

JuriSTEP

OIL AND GAS INDUSTRY ORGANIZATION
IN SAO TOME AND PRINCIPE

By Kiluange Tiny

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1. INTRODUCTION

This paper briefly describes Sao Tome and Principe's effective organization of the petroleum industry. It also mentions the institutions foreseen in the draft Petroleum Revenue Framework Law – currently under appreciation in the National Assembly – for the financial matters regarding the petroleum revenues. The institutional organization of the Joint Development Zone created between Nigeria and the Sao Tome and Principe is not covered by this paper.

Sao Tome and Principe has a complex and non-systematic organization of institutions related to the petroleum industry. As most States, the Sao Tomean legal system provides three typical types of institutions (i) for strategy development and policy making (the Government and the National Petroleum Counsel); (ii) for regulation, license issuing, contract negotiating and monitoring, and compliance (the National Petroleum Agency of Sao Tome and Principe); and (iii) for operating (National State Oil Company, Petrogás). In addition to these typical institutions, the Sao Tomean legal system also provides for other institutions for political, judicial and administrative control, and advisory.

2. EXECUTIVE AND ADMINISTRATIVE ORGANIZATION

The political-administrative institutions of the State are as follows:

Government

Under the Constitution, the Government defines and executes the general administrative policies of the country. The Government competences can be exercised through political mechanisms (namely, by means of programs, action plans and policies), legislative initiative and measures (decrees and decree-laws) or administrative mechanisms (administrative regulation and control or superintendence over the administration). The Ministry of the Natural Resources and Environment is the competent for the petroleum matters.

Directorate of the Natural Resources and Energy

The Directorate of the Natural Resources and Energy is the service – under the control of the Ministry of the Natural Resources and Environment – in charge of promoting studies of investigation of the natural and energy resources of the country, and to conduct and to promote investigations for the best use of the natural resources of the country.

National Council of the Petroleum

National Council of the Petroleum (hereinafter CNP), was created by the Decree-Law no. 3/2004, of June 18, 2004. The CNP defines the State's general policies of hydrocarbons. The policies of CNP are carried out by the National Agency of the Petroleum and by the Government.

National Agency of Petroleum of Sao Tome and Principe

The National Agency of the Petroleum of Sao Tome and Principe (ANP-STP) was created by the Decree-Law no. 5/2004, of June 30, 2004. ANP-STP is the regulatory entity of the petroleum industry. ANP-STP is competent for license issuing, negotiating and entering into petroleum contracts on behalf of the State. ANP-STP also exercises monitoring and compliance powers.

National State Oil Company - Petrogás

The Petroleum Activities Framework Law (Law no. 4/2000, of August 23, 2000) provided for a National State Oil Company. The bylaws of the National State Oil Company, Petrogás, were approved by the Law no. 6/2001, of August 9, 2001, although it has not been put into operation yet. Under the Petroleum Activities Framework Law and its bylaws, Petrogás may negotiate, celebrate and enter into petroleum contracts, on behalf of the State. Petrogás may also undertake oil and gas exploration and development operations.

3. FINANCIAL ORGANIZATION

The administrative-financial organization contemplates the following institutions:

Ministry of Planning and Finances

Ministry of Planning and Finances is the responsible ministry for the General Budget and other finance, tax (through the Directorate of Tax) and customs matters (through the Directorate of Customs) of the State. Under the draft Petroleum Revenue Framework Law, the Ministry of Planning and Finances is also competent to propose and manage the Annual Amount, as provided in the General Budget.

Central Bank of Sao Tome and Principe

The Central Bank of Sao Tome and Principe is the monetary authority, exercising general competences regarding the monetary and currency exchange matters, namely, granting authorizations and licenses, policy making, regulating and supervising of the banking/financial system. Under the Petroleum Revenue Framework Law, the Central Bank is also competent to open and to manage the Petroleum Accounts – National Oil Account and Permanent Fund of Sao Tome and Principe.

Management and Investment Committee

The Committee for Management and Investment is foreseen in the Petroleum Revenue Framework Law as the responsible for the management and investments of the National Oil Accounts, under the guidelines of the laws and in the Petroleum Accounts Management and Investment Policies.

4. CONTROL AND MONITORING ORGANIZATION

The control and monitoring institutions are as follows:

POLITICAL CONTROL INSTITUTIONS:**President of the Republic**

The President of the Republic as defined in the Political Constitution has no powers in the matter of the administration of the petroleum industry. However, the Constitution grants the President several powers of political control over legislative and executive acts, namely, through the veto. The President also exercises his powers of political control by directly seating on the National Petroleum Counsel, and appointing his representatives to the Committee for Management and Investment and the Petroleum Oversight Commission, both institutions foreseen in the Petroleum Revenue Framework Law.

National Assembly

Under the Constitution, the National Assembly is the legislative institution of the country. The National Assembly is competent to approve or amend the legal framework.

JUDICIAL CONTROL INSTITUTIONS:**Ordinary Courts**

Administrative courts do not exist in Sao Tome and Principe. Consequently, all conflicts and disputes between the Administration and the economic agents acting in the petroleum industry should to be resolved in the ordinary courts.

Auditing Court (*Tribunal de Contas*)

The Auditing Court (*Tribunal de Contas*) is competent to control the legality of the public administration acts related to financial and/or administrative matters. Such powers include the power to give or refuse visas to public contracts, including petroleum contracts, and auditing the Petroleum Accounts.

ADMINISTRATIVE CONTROL**Petroleum Oversight Commission**

Foreseen in the Petroleum Revenue Framework Law, the Petroleum Oversight Commission has general and broad competences to oversight and audit the public management of the petroleum revenues, and the Petroleum Accounts and its investments.

5. ADVISORY INSTITUTIONS**Environment National Council**

The Environment National Council was created by the Law no. 10/99, December 31, 1999 – Environment Base Law – as advisory institution for matters regarding the environment.

*K* ILUANGE *T*INY

OLHOS DE ÁGUA - CCI 12801
2955-011 PINHAL NOVO - PORTUGAL
E-MAIL: tiny@juristep.com