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LEGAL ALERT

Amendment to new regulation on Maritime Concessions: Inclusion of Electronic Administrative Procedure as of June 2020

Background

On March 4, 2020, Supreme Decree (the “SD”) Nr. 183, issued by the Ministry of National Defense, Undersecretary for the Armed Forces, was published in the Official Gazette (the “Amendment”), which amended SD Nr. 9, the New Regulation on Maritime Concessions (the “New Regulation”), which in turn substituted the previous regulation contained in SD Nr. 2 of 2005, issued by the former Undersecretary of Navy.

Main Modifications

1. Electronic Platform for Administrative Procedure

It will be accessed through the platform of the Ministry of Defense by means of the Unique State Password and will apply to:

- Applications for granting, modifying, renewing, transferring, leasing or assigning the use of major and minor maritime concessions and destinations; and
- All other procedures regulated in the new regulations, which will be recorded in writing in electronic or digitalized documents, unless their nature requires another form of expression and proof or that an exception established by law or the new regulation itself is configured.

The following stages and formalities of these procedures are excepted from this electronic processing, such as:

- The beginning of the procedure;
- The application requirements;
- The notification and material delivery of concessions;

- Certain special provisions due to their nature; and
- The special rules for destinations with strategic purposes, which will be processed in a physical file with a reserved nature.

All acts within the procedure, will be conserved in the respective electronic files. People who cannot access these platforms, may make presentations on paper, which will be added to the electronic files by the respective officials.

2. Other Modifications

- Day terms established in this New Regulation will be of business days, in the terms provided in article 25 of Law Nr. 19,880.
- Requests for substantial modification of concessions may be submitted up to 6 months before the expiration of the concession.
- A report from the Ministry of the Environment will be requested when applications for major or minor maritime concessions affect national assets located in protected areas.
- The content of the General Directorate of Maritime Territory and Merchant Marine (DIRECTEMAR) technical report is replaced, reducing both its issuance to a period of 30 days and the aspects it will consider.

Validity

The Amendment will have a deferred entrance into force according to the type of maritime concession:

- Major maritime concessions, it will be applicable as of June 1, 2020;
- Minor maritime concessions, destinations and others, it will proceed as of September 1, 2020.

Applications in progress at the time of the entry into force of the Amendment will continue to be processed according to the procedure on paper until the issuance of their terminal acts.

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