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THE PETROLEUM ACT
(CAP.392)

REGULATIONS

(Made under sections 168 and 258)

THE PETROLEUM (BULK PROCUREMENT) (AMENDMENT)
REGULATIONS, 2024

ARRANGEMENT OF REGULATIONS

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REGULATIONS

(Made under sections 168 and 258)

THE PETROLEUM (BULK PROCUREMENT) (AMENDMENT) REGULATIONS, 2024

Citation
GN. No
198 of 2017

1. These Regulations may be cited as the Petroleum (Bulk Procurement) (Amendment) Regulations, 2024 and shall be read as one with the Petroleum (Bulk Procurement) Regulations, 2017 hereinafter referred to as the “principal Regulations”.

Amendment
of regulation
3

2. The principal Regulations are amended in regulation 3, by-

(a) deleting the definition of the term “buyer” and substituting for it the following:

““buyer” means an Oil Marketing Company or transit consignee that buys a petroleum product from a supplier under the Bulk Procurement System;”;

(b) deleting the definition of the term “independent inspector”;

(c) deleting the definition of the term “inspector” and substituting for it the following:

““inspector” means an employee of the Tanzania Bureau of Standards or Weights and Measures Agency who performs marine inspection for cargoes imported under BPS;”;

- (d) deleting the definition of the term “independent surveyor” and substituting for it the following:
 - ““independent surveyor” also referred to as “independent inspector” means an entity registered by the Authority to supervise marine loading and offloading operations;”;
- (e) deleting the definition of the term “KOJ” and substituting for it the following:
 - ““Kurasini Oil Jetty” also referred to as “KOJ” means berthing facility owned and operated by Tanzania Ports Authority;”;
- (f) deleting the definition of the term “LIBOR”;
- (g) deleting the definition of the term “licence” and substituting for it the following:
 - ““licence” means an authorisation granted by the Authority to an entity to conduct a regulated activity relating to BPS;”;
- (h) adding at the end of the definition of the term “Oil Marketing Company” the words “, and includes a person acting in the capacity as an agent of the transit consignee”;
- (i) deleting the definition of the term “SPM” and substituting for it the following:
 - ““single point mooring” or “SPM” means an offshore facility owned and operated by Tanzania Ports Authority to offload a petroleum product from tankers;”;
- (j) deleting the definition of the term “supplier” and substituting for it the following:
 - ““supplier” means a company awarded tender to supply petroleum product

- through BPS;”;
- (k) deleting the words “the provisions of” appearing in the definition of the terms “Tanzania Bureau of Standards”, “Tanzania Ports Authority” and “Tanzania Revenue Authority”;
 - (l) deleting the words “or storage” appearing in the definition of the term “wholesale business”;
 - (m) deleting the definition of the term “wholesaler” and substituting for it the following:
 - ““wholesaler” means the company engaged in the importation of petroleum products in bulk quantity for the purpose of wholesale business in Tanzania;”;
 - (n) adding in the appropriate alphabetical order the following new definitions:
 - ““BPS Cargo” means petroleum products imported through BPS;
 - “BPS vessel” means an oil marine tanker that carries petroleum products procured through BPS;
 - “Bulk Procurement System Implementation Manual” means a manual that governs all operations in the procurement of petroleum products through BPS;
 - “cargo outturn report” means a detailed report to record discrepancies in the form of over or short cargo, as manifested, and cargo checked at a time and place of discharge from the ship;
 - “economies of scale” in relation to the quantity of petroleum products, means the bulk quantity per tender

determined as a single lot of not less than 60,000 tonnes for SPM, 25,000 tonnes for KOJ, Tanga and Mtwara except for Jet A-1 which shall not be less than 15,000 tonnes;

“efficient procurement” means procurement of refined petroleum products through a method which guarantees cost efficiency, security of supply and ease of determination of price;

“facility” means any software, hardware or infrastructure that is used to facilitate the fulfilment of the Agency objectives and functions;

“hospitality fee” means a fee charged by terminal owners for storing and handling petroleum products;

“importation contract” means an agreement concluded between the Agency and OMCs for the importation of petroleum products through BPS;

“importation of petroleum products” means procurement, supply and sale of petroleum products through BPS and it is concluded when the supplier has lodged the cargo manifest and the vessel has tendered notice of readiness;

“laytime” means free or allotted time given to the charterer of the vessel for unloading petroleum products from the BPS vessel;

“marine petroleum surveyor” also referred to as “marine petroleum inspector” means an employee of the Agency

mandated to oversee all discharge operations;

“nominated terminal” means a private terminal appointed by buyers to receive petroleum products from the BPS vessel or SRT;

“notice of readiness” means a document issued by the captain of a vessel to signify readiness for unloading petroleum products from a BPS vessel;

“receiver” means the owner and receiver of apportionment of petroleum product from a BPS delivery vessel;

