

REPUBLIC OF PANAMA
CABINET COUNCIL
CABINET DECREE NO. 26
of February 24, 2015

That authorizes the Ministry of Economy and Finance to execute Risk Hedging operation(s) on the Price of Hydrocarbons

THE CABINET COUNCIL,
in use of its constitutional and legal powers,

WHEREAS:

That the Ministry of Economy and Finance is responsible for exercising the administration and management of the public expenditure, as well as directing the financial administration of the State, in accordance with the provisions of Law 97 of December 21, 1998;

That in paragraph 2, article 4 of Executive Decree No. 113 of November 28, 2003, the Director of Public Financing is credited with the authority to assist the Minister of Economy and Finance in his/her representation before International Credit Agencies and National and International Private Banking and to sign all contracts, agreements, securities and all documentation whose authority of representation is delegated to him/her;

That the National Government has interest in mitigating the fluctuations of the market on the price of hydrocarbons and oil derivatives, in order to benefit in this way, both Panamanian households and those who develop other business activities making use of energy as one of their main consumables;

That through Cabinet Decree No. 157-A of December 15, 2009, the "National Strategy for Hydrocarbons Risk Hedging", by which the National Government successfully executed risk hedging operations with the aim to cover the fluctuations that could arise over the price of a barrel of bunker during the 2010 fiscal period;

That to give continuity to the National Strategy for Hydrocarbons Risk Hedging, it is necessary the management of hedging operations on the periodically established prices for hydrocarbons and oil derivatives, such as the bunker, the diesel, the liquefied gas, among others;

That given the current situation of the hydrocarbons market, it is appropriate to execute risk hedging operations, in order to reduce the impact of the volatility of the prices of hydrocarbons on public expenditures and to budget with a higher degree of certainty the resources destined to energy subsidies in the future fiscal periods;

That the State, through the Ministry of Economy and Finance, maintains current ISDA Master Agreements, which allows it to efficiently and timely execute risk hedging operations associated with any type of operations that involve financial risks for the Republic;

That the National Economic Council, at its meeting on January 29, 2015, through its CENA/006 Note of the same date, issued favorable opinion so that the Ministry of Economy and Finance, together with the National Secretariat of Energy under the Ministry of the Presidency can give continuity to the implementation of the National Strategy for Hydrocarbons Risk Hedging;

That organizing the public financing, recognizing the national debt and fixing its service are powers of the Cabinet Council, according to paragraph 7 of the article 200 of the Political Constitution of the Republic of Panama.

RESOLVES:

Article 1. To authorize the Ministry of Economy and Finance, in conjunction with the National Secretariat of Energy under the Ministry of the Presidency, to give continuity to the implementation of the "National Strategy for Hydrocarbons Risk Hedging", in order to gradually reduce the dependence of the State to variations in international prices of oil, fuels and other petroleum derivatives against which the Republic of Panama has some exposure.

Article 2. The strategy set forth in Article 1 will be executed in an interagency fashion with the participation of the Ministry of Economy and Finance (MEF), the National Secretariat of Energy of the Ministry of the Presidency, the National Authority of Public Services (ASEP), the National Dispatch Center (CND) and the Electrical Transmission Company, S.A. (ETESA).

Article 3. The contracting of investment banks or financial institutions that are required to run the risks operations shall be performed by the Ministry of Economy and Finance, on behalf of the State.

Article 4. The sums of money generated by the activation of the risk hedging operation(s) that are hired on the price of hydrocarbons, shall be deposited in the Trust called "Rate Stabilization Fund", whose Trust is the Electrical Transmission Company, S.A., ETESA, or at its failing, to the account that is assigned for these purposes.

Similarly, the Ministry of Economy and Finance (MEF) is authorized to subscribe, manage and carry out all the necessary formalities so that the transfers described in the previous paragraph become effective, including notifications to be carried out to the National Authority of Public Services (ASEP) concerning the effective date of these transfers with the intention to materialize the necessary actions to compensate final customers.

Article 5. Authorize the Minister of Economy and Finance, or in his/her absence, the Vice Minister of Economy, or in his/her absence, the Vice Minister of Finance, each one of them individually authorized, in case it is required, to sign Derivatives Master Agreements with financial institutions that allow to perform hedges seeking to mitigate the risks associated with this and any other transactions that involve a financial risk for the Republic of Panama; in addition, all documentation related and required, including the "Schedule", through which the specific terms applicable to the parties are established ("*Schedule to the ISDA Master Agreement*"), the "Credit Support Annex", and the "Annex Paragraph 13", the "Short or Long Form Confirmation" as well as all those documents, letters and agreements that are necessary to execute the hedging operation(s) that are authorized through this Cabinet Resolution. These agreements must have the endorsement of the Comptroller General of the Republic, according to the rules and practices prevalent for this type of transactions.

Article 6. The Executive Body shall establish, by Executive Decree, the final terms and conditions for the risk hedging operations that may be suitable to execute, that shall be formalized through the subscription of a "Short or Long Form Confirmation", with the investment bank(s) that present the proposal(s) that will fit the most favorable terms for the Republic.

Article 7. Authorize the Minister of Economy and Finance, or in his/her absence, the Vice Minister of Economy, or in his/her absence, the Vice Minister of Finance, each of them individually authorized to sign the "Short or Long Form Confirmation", as well as all those documents, letters and agreements that are necessary to execute the risk hedging operations that may be suitable in accordance with the market conditions, as authorized in the Executive Decree and in accordance with the provisions of article 5 of this Resolution. This documentation must have the endorsement of the Comptroller, according to the rules and practices prevalent for this type of transactions.

Article 8. The Executive Body, through the Ministry of Economy and Finance, will include in the State's General Budget for the corresponding fiscal periods, the amounts needed to execute the contracted risk hedging operations.

Article 9. This Cabinet Decree will take effect upon its publication.

LEGAL FOUNDATION: Paragraph 7 of the article 200 of the Political Constitution of the Republic of Panama; Law 97 of December 21, 1998; Executive Decree No. 113 of November 28, 2003 and its amendments; and Cabinet Decree No. 157-A of December 15, 2009.

TO BE PUBLISHED AND ENFORCED

Given in Panama City, on the 24th day of the month of February of two thousand fifteen (2015).

JUAN CARLOS VARELA RODRÍGUEZ
President of the Republic

The Minister of Government

MILTON HENRÍQUEZ SASSO

The Minister of Foreign Affairs

LUIS MIGUEL HINCAPIÉ

The Minister of Economy and Finance

DULCIDIO DE LA GUARDIA

The Minister of Education

MARCELA PAREDES DE VÁSQUEZ

The Minister of Public Works

RAMÓN AROSEMENA

The Minister of Health

FRANCISCO JAVIER TERRIENTES

Minister of Labor and Workforce Development

LUIS ERNESTO CARLES R.

The Minister of Commerce and Industry

NÉSTOR GONZÁLEZ

The Minister of Housing and Territorial Planning

MARIO ETCHELECU ÁLVAREZ

The Minister of Agricultural Development

JORGE ARANGO

The Minister of Social Development

ALCIBIADES VÁSQUEZ VELÁSQUEZ

The Minister for Canal Affairs

ROBERTO ROY CORREA

The Minister of Public Security

RODOLFO AGUILERA F.

ÁLVARO ALEMÁN HEALY
Minister of the Presidency and
Secretary General of the Cabinet Council