

LEGAL ALERT

NEW LEGAL REGIME OF LOCAL CONTENT IN THE OIL SECTOR

PRESIDENTIAL DECREE NO. 271/20

On October 20, 2020, Presidential Decree No. 271/20 was published, approving the new Legal Regime of Local Content in the Oil Sector (*Regime Jurídico de Conteúdo Local do Sector dos Petróleos – RJCLSP*), revoking Order No. 127/03, of November 25.

The RJCLSP aims to promote measures to ensure and encourage the participation, in the oil sector, of commercial companies in which citizens and national companies have a stake, that is, to promote the “Angolanization” of the oil sector.

The RJCLSP has changed, among others, the contracting regime applicable to oil companies. Commercial relations in the Oil Sector continue to be divided on an Exclusivity, Preference and Competitive basis. However, the lists of activities subject to the “Exclusivity Regime” and the “Preference Regime” will be approved by the National Petroleum Agency (*Agência Nacional de Petróleo e Gás e Bicomcombustíveis – ANPG*), in collaboration with the Competition Regulatory Authority, and according to criteria of transparency, economic efficiency and competition (as stipulated by the Competition Law). These lists are updated annually and published on the ANPG’s official website after approval by the Ministerial Department that oversees the Oil Sector. Under the competition regime, there is contractual freedom in the supply of goods and services. Conversely, the Exclusivity and Preference regimens can only benefit Angolan commercial companies (wholly

owned by citizens or national companies) or companies incorporated under Angolan law (companies incorporated in Angola).

It is also relevant to highlight, among the obligations imposed on “Commercial Companies in the Oil Sector and other companies that provide services and supply goods to the Oil Sector”, the following:

- (a) Preparation of an Annual Local Content Plan for submission to ANPG;
- (b) Conclusion of a Program Contract with the Ministerial department that oversees the Oil Sector.

As of 20 October 2020, date of publication of the law that approves the RJCLSP, all service contracts and acquisition of goods necessary for the acquisition of oil operations must contain a clause referring to local content obligations.

Under the terms of the RJCLSP, and by way of example, the non-inclusion of the local content clause is an administrative offence punishable with a fine corresponding to a minimum value of the correspondent in Kwanzas of USD 50,000.00 (fifty thousand dollars) and a maximum of USD 200,000.00 (two hundred thousand dollars). Ancillary penalties as severe as the prohibition to carry out commercial activities may also be cumulatively applicable.

The MIREMPET is responsible for the supervision of local content management actions foreseen in the RJCLSP.

The RJCLSP came into force on the date of its publication.

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