“Standard Operating Procedure” means the Standard Operating Procedure made pursuant to these Regulations;

“single receiving terminal” or “SRT” means the offshore tank farm used as an offloading point designated to receive petroleum products from delivery vessel for onward transfer to OMCs allocated terminals;

“Shipping and Supply Contract” means an agreement concluded between the Agency and the supplier for the supply of petroleum products through BPS;

“Secured Overnight Financing Rate” or “SOFR” means the broad measure of cost of borrowing cash overnight collateralised by U.S. Treasury securities in the repurchase agreement (repo) market;

“Tanzania Shipping Agencies Corporation”

Cap 415 also referred to as “TASAC” means the Corporation established under the Tanzania Shipping Agencies Act;
“transit consignee” means a person operating outside the Tanzanian jurisdiction who imports petroleum products under BPS through an OMC who is registered to import petroleum products through BPS; and
“Zanzibar Utilities Regulatory Authority” also referred to as “ZURA” means a regulatory Authority established under Act No. 7 of 2013 of the laws of Zanzibar.”.

Deletion and substitution of Part II 3. The principal Regulations are amended by deleting the heading of Part II and substituting for it the following:

“PETROLEUM BULK PROCUREMENT
INSTITUTIONAL FRAMEWORK”

Addition of sub-parts (a) and (b) 4. The principal Regulations are amended, by-
(a) adding immediately after the heading of Part II as amended the following:
“(a) *The Minister*

Mandate of Minister 4A.-(1) Subject to the Act, the conditions or requirements for the implementation of efficient petroleum procurement shall be as provided in these regulations.

(2) The Minister may, in the public interest, issue in writing directives of a specific or general nature to the Agency on any matter or decision

and the Agency shall comply with those directives.

(3) Notwithstanding the generality of the provisions of sub-regulations (1), the Minister shall have the duty to determine the formulation, coordination and application of relevant documents to be used in bulk procurement operations.

(b) The Authority

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Role of
Authority

4B.-(1) The Authority shall oversee and perform regulatory functions on all matters relating to the supply of petroleum products in the country in accordance with provisions of the Petroleum Act and the Energy and Water Utilities Regulatory Authority Act.

(2) The Authority shall provide guidance and directives to the Agency as it deems fit for the proper and efficient implementation of procurement of petroleum products through BPS.”; and

(b) renaming sub-titles (a) and (b) as subtitles (c) and (d) respectively.

Deletion and
substitution
of regulation
4

5. The principal Regulations are amended by deleting regulation 4 and substituting for it the following:

“Objective
of Agency

4. Save as otherwise provided in the Executive Agency (The Petroleum Bulk Procurement Agency) (Establishment) Order, the objective of

the Agency shall be to ensure efficient procurement and security of supply of petroleum products in the country.

Deletion and substitution of regulation 5

6. The principal Regulations are amended by deleting regulation 5 and substituting for it the following:

“Functions and powers of Agency

5.-(1) In addition to functions stipulated under the Executive Agency (The Petroleum Bulk Procurement Agency) (Establishment) Order, the Agency shall perform the following functions:

- (a) register OMCs for the importation of petroleum products through BPS;
- (b) conduct pre-qualification of suppliers to participate in tenders for the supply of petroleum products;
- (c) prepare and maintain a forecast of the supply and demand of petroleum products;
- (d) collect and consolidate the procurement requirements of petroleum products from OMCs;
- (e) plan receipt of petroleum products based on ullage availability, receiving terminals and ports’ capacity and available window at discharge port;
- (f) establish and maintain delivery schedule of

- petroleum products;
- (g) conduct international competitive bidding for the procurement of petroleum products in bulk;
- (h) ensure diligent discharge and receipt of petroleum products from the delivery vessels to SRT or nominated terminals;
- (i) foster economies of scale for petroleum products imported through BPS for both transit and local use;
- (j) coordinate, monitor and ensure efficiency of single receiving terminal operations;
- (k) maintain records of shipments and its performance;
- (l) coordinate invoicing and ensure collection of payments for the respective apportionment of the petroleum products imported through BPS;
- (m) collect unpaid demurrage from receivers and refunds from suppliers for onward payment to beneficiaries;
- (n) Coordinate refund of excess demurrage paid by OMCs;
- (o) advise the Authority on issues related to the

importation of petroleum products;

- (p) collect fees related to importation of petroleum products through BPS on behalf of other relevant institutions, subject to agreement entered with the institutions;
- (q) provide timely to the Ministry, the Authority, OMCs, TRA, TPA, TBS, WMA, TASAC, financial institutions and other relevant parties information related to petroleum importation, storage and distribution business;
- (r) report to the Ministry on Agency's activities on monthly basis;
- (s) report to the Authority on BPS operations on monthly basis or as may be required; and
- (t) create awareness on Bulk Procurement System.

