January 2020). From a mere legal point of view, the TSOs, therefore, need to comply with the Second Gas Directive (*Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC*) only transposed into Article 24 Natural Gas Law (providing for ownership unbundling).

Unbundling obligations are also imposed to DSOs (Article 44 Natural Gas Law): if the DSO is a part of a VIU, such DSO is to be independent from other activities which are not related to natural gas distribution, at least from functional, decision-making and organisational points of view.

7.2 What governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?

The licence for the activity of distribution of natural gas is the main permissive act entitling an entity to perform such activity of distribution of natural gas. Depending on the concrete circumstances of the activity, certain other permits are or may be required (the conclusion of the state ecology expertise, environment permit, urbanism certificates, construction authorisations, positive conclusions of the expertise in the domain of industrial security, sanitary authorisations for the functioning of the facility, etc.).

7.3 How is access to the natural gas distribution network organised?

A DSO is obliged to grant to existing/potential users access to the natural gas distribution network in a transparent, objective and non-discriminatory manner, on the basis of an agreement and at tariffs established in accordance with the methodology approved by NARE (Article 55(1), (2) Natural Gas Law). The DSO has the obligation to publish on its electronic page the information necessary for ensuring efficient access to the gas distribution network operated by such DSO. In order to manage the access of third parties to the gas distribution system, the DSO is under obligation to keep an electronic register indicating the information with regard to each access point, including the identity of the third party, the existing supplier, the address of the consumption point, the contracted flow, the connection point, the delimitation point, the pressure in the delimitation point and the characteristics of the measure equipment (Article 55(5), (7) Natural Gas Law).

Access to the natural gas distribution network can be generally refused: (a) in case of absence of system capacity; (b) when granting access would prevent the DSO from executing its public service obligations; or (c) in case of serious economic and financial difficulties incurred due to the "take or pay" obligations (Article 58 Natural Gas Law). The DSO refusing access to the system due to absence of capacity is obliged to take the necessary measures to ensure the access of the third party to the system, under the condition (i) such measures are economically justifiable, or (ii) when the third party requesting access is ready to bear the costs in connection with such necessary measures (Article 58(4) Natural Gas Law).

7.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?

As indicated at question 7.3 above, the DSO refusing access to the system due to absence of capacity is obliged to take the necessary measures to ensure the access of the third party to the system, under the condition (a) such measures are economically justifiable, or (b) when the third party requesting access is ready to bear the costs in connection with such necessary measures. In connection with the refusal of the DSO (i.e. in granting access to its natural gas distribution network) the third parties may address a claim to NARE, which is to check execution by the DSO of its obligations under the law; the DSO is to provide the information on the measures required for the development of the natural gas distribution network, as well as on the concrete terms for execution of such development.

7.5 What fees are charged for accessing the distribution network, and are these fees regulated?

The fees for the DSOs' services are approved by NARE and published with the Official Gazette of the Republic of Moldova (Article 55(2) Natural Gas Law).

7.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?

Except for the limitations under the unbundling rules, there are no restrictions or limitations in relation to acquiring an interest in a natural gas utility, or the transfer of assets forming part of the distribution network.

8 Natural Gas Trading

8.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

There is an assumption of an open natural gas market under the Natural Gas Law.

All the transactions on the sale-purchase of natural gas and of other ancillary products are executed on the natural gas market, which is constituted of the natural gas wholesale market and the natural gas retail market (Article 92(1) Natural Gas Law).

Transactions on the sale-purchase of natural gas between the producers, TSOs, DSOs, SOs and suppliers, including import and export transactions and transactions on the sale-purchase of interconnection capacities, are executed on the natural gas wholesale market. On such market, the sale-purchase transactions are made on the basis of bilateral agreements, taking into account the supply and demand, as a result of competitive mechanisms or of negotiations (Article 94(3) Natural Gas Law).

Transactions on the sale-purchase of natural gas with end consumers are executed on the retail market of natural gas, on the basis of the agreements on the supply of natural gas [*Ro. contracte de furnizare a gazelor naturale*] concluded between the suppliers and end consumers. The supply of natural gas to household consumers and small enterprises is generally performed at regulated prices (Article 95 Natural Gas Law).

8.2 What range of natural gas commodities can be traded? For example, can only "bundled" products (i.e., the natural gas commodity and the distribution thereof) be traded?

We are not aware of any restrictions to the types of commodities that can be traded.

9 Liquefied Natural Gas

9.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.

Currently, there are no LNG facilities in Moldova.

