

PETROLEUM REVENUE MANAGEMENT FRAMEWORK LAW OUTLINES

BY: KILUANGE TINY*

March, 2005.

This publication is protected by the copyright laws of Portugal, the laws of the European Union and by international law. Reproductions of this publication or portions of it are allowed only for personal non-commercial purposes. Reproductions, modifications, distributions or public displays of these materials or portions of it for any other purposes – namely for inclusion in Web sites, publications, works or linkages, etc. – should be requested to the author. This publication is provided for information purposes only and in no case this information is to be used as a replacement or serve as substitute for any legal, audit, advisory, tax or other professional advice, consultation or service. When reproduced or otherwise displayed, this publication may not be modified and the user may not remove or otherwise omit the credentials and other institutional identification therein.

* Lawyer admitted to Portuguese Bar Association.

PREAMBLE

- Statement of the reasons, adopted mechanisms and scope of the law.

CHAPTER I (DEFINITION AND SCOPE)

- Defines the legal terms of the law.
- Scope: payment, management, spending and monitoring of petroleum revenues.

CHAPTER II (PETROLEUM ACCOUNTS)

- Central Bank of Sao Tome and Principe to establish and manage, within an international money center institution, the Petroleum Accounts (National Petroleum Account and Permanent Fund of Sao Tome and Principe, as a sub-account), on behalf of the State of the Democratic Republic of Sao Tome and Principe (hereinafter the “State”).
- Prohibition of liens and encumbrances on National Oil Account Funds.
- Establishment of a Management and Investment Committee responsible for managing and investing the Petroleum Accounts assets, acting under the “Prudent investor” rule.
- National Assembly is to approve by law the Rules for Movement and Policy for the Management and Investments for the Petroleum Accounts.
- Mechanism of mandatory signatures authorization for transfers from the Petroleum Accounts.
- Mechanism for determination and limitation of the annual Funding Amount available for expenses under the State’s General Budget.
- Definition of Funding Amount’s allocation priority sectors and accounting mechanism.
- Mandatory transfers of a percentage of Funding Amount to the local authorities and Autonomous Regional Government of Principe.
- Creation of the Permanent Fund by the end of the hydrocarbon production year.

CHAPTER III (AUDITING)

- Submission of Petroleum Accounts and all related activities to two annual mandatory audits by the Auditing Court (Tribunal de Contas) and by an internationally recognized accounting firm.

CHAPTER IV (PUBLIC INTEGRITY)

- Submission to standards of transparency and free public information mechanisms of the activities related to the National Accounts and Petroleum Revenues, including contracts.
- Public tendering and procurement provisions for the award of Petroleum Contracts.
- Mandatory implied anti-bribery/corruption, public tendering and transparency clauses.
- Prohibition of confidentiality clauses, excluding intellectual property and related rights.
- Petroleum contracts must be made both English and Portuguese versions; Portuguese version is prevailing in case of disconformities.
- Mandatory registry of contracts.

CHAPTER V (PUBLIC OVERSIGHT AND ENFORCEMENT)

- Establishment of a Petroleum Oversight Committee responsible for monitoring the implementation of and compliance with the law and competent, notably, to compel testimony, documents, and other evidence from any individual or legal person; initiate verification processes.
- Citizens can claim for the public entity competent to order provisional remedies to protect from irreparable damage while a petition is pending.

CHAPTER VI (FINAL PROVISIONS)

- Mechanism of incompatibilities for the exercise within the Petroleum activities and sanction system.
- Applicable rules for the activities undertaken under Joint Authority's jurisdiction.
- Law enforcement mechanisms.

*K*ILUANJE *T*INY

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