(2) The Agency shall, in the exercise of its functions, have powers to-

- (a) conclude and administer the performance of contracts between the Agency and OMCs as well as suppliers;
- (b) investigate and take action

against any malpractice done during receipt of petroleum products from delivery vessel;

- (c) invest in undertaking that aims at ensuring the efficient procurement and receipt of petroleum products;
- (d) issue operational directives with a view to improving efficiency procurement of petroleum products;
- (e) require information from any institution on matters pertaining to BPS; and
- (f) exercise such other powers as are necessary for or incidental to the implementation of its functions.

(3) The Agency shall be responsible for implementing and enforcing the provisions of these Regulations.

(4) The Agency shall manage and coordinate all operations under BPS.”.

Deletion and substitution of regulations 6 and 7

7. The principal Regulations are amended by deleting regulations 6 and 7 and substituting for them the following:

“Bulk Procurement System Implementation Manual

6.-(1) The Agency shall, in consultation with stakeholders, prepare a Bulk Procurement System Implementation Manual and submit it to

the Authority for review before it is approved by the Minister.

(2) The Authority shall review the Bulk Procurement System Implementation Manual within thirty days from the date of receipt from the Agency.

(3) The Bulk Procurement System Implementation Manual shall be approved by the Minister within thirty days from the date of receipt from the Agency.

(4) The Bulk Procurement System Implementation Manual shall-

(a) guide on all matters related to registration of OMCs, pre-qualification of suppliers, contracts under bulk procurement system, invitation to bid, bid evaluation, bids qualification and award of the bid to supply bulk petroleum products;

(b) guide on all operational matters related to procurement of petroleum products under BPS, including customs, pre-arrival checks, pre-discharge operations, discharge operations, post discharge, outturn and warehousing;

(5) The Bulk Procurement System Implementation Manual may be

updated by the Agency following the same procedures stipulated in sub regulation (1), (2) and (3).

Standard
Operating
Procedures

7.-(1) The Agency shall prepare Standard Operating Procedures to guide all stakeholders for bulk procurement system operations.

(2) The Standard Operating Procedures shall be binding to all stakeholders.

(3) For the purpose of these Regulations, stakeholders include-

- (a) suppliers of petroleum products through BPS;
- (b) OMCs;
- (c) terminal owners;
- (d) importers of transit petroleum products outside BPS;
- (e) importers of non-BPS vessels (Vegetable oil, Heavy Fuel Oil (HFO), Liquefied Petroleum Gas (LPG);
- (f) marine surveyors;
- (g) shipping Agencies;
- (h) clearing and forwarding Agencies;
- (i) WMA, TBS, TRA, TPA, TASAC, ZURA, the Agency and any other institution directly involved in BPS.”.

Addition of

8. The principal Regulations are amended by adding

regulations
7A and 7B

immediately after regulation 7 the following:

“Obligation
of
government
Institutions

7A.-(1) All Government institutions which offer services or operate in BPS shall discharge their responsibilities efficiently and minimize operational costs which are included in petroleum products price build-up.

(2) Any institution which fails to discharge its operations effectively and efficiently and causes an increase in operational costs such as demurrage shall be responsible for the payment of such increased costs.

(3) Any institution which fails to discharge its responsibilities diligently and causes another institution to incur costs due to such failure shall be required to compensate the affected institution.

Service level
agreement

7B.-(1) For the purpose of giving effect to the requirements of regulation 7A, the Agency shall enter into a service level agreement with all government institution which offers services or operates in BPS.

(2) The service level agreement shall specify:

(a) responsibilities and expected level of performance of the government institutions engaged in BPS.

(b) actions to be taken in the event of failure to meet the expected level of

performance.”.

Amendment
of regulation
8

9. The principal Regulations are amended in regulation 8 by deleting the words “International Financial Reporting Standards (IFRS)” and substituting for them the words “International Public Sector Accounting Standards (IPSAS)”.

Deletion and
substitution
of regulation
9

10. The principal Regulations are amended by deleting regulation 9 and substituting for it the following:

“Submission
of
performance
reports

9.-(1) The Agency shall prepare quarterly performance reports and submit to the Board.

(2) The Agency shall prepare an annual performance report and submit it to the Ministry.”.

Amendment
of regulation
11

11. The principal Regulations are amended in regulation 11, by-

- (a) deleting the word “framework” appearing in paragraph (a) and substituting for it the word “plan”;
- (b) deleting the words “the setting of” appearing in paragraph (d);
- (c) deleting paragraph (e) and substituting for it the following:
“(e) Agency's annual performance reports;”;
- (d) deleting paragraph (f); and
- (e) renaming paragraphs (g) and (h) as paragraphs (f) and (g) respectively.

Amendment
of regulation
12

12. The principal Regulations are amended in regulation 12, by-

- (a) deleting subregulation (2); and

(b) renumbering subregulation (3) as subregulation (2).

