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PROJECTS – INFRASTRUCTURE, ENERGY & NATURAL RESOURCES

MOZAMBIQUE | PETROLEUM PRODUCTS SUPPLY

Ministerial Statute 50/2017, of 11 July 2017, sets forth the measures approved by the Ministry of Mineral Resources and Energy to streamline petroleum products' import into and supply to the country and ensure fuel supply safety, regularity and quality. The newly approved measures obviously have a direct impact on distributors, but also affect suppliers, IMOPETRO, commercial banks operating in-country and the Banco de Moçambique ("BdM").

FUNDING PETROLEUM PRODUCTS IMPORTS– GENERAL PRINCIPLE

Distributors may now take out loans directly from commercial banks operating in the country to fund their imports of petroleum products.

Upon issuing a purchase order to their suppliers, distributors must have their bankers confirm that they are in a position to provide the guarantees required to purchase the products. Once the purchase order is accepted, the guarantees must be issued no later than four (business) days prior to the scheduled date of delivery.

DISTRIBUTORS' OBLIGATIONS

Distributors need to mobilize the funds required to satisfy their obligations towards suppliers by either purchasing foreign currency or taking out a bank loan. If they fail to do so, distributors will be liable for any additional costs arising from demurrage caused by their default, delay or any other events attributable to them within the process of securing the funds necessary to cover the import of the products.

Distributors must further provide IMOPETRO with (i) the name of the financial institutions that will be issuing credit letters and/or other bank guarantees in connection with the import of petroleum products, and (ii) the real cost incurred with the loan, in order to ascertain the weighted average amount that needs to be taken account of in the price structure.

CREDIT INSTITUTIONS' OBLIGATIONS

Commercial banks must (i) provide the financial guarantees required to ensure distributors' imports of petroleum products, (ii) keep BdM updated on any guarantees issued to that end, and (iii) ensure that distributors are in a position to pay their suppliers in foreign currency on the due dates of the relevant invoices.

SUPPLIERS' OBLIGATIONS

Suppliers need to deliver to IMOPETRO a list of eligible financial institutions to issue credit letters and/or other bank guarantees inuring to the benefit of national distributors.

Suppliers must issue pro forma and final invoices to each individual distributor, stating the amount corresponding to each supply.

BdM's ROLE

BdM is tasked with supervising the bank guarantees or other financial instruments issued to guarantee national distributors' payment of petroleum products' imports.

SUPPLY AGREEMENTS

Petroleum products' supply agreements need to be signed by all parties (supplier and distributor) and IMOPETRO.

OFFENSES AND PENALTIES

Should distributors breach any provision of Ministerial Statute 50/2017, including failure to provide the mandatory bank guarantees no later than four business days prior to the date agreed for unloading, they may have their distribution license cancelled and withdrawn.

FINAL COMMENTS

Ministerial Statute 50/2017 reinforces the implementation of measures to ensure the regular operation of the price mechanism established under Decree 45/2012, of 28 December 2012. It affords petroleum products' suppliers an additional assurance that their supplies enjoy forex cover and can be paid in foreign currency. The statute also boosts the national market, albeit indirectly, by placing more stringent requirements on petroleum products' distribution: only companies in good financial health can take out bank loans to settle their operations abroad.

Ministerial Statute 50/2017 came into force on the date of its publication, i.e., 11 July 2017, and must be read in combination with Decree 45/2012, of 28 December 2012, which enacted the framework for petroleum products' distribution in Mozambique.