

## **EXPLANATORY STATEMENT**

### **PROPOSED LAW No. \_\_ / 2019, of \_\_**

#### **Proposed Law for Second Amendment to Law no. 9/2005, of August 3, Petroleum Fund Law** *[as submitted to Parliament on 9 July 2019]*

Since the independence of Timor-Leste, petroleum exploration, research and production activities in the Timor Sea, in an area beyond our territorial sea to the south, have been conducted under the Timor Sea Treaty regime. This regime provided for a regime of shared development of the petroleum resources there with Australia, and for the existence of a structure for this purpose, which included not only the Joint Petroleum Development Area (JPDA), but also a sharing of regulatory functions among various national and supranational entities created under those regulations. This regulatory framework had an impact on revenue collection for Timor-Leste, and was, of course, reflected or referred to in various texts of national law, including the Petroleum Fund Law.

The Treaty Between the Democratic Republic of Timor-Leste and Australia Establishing Respect for Maritime Borders in the Timor Sea ("Treaty"), signed in New York on 6 March 2018, has finally delimited our maritime border in the Timor Sea with Australia by extinguishing, as from the date of its entry into force, the JPDA and all related supervisory and coordination structures, passing all regulatory and supervisory functions of maritime areas transiting to the exclusive jurisdiction of Timor-Leste by the national authorities. At the same time, the revenue previously generated for the State of Timor-Leste in the JPDA becomes the internal revenue of Timor-Leste, and the new Greater Sunrise Special Regime Area has been created, from which Timor-Leste is expected to receive significant revenues in the future. It is, therefore, necessary to amend the Petroleum Fund Law in order to reflect this new reality.

On the other hand, it is considered opportune to incorporate into the Petroleum Fund Law the rules pertaining to the use of the Fund for investment in petroleum operations by the State of Timor-Leste, which have been dispersed in the Petroleum Activities Law since the amendment made to that Law by Law no. 1/2019, of January 18.

This intervention is intended to enable and implement the entry into force of the Treaty and to harmonize the rules provided for in the Petroleum Activities Law with the regime of the Petroleum Fund Law, namely the following changes:

- a) Removal of references to the Timor Sea Treaty regime and its respective regulatory bodies, as well as rules applicable at the time of the initial creation of the Fund that are no longer relevant;
- b) Introduction of concepts and changes necessary for the implementation of the new Treaty;
- c) Introduction in the Petroleum Fund Law of the rules for investment by the State in petroleum operations that are already included in the Petroleum Activities Law;

- d) Introduction of the concept of “Decree-Law Implementing Annex D of the Treaty” to cover the legal diplomas that will be approved to allow the transition from petroleum exploration and production areas previously included in the JPDA and in Australian jurisdiction to exclusive jurisdiction Timor-Leste upon the entry into force of the Treaty;
- e) Adaptation of the wording of the law to the Orthographic Agreement that was not in force on the date of the initial approval of the law, as well as the rules of legalization approved by the Council of Ministers.

Relevant standards in this regard include:

- Article 2: change to existing definitions to align with the new Treaty;
- Article 6: slight amendments to reflect the new terms of the Treaty;
- Articles 15: slight change to the heading due to the creation of article 15-A;
- Article 15-A: introduction of a new article on investment in petroleum operations, which reflects the regime already included in the Petroleum Activities Law with some improvements;
- Article 20: slight change to make reference to new Article 15a.

The proposal presented here is in accordance with the following constitutional provisions:

- Article 9 of the Constitution;
- Article 95.1 of the Constitution
- Article 139 of the Constitution.

In the case of a proposal to amend certain articles of a Law of the National Parliament in force with republication of the same, the proposal takes the form of a Law of the Parliament.

As regards the framework in the Government’s program, the ratification of the Treaty is one of the priorities of the Government’s Program, according to the provisions of points 1, 4, 6 and 11 of the same.

At the level of the impact assessment of this proposal, this exercise was not considered necessary in the light of the analyzes carried out when negotiating and drafting the Treaty, as well as the fact that the proposed amendments do not create any new impacts on the Petroleum Fund.

The elaboration of the regime included in the proposal presented was attended by representatives of the Ministry of Petroleum and Minerals, Ministry of Finance, Petroleum Fund, ANPM, and TIMOR GAP, EP, as institutions of the State of Timor-Leste involved on a daily basis, and over the years, in the management, participation and supervision of the *upstream* petroleum sector and in the management of the Petroleum Fund.