Deletion of regulation 13

13. The principal Regulations are amended by deleting regulation 13.

Addition of regulations 13A, 13B, 13C and 13D

14. The principal Regulations are amended by adding immediately after the heading of Part III the following:

“Restriction to procure petroleum products in bulk

13A. A person shall not procure petroleum products in bulk except in the manner provided under these regulations.

Registration of OMCs

13B. An OMC shall, pursuant to the procedures prescribed by the Agency, be required to register with the Agency in order to import a petroleum product under BPS.

Pre-qualification and importation contracts for supply of petroleum products

13C.-(1) A supplier intending to participate in competitive bidding for the supply of petroleum products under BPS shall be required to apply to the Agency for pre-qualification.

(2) An OMC seeking to import a petroleum product shall first conclude with the Agency, an importation contract that shall comprise terms and conditions that govern the relationship between the Agency and OMCs, and shall stipulate the relationship between the Agency, and any other related parties in the BPS including operators of SRT.

(3) A pre-qualified supplier intending to supply petroleum products through BPS shall participate in the tender process for the supply of petroleum products.

(4) Where the supplier's bid is successful and the supplier meets all tender award conditions, the Agency shall conclude with the supplier shipping and supply contract which shall stipulate the relationship between the Agency and any other related parties in the BPS including operators of SRT.

Registration and pre-qualification procedure

13D.-(1) The procedure and conditions for registering and deregistering OMCs and pre-qualification and disqualification of suppliers shall be as stipulated in the Bulk Procurement System Implementation Manual.

(2) Registration and pre-qualification shall be at a fee as provided in the Bulk Procurement System Implementation Manual.”.

Amendment of regulation 14

15. The principal Regulations are amended in regulation 14 by adding immediately after subregulation (6) the following:

“(7) Tenders for the procurement of petroleum products shall be done in a transparent and competitive manner.

(8) The bidder's bidding documents shall specify:

- (a) the insurance cost per MT;
- (b) freight charges;
- (c) financing charges and suppliers' margins per MT;
- (d) local charges per MT (Delivery order costs, port handling, TASAC, and other charges); and
- (e) storage and handling charges at SRT for the first fifteen (15 days) per MT.

(9) Notwithstanding the provision of sub regulation (8), A bidder shall not be under the obligation to specify the cost and charges in the event the Agency fixes freight, insurance and port charges and informs the prequalified suppliers accordingly.

(10) The fixed costs referred to in sub regulation (9) shall be excluded from the quotation submitted by bidders, the quotation shall include the bidders' margin, financing cost and any other cost not provided under sub regulation (3).”.

Addition of
regulation
14A

16. The principal Regulations are amended by adding immediately after regulation 14 the following-

“Landed cost

14A.-(1) Petroleum products imported through BPS shall be received through the ports of Dar es Salaam, Tanga, Mtwara and any other port as may be determined by the Minister.

(2) For the purposes of ensuring

efficient use of all receiving ports, landed costs for local products shall be equated for each product received through BPS.

(3) Procedures for equating landed costs shall be provided in the Bulk Procurement System Implementation Manual.

(4) A person who contravenes the procedures, terms and conditions for equating landed cost as required under subregulation (2), shall be liable to a fine of 10% of the value that ought to be paid.”.

Amendment
of regulation
15

17. The principal Regulations are amended in regulation 15 by deleting subregulations (2), (3), (4), (5), (6), (7), (8) and (9) and substituting for them thereof the following:

“(2) A person intending to import private transit cargo shall provide 60 days’ notice to the Agency in order to enable the Agency to plan delivery window for BPS and non-BPS vessels.

(3) An OMC intending to import transit petroleum products through BPS shall at the time of placing the importation order, submit to the Agency the following:

- (a) name and contacts of the consignee of the transit product;
- (b) destination of the transit product; and

(c) contract with the transit consignee or commitment letter from the consignee evidencing the placing of a transit order.

(4) An OMC placing order for transit shall, at the time of placing the order, be required to submit proof that 80% of the transit ordered product in month M-2 has been evacuated, failure of which the Agency shall not receive new transit order from the OMC.

Addition of regulations 15A, 15B, 15C and 15D

18. The principal Regulations are amended by adding immediately after regulation 15 the following:

“Localization of transit cargo

15A.-(1) An OMC who is an agent of transit consignee shall, in the event of localisation of transit product, notify the Agency and the Authority in writing supported by proof of notice of tax liabilities from TRA.

(2) Transit products ordered outside BPS shall not be localised unless localisation is done by the Minister in accordance to section 181 of the Act.

(3) TRA shall provide information to the Agency and the Authority in relation to localised petroleum products within seven days from the date localisation has been done.

Transit cargo specifications

15B.-(1) An OMC or any other person undertaking transit business shall

ensure that the cargo imported is within the specifications of the country to which the product is destined.