9.2 What governmental authorisations are required to construct and operate LNG facilities?

While LNG is not expressly excluded from the scope of the Natural Gas Law, the latter does not contain LNG-specific norms.

9.3 Is there any regulation of the price or terms of service in the LNG sector?

No, there is no such particular regulation.

9.4 Outline any third-party access regime/rights in respect of LNG facilities.

As there are no LNG facilities in Moldova, access to LNG facilities is not particularly regulated.

10 Downstream Oil

10.1 Outline broadly the regulatory framework in relation to the downstream oil sector.

The main normative act in the domain of petroleum products is the Petroleum Products Market Law. The import, wholesale and retail of Diesel, Gasoline and LPG is performed on the basis of a licence issued by NARE for a period of five years.

10.2 Outline broadly the ownership, organisation and regulatory framework in relation to oil trading.

The wholesale of petroleum products is performed at non-regulated prices, on the basis of negotiated agreements. With regard to the retail of petroleum products, please note that NARE has the attribution to impose a maximum retail price.

11 Competition

11.1 Which governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the oil and natural gas sector?

NARE has the general duty to create the necessary conditions for an effective competition on the natural gas market, including by promoting in its normative acts the principles of equity, transparency and non-discrimination. NARE monitors the natural gas market and performs controls on the timely detection of the abuses on the natural gas market.

Such attributions of NARE, however, do not affect the competence of the Competition Council of the Republic of Moldova (*CC*) to ensure the application of the legislation on the protection of the competition in the territory of Moldova.

11.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

The Competition Law no. 183 dated 11 July 2012 (*Competition Act*) is the main normative act setting the legal framework for the protection of competition, including prevention of and counteraction to the anti-competitive practices and unfair competition, as well as on the implementation of economic concentrations.

11.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

Pursuant to provisions of the Competition Act, CC has the right to: (a) investigate the anti-competitive practices, unfair competition and other violations in the domain of competition, state aid and advertising; (b) ascertain violations of the legislation on the

protection of competition, on state aid and on the advertising; and (c) impose interim measures with regard to such violations and also apply sanctions.

11.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the oil and natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

CC is competent to: examine the notifications on economic concentrations [*Ro. concentrare economica*] filed by the concerned entities (phase I); initiate investigations, in case notified economic concentration is qualified as presenting doubts in respect of its compatibility with the competition environment (phase II); and issue decisions on the compatibility of the economic concentration with the competition environment (Chapter IV Competition Act, Regulation no. 17 dated 30 August 2013 "on economic concentrations").

The following types of economic concentrations are covered by the Competition Act:

(a) mergers between (two or more) previously independent undertakings, or certain parts of undertakings previously independent; or

(b) acquisition, by one or several: persons already controlling one or several undertakings; or undertakings, either by acquisition of shares or assets or on the basis of an agreement or by other means, of direct or indirect control over one or several undertakings or parts of thereof, including creation of a joint venture, which will fulfil durably all functions of an autonomous economic entity.

An economic concentration needs to be notified with the CC if the following thresholds are reached (on the basis of the turnover in the previous financial year):

(a) the combined turnover of undertakings concerned exceeded MDL 25 million (*cca.* EUR 1.28 million); and

(b) at least two of the undertakings concerned had a total turnover exceeding MDL 10 million (*cca.* EUR 510,000) in the Republic of Moldova.

The local competition legislation applies equally to economic concentrations carried out by local and/or foreign entities.

The notifying party may start pre-notification contacts with CC (the relevant information concerning the proposed merger shall be submitted at least three working days before the date of the meeting).

Once CC considers that it has all data and documents enabling it to decide on the case, it will declare the notification *effective*. This is the date from which the term of 30 business days for issuing a decision starts running. Within such term of 30 business days, CC is to issue a decision:

- declaring the merger compatible with the competition environment; or
- launching an investigation, if CC concludes that the merger raises serious doubts on the merger's compatibility with the competition environment.

In case the merger enters into phase II, the overall duration of the assessment may take up to 120 business days.

12 Foreign Investment and International Obligations

12.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

There is a general rule in the Law no. 81 dated 18 March 2004 "on the investments in the entrepreneurial activity" (*Law 81/2004*), pursuant to which the investments in the Republic of Moldova cannot be subject to discrimination on the basis of citizenship, domicile, residence, place of registration or activity, state of origin of the investor or of the investment, etc. (Article 6(1) Law 81/2004).

We are not aware of any special requirements or limitations on acquisitions of interests in the natural gas sector by foreign companies (if compared with the requirements for local companies).

12.2 To what extent is regulatory policy in respect of the oil and natural gas sector influenced or affected by international treaties or other multinational arrangements?