(2) In the event that the specifications for transit cargo are-

(a) of higher specifications than the Tanzania specifications, OMC undertaking transit business shall be required to have a dedicated depot or storage facilities for such cargo; and

(b) of lower specifications than the Tanzania specifications, OMC undertaking transit business shall not import such transit cargo within the Tanzania territory.

Use of BPS vessel

15C.-(1) BPS vessels shall strictly carry petroleum products ordered through Bulk Procurement System.

(2) Any supplier who wants to use BPS vessel to carry non- BPS transit products shall seek written approval from the Agency as specified in BPS manual.

Use of berthing facilities for non-BPS vessels

15D.-(1) A person who intends to use berthing facility for discharging BPS cargoes shall be required to send official notification to the Agency requesting window to use the berthing facility.

(2) The notification under subregulation (1) shall be sent to the Agency at least 60 days before the expected date of arrival of the vessel.

(3) A request sent outside the required time shall not be granted and the importer shall be required to wait for any available window.

(4) Non-BPS vessels carrying petroleum products shall be coordinated by the Agency.”.

Amendment
of regulation
16

19. The principal Regulations are amended in regulation 16, by-

- (a) deleting the words “transport affairs” appearing in subregulation (1) and substituting for them the words “Ports affairs”;
- (b) deleting subregulations (2) and (3) and substituting for them the following:

“(2) In approving applications for priority berthing pursuant to subregulation (1), the Minister shall consider the following:

- (a) stock position for petroleum products for local consumption;
- (b) number of vessels waiting to berth;
- (c) availability of ullage; and
- (d) records of fulfilment of conditions for the previous approved priority berthing.

(3) Where a non-BPS vessel has obtained approval for priority berthing, the owner of the product to which the

approved non-BPS vessel relates shall, prior to commencement of any discharge, be required to make upfront payment for provisional demurrage for all affected vessels in line.

(4) Without prejudice to subregulation (3), the Agency shall determine the provisional and actual demurrage to be paid by the owner of the product of the approved non-BPS vessel.”; and

(c) renumbering subregulation (4) as subregulation (5).

Deletion of regulation 17

20. The principal Regulations are amended by deleting regulation 17.

Addition of regulation 18A

21. The principal Regulations are amended by adding immediately after regulation 18, the following:

“Acceptance of petroleum requirements

18A. The Agency shall, before accepting procurement requirement from OMCs, ensure that:

- (a) all debts related to importation of petroleum products are fully paid upon receipt of claims from a government institution;
- (b) cargoes from previously discharged vessels have been fully paid; and
- (c) outstanding demurrage have been fully paid.”.

Amendment

22. The principal Regulations are amended in

- of regulation 19 regulation 19, by-
- (a) deleting the marginal note and substituting for it the following:
“Tender Committee”;
 - (b) deleting the words “The tenure of the chairman and members shall be three years” appearing in subregulation (2);
 - (c) deleting the words “Board members and prequalified suppliers or their affiliates” appearing in subregulation (3) and substituting for them the words “A board member, prequalified supplier and its affiliate”; and
 - (d) deleting subregulations (4), (5) and (6).

Addition of regulations 19A and 19B adding 23. The principal Regulations are amended by immediately after regulation 19, the following:

“Demurrage Committee 19A.-(1) There shall be a demurrage committee which shall be responsible for making critical analysis of demurrage claims submitted by the supplier and advising the Agency on actual demurrage to be paid.

(2) The demurrage committee shall comprise of seven members appointed by the Executive Director, two of whom shall be representatives of OMCs and the other five members appointed from the Agency.

(3) Pre-qualified suppliers or their affiliates shall not be eligible to be appointed as members of the demurrage committee.”.

Tenure of committee 19B. The tenure of the chairman and members of the tender committee

members and demurrage committee shall be three years.

Amendment
of regulation
20

24. The principal Regulations are amended in regulation 20, by-

- (a) deleting the words “or as may be prescribed by the Minister under the Petroleum Act” appearing in subregulation (1);
- (b) deleting the words “in accordance to the Petroleum Act or Standard Act and shipping and supply contract” appearing in subregulation (3) and substituting for them the words “in the manner prescribed in the Schedule to these Regulations”; and
- (c) deleting the words “subregulation (3), where the supplier brings into Tanzania off spec” appearing in subregulation (4) and substituting for them the words “the penalty referred to under subregulation (3), where the supplier brings into Tanzania off specification petroleum”.

Deletion and
substitution
of regulation
21

25. The principal Regulations are amended by deleting regulation 21 and substituting for it the following:

“Procedure
for sampling,
testing and
retention of
samples

21.-(1) The procedure for sampling, testing and retention of samples of petroleum products shall be prescribed by TBS.

(2) TBS shall take and seal four samples, of which the Agency and supplier shall each retain a sample and the remaining samples shall be used for testing by TBS.

(3) TBS retains the sole mandate to test quality of imported petroleum

products, and the test result shall be communicated to the Agency, suppliers and other relevant stakeholders.

(4) Notwithstanding subregulation (3), the Agency shall allow a supplier to nominate an independent inspector for testing the quality of imported petroleum products.

Addition of regulations 21A, 21B, 21C and 21D

26. The principal Regulations are amended by adding immediately after regulation 21 the following:

“Independent inspector

21A.-(1) An OMC may appoint an independent inspector to verify on the quality and quantity of any petroleum product received in SRT or nominated terminal.

(2) Where quality results by independent inspector of the supplier or OMCs are not in conformity with TBS results, the latter results shall be final as much as quality of imported petroleum product in Tanzania is concerned.

(3) WMA shall have sole mandate to measure quantity of imported petroleum products through BPS, and the results by WMA shall be final as much as quantity of imported petroleum product in Tanzania is concerned.

(4) Notwithstanding subregulation (3), a supplier and OMC may be allowed by Agency to nominate independent inspector for measuring quantity of imported petroleum products.

Observance
of standards
and
principles at
receiving
terminals

21B.-(1) A person who operates a receiving terminal shall take all precautions needed, and comply with the acceptable international standards and principles when receiving petroleum products in their receiving terminals in order to make sure they receive or store products within the approved specifications.

(2) An OMC shall, upon being aware of any non-conforming specification of petroleum products that is due or has been imported, immediately and promptly notify the Agency and the Authority within one hour, whether by phone call and email to be followed with an official letter.

Quantity
verification
and quality
testing

21C.-(1) Products which have been received and stored at SRT shall be tested for quality and verified for quantity before being cross pumped to OMCs nominated terminals.

(2) TBS and WMA shall respectively be contracted for the tasks of quality testing and quantity verification of petroleum products received.

(3) The cost of testing and verification of petroleum products shall be borne equally between the SRT operator and OMCs.

(4) Products which have been received and stored at SRT shall be

verified by WMA in the presence of the Agency for quantity measurement before being cross pumped to OMCs nominated terminals.

(5) No person other than the Agency and TBS shall be allowed to publish, circulate or cause to be published or circulated any information related to the quality of any petroleum product.

(6) No person other than the Agency and WMA shall be allowed to publish, circulate or cause to be published or circulated any information related to the quantity of any petroleum product.

Contamination of petroleum products

21D.-(1) In the event it is established that-

- (a) an operator of SRT has received contaminated petroleum product under circumstances which, upon arrival of the vessel, the product was tested and found to be within approved specification;
- (b) receivers have received contaminated petroleum product under circumstances which, upon arrival of the vessel, the product was sampled, tested and found to be within the approved specification; or

- (c) the receiver has received contaminated product while before being cross pumped from SRT to the receiver's nominated terminal, the product was tested and found to be within approved specification,

investigation by an independent and neutral investigator shall be conducted to determine the cause and point of contamination.

(2) An independent and neutral investigator shall be appointed by the Agency in consultations with-

- (a) in the case where the contamination occurred during discharge of petroleum products from delivery vessel, supplier and owner, operator of SRT or nominated terminal owners or OMCs as the case may be; and

- (b) in the case where contamination occurred during cross pumping of petroleum products from SRT to OMCs' nominated terminals, owner or operator of SRT and OMCs or nominated terminal owners as the case may be.

(3) For the purpose of facilitating investigation, all costs

related to investigation shall be contributed by all parties on pro rata basis.

(4) A person who, as a result of the investigation, is found liable for the contamination of the product shall be deemed to have committed the offence of distortion of Bulk Procurement System under Part VI of these Regulations.

(5) Without prejudice to the provisions of subregulation (4), a person responsible for the contamination shall be under obligation to indemnify the affected party for all losses incurred.”.

Deletion and substitution of regulation 22

27. The principal Regulations are amended by deleting regulation 22 and substituting for it the following:

“Re-testing and resampling

22.(1) Where the Agency, SRT operator or supplier has reasons to believe that any results issued by TBS are erroneous, the Agency may request TBS to undertake re-sampling and testing on the new samples or re-testing of the retained sealed samples of the particular petroleum products as provided in regulation 21.

(2) TBS may, on receipt of the request under subregulation (1)-

(a) undertake re-sampling or re-testing; or

(b) cause such re-sampling and re-testing to be undertaken by an independent institution on such terms and conditions

as TBS may prescribe,
and the undertaking shall be witnessed
by the Agency, supplier, SRT operator
or any interested OMCs.

(3) Costs related to re-sampling
or re-testing under this regulation shall
be borne by an entity seeking such re-
sampling or re-testing to be
undertaken.”.

Amendment
of regulation
23

28. The principal Regulations are amended in
regulation 23 by deleting the word “accommodated”
appearing in subregulation (3) and substituting for it the
words “afforded access to the offloading point”.