The regulatory policy in respect of the oil and natural gas of the Republic of Moldova is especially influenced by the provisions of the Treaty Establishing the Energy Community, dated 25 October 2005 (*the EC Treaty*). Moldova is a member of the Energy Community as of 1 May 2010. By adopting the Energy Community Treaty, Moldova made legally binding commitments to adopt core European Union energy legislation, the so-called "*acquis communautaire*".

With the adoption of the Natural Gas Law, the Republic of Moldova transposed the Third Energy Package. Numerous secondary legislative acts are yet to be adopted as a precondition for Moldova to implement the natural gas *acquis* in real terms.

13 Dispute Resolution

13.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the oil and natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to oil and natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; downstream oil infrastructure owners or users; and distribution network owners or users in relation to the distribution/transmission of natural gas.

Pursuant to the Natural Gas Law, the disputes between the gas companies in connection with the Natural Gas Law may be examined by NARE. NARE is to issue a decision on the respective dispute within two months (extendable by a further two months), as of the date of filing by a gas company of the respective claim (Article 109(1) Natural Gas Law). Further, NARE examines the disputes (including cross-border disputes) in connection with the refusal of a TSO to grant access to its transmission network (Article 109(2) Natural Gas Law). Also, NARE examines, within 30 business days, (extendable by a further 30 business days) the disputes between the

end consumers, system users and the gas companies, in connection with the provisions of the Natural Gas Law (Article 109(3) Natural Gas Law).

Apart from this, the Natural Gas Law stipulates that the litigations between the participants to the natural gas market are resolved in court (Article 111 Natural Gas Law). A court judgment can be appealed within 30 calendar days, as of the date of issuance of the judgment. Further, the decision of the Court of Appeal can be contested with the Supreme Court of Justice within two months, as of the date of communication of the integral decision of the Court of Appeal.

The Petroleum Products Market Law does not contain special (additional) procedures of resolution of disputes between the participants to the petroleum products market. Hence, the litigations between the participants to the petroleum products market are to be resolved either in court or by an arbitral tribunal, as indicated in the above paragraph.

13.2 Is your jurisdiction a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID")?

Yes, Moldova has ratified:

(a) the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards – on 10 July 1998; and

(b) the Convention on the Settlement of Investment Disputes between States and Nationals of Other States – on 5 May 2011.

13.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

Generally, there is no special difficulty in litigating, or seeking to enforce judgments or awards, against Government authorities or state organs (including any immunity). However, for cost and time efficiency, companies often try to resolve disputes without seeking a judicial remedy.

13.4 Have there been instances in the oil and natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

We are not aware of any such dispute resolution cases.

14 Updates

14.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Oil and Gas Regulation Law in your jurisdiction.

The Natural Gas Law:

The Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (the Third Gas Directive) has been fully transposed into the Natural Gas Law of Moldova. However, TSOs are currently exempted from complying with the TSO unbundling rules of the Third Gas Directive (until 1 January 2020). From a mere legal point of view, the TSOs, therefore, need to comply with the Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (the Second Gas Directive) only.

Secondary legislation in natural gas domain:

NARE intitiated the public consultancy in respect of certain drafts of normative acts (to be approved in compliance with the Natural Gas Law), including the Natural Gas Networks Code, the Regulation on supply natural gas, Regulation on connection to natural gas networks and supply of natural gas transmission and distribution services.

Ungheni-Chisinau natural gas pipeline extension:

Eurotransgaz S.R.L. (a subsidiary of the Romanian entity Transgaz S.A.) was declared as winner of the tender related to privatisation of VMTG (Moldovan TSO). In this context, the representatives of Transgaz S.A. declared their intention to start exports of natural gas to the Republic of Moldova at the end of 2019 – beginning of 2020. This means that the project on extension of Ungheni-Chisinau pipeline is to be finalised by the end of 2019 – beginning of 2020.

Draft law on creating and maintaining a minimum level of petroleum products stocks:

The Moldovan authorities have drafted a law on creating and maintaining a minimum level of petroleum products stocks. The draft is in compliance with Directive 2009/119/EC of 14 September 2009 imposing an obligation to maintain minimum stocks of crude oil and/or petroleum products. However, the timeline for the law's adoption is not clear. The draft law foresees its entry into force on 1 January 2021.

Entrance into force of the Law 10/2016:

Law 10/2016 entered into force on 25 March 2018. The purpose of the law is the institution of a legal framework for promotion and use of energy from renewable sources (including bio-gas and bio-fuel).

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