Addition of
regulation
23A

29. The principal Regulations are amended by
adding immediately after regulation 23 the following:

“Delivery
above or
below the
tendered
quantity

23A. A supplier who, without
prior written approval of the Agency,
delivers BPS cargo-

(a) above 5% of the ordered
quantity; or

(b) below 5% of the ordered
quantity,

shall be deemed to have distorted the
bulk procurement system.”

Deletion of
regulation 24

30. The principal Regulations are amended by
deleting regulation 24.

Amendment
of regulation
25

31. The principal Regulations are amended in
regulation 25, by-

(a) adding the words “for local petroleum products
and transit consignees for transit petroleum

- products or their respective affiliates” at the end of subregulation (1);
- (b) deleting subregulations (3), (4) and (5) and substituting for them the following:

(3) An OMC is prohibited from financing transit petroleum products using Tanzania forex reserve.

(4) An OMC shall open letter of credit in favour of the supplier or make pre-payment in respect of the cargo pursuant to the terms and conditions of the shipping and supply contract and ensure that transit consignees finance their transit ordered petroleum products.

(5) Products which have not been paid for shall be stored into the terminal nominated by the supplier and approved by the Agency as product on financial hold, and the supplier is not allowed to dispose the product on financial hold unless with a written approval of the Agency.

(6) Where OMC fails to finance for its apportioned petroleum products or fails to ensure that the transit consignee has financed its ordered petroleum products pursuant to the terms and conditions of the shipping and supply contract, such OMC shall be deemed to have distorted the BPS and shall be liable to penalties prescribed in regulation 27E.

(7) Subject to establishment of a financing arrangement, the financial

institution shall, on behalf of the buyer, duly settle invoices raised in respect of the cargo detailed in the respective Shipping and supply contract.”.

Addition of regulations 25A and 25B

32. The principal Regulations are amended by adding immediately after regulation 25 the following:

“Hospitality fee

25A.-(1) A terminal owner shall charge a hospitality fee for petroleum products on financial hold, the amount of which shall be as agreed between the Agency and all terminal owners and approved by the Authority.

(2) Terminal owners shall not charge hospitality fee on financial hold products contrary to the approved charges unless the charges will be lower than the rate approved under subregulation (1).

(3) A terminal owner who charges hospitality fee contrary to the provisions of subregulation (1) commits an offence and shall be liable to the penalty as prescribed to the Schedule.

Documents to be used in BPS operations

25B. All petroleum operations shall be managed pursuant to these Regulations, BPS Implementation Manual, Standard Operating Procedures, service level agreement, contracts in use and any other approved documents.”.

Addition of

33. The principal Regulations are amended, by-

Part V

(a) adding immediately after regulation 25B as amended, a new Part V as follows:

“PART V
SINGLE RECEIVING OPERATIONS

Use of SRT 25C.-(1) Upon the pronouncement by the Minister for the use of Single Receiving Terminal, all petroleum products from delivery vessels shall first be discharged into the SRT for onward transfer to nominated terminals.

(2) Where the circumstances do not permit receiving petroleum products through SRT, the Agency shall advise the modality in which petroleum products will be received from the delivery vessel.

SRT contract 25D.-(1) The Agency shall enter into contract with SRT operator for managing Single Receiving Operation.

(2) The procedures for managing SRT operations shall be as stipulated in the:

- (a) Bulk Procurement System Implementation Manual;
- (b) Standard Operation Procedures (SOP);
- (c) Contracts in use.

SRT Operator not to engage in restrictive 25E. An SRT operator shall not engage in any practices which would be construed as a restrictive trade practice

trade practice as defined in the Fair Competition Act and EWURA Act.

Hospitality fee under SRT

25F.-(1) Hospitality fee under SRT shall be charged by the SRT operator at the sum be agreed between SRT operator and the Agency on behalf of OMCs and shall be approved by the Authority.

(2) All costs to store petroleum product under SRT shall be borne by the receivers.

SRT operators and terminal owners to observe standards

25G.-(1) SRT operator shall ensure the petroleum products transferred to the receivers' nominated terminals is within the acceptable standards as provided by TBS.

(2) SRT operator and terminal owners shall operate in accordance with national standards and the latest issues of the oil international Guidelines including-

(a) API Manual of Petroleum Measurement Standard Chapter 17; and

(b) JIG for aviation Fuel Quality Control and Operating Procedures for Joint Airport Depots and for jointly operated supply and distribution Facilities in respect of Aviation Turbine Fuel (JET A-1).

(3) The ownership of all

petroleum products received at SRT shall at all times remain vested in receivers, save for the products under financial hold whose ownership shall be vested to the supplier until such time when the products have been paid for and the financier or supplier has issued a release certificate.

(4) An SRT operator shall be liable to indemnify receivers for all losses of petroleum products while such petroleum products are in the custody of SRT operator.

(5) Without prejudice to the foregoing provisions, the SRT operator shall indemnify receivers where such losses exceed tolerable limits, and the modality of indemnifying receivers shall be as provided in the Bulk Procurement System Implementation Manual.

Insurance to cover all risks

25H. An SRT operator shall at his expense obtain all risk cover insurance from a reputable insurance firm for the purpose of ensuring its facility and product held in its facility, and the relevant details of the extent of the cover shall be provided to Agency.

Passage of risks

25I.-(1) Risk of the petroleum products received and stored at SRT from the BPS vessel shall pass from the BPS vessel to SRT when the products pass the BPS vessel permanent flange

and the risk shall be prorated to all receivers, unless SRT operator has a dedicated line.

(2) Risk of the product received and stored at SRT shall be on the SRT operator and shall pass from the SRT operator to individual receivers when the product passes the relevant manifolds.

(3) In the case where risk has passed to the SRT operator, he shall be fully responsible for all the demurrage accrued from delays resulting from SRT performance.

(4) The Agency shall oversee all SRT operations in relation to receiving of petroleum products from BPS vessels and onwards transfer to receiving terminals.

(5) Petroleum products received under SRT shall be transferred to receivers nominated terminals within fifteen days after completion of discharge from the BPS vessel, and any failure or delay to evacuate the product from SRT shall constitute distortion of BPS operations.”; and

(b) renumbering Part V as Part VI.

Deletion and substitution of regulation 26

34. The principal Regulations are amended by deleting regulation 26 and substituting for it the following:

“Distortion of BPS

26. For the purpose of these Regulations, the following shall constitute distortion of the Bulk Procurement System-

- (a) a person, whether individually or collectively with other persons, causes the Agency not to function as required;
- (b) an OMC delays in financing its parcel of petroleum products and paying demurrage as per shipping and supply contract;
- (c) an OMC fails or delay to comply with guidance or directives issued by the Agency for the purpose of ensuring efficient procurement and management of the Bulk Procurement System;
- (d) failure to pay fees and levies chargeable by the Agency or any other government institution in relation to imported petroleum products, pursuant to these Regulations;
- (e) failure by any OMC, without justifiable cause, to receive the ordered cargo;
- (f) a supplier or OMC acts in a manner which endangers the security of supply;
- (g) an OMC fails to make arrangement to receive the ordered quantity;

- (h) any act which amounts to cartel or sabotage of BPS;
- (i) any person who conducts any malpractice or tampers with any facility or device during discharge, receipt and storing of petroleum products, which shall include-
 - (i) breaking of the seals placed at petroleum infrastructure;
 - (ii) receiving products in tanks which do not have valid calibration charts;
 - (iii) installing devices that aims at deceiving the accuracy of measurement of the product;
- (j) supplier delays in submitting the required document as per the Shipping and supply contract;
- (k) charging hospitality fee for petroleum products on financial hold above the approved rates;
- (l) any supplier who imports

- petroleum products which do not meet approved specifications;
- (m) supplier who disposes financial hold product without obtaining approval from the Agency.
 - (n) a supplier who brings products below or above the allowable tolerance as per shipping and supply contract;
 - (o) supplier's failure to refund OMCs the overpaid amount after the final invoice has been issues as per the shipping and supply contract;
 - (p) contaminating petroleum products after TBS has confirmed that the product arrived within the approved specifications;
 - (q) contamination of petroleum products in terms of regulation 21D;
 - (r) supplier's failure to pay penalties in relation to non-conformity of BPS operation; and
 - (s) submitting monthly petroleum requirements below the current market share.

Deletion of regulation 27 35. The principal Regulations are amended by deleting regulation 27.

Addition of Part VII 36. The principal Regulations are amended by adding immediately after the deleted regulation 27 a new Part VII as follows:

“PART VII
FEES AND CHARGES

Service fee 27A.-(1) An OMCs and suppliers shall, for each litre of petroleum product imported under BPS, pay to the Agency a contribution as service fees which shall be approved by the Authority after consultation with the Minister and incorporated in the Petroleum Bulk Procurement System Implementation Manual

(2) For the purpose of subregulation (1), service fees include any fee charged by the Agency for services related to the provision of petroleum bulk procurement services by the Agency.

Registration and prequalification fees 27B. Subject to these Regulations-

- (a) an OMC shall pay to the Agency registration fee as provided in the Petroleum Bulk Procurement System Implementation Manual; and
- (b) A suppliers shall pay to the Agency pre-qualification fee

as provided in the Petroleum Bulk Procurement System Implementation Manual.

Approval of fees

27C. No fees shall be imposed by the Agency unless approved by the Authority after consultation with the Minister.

Penalty for late payment of fees

27D. The fee due to the Agency which remains outstanding after the time for which it has become due shall attract a penalty of two percent of the outstanding amount compounded monthly.”.

Deletion and substitution of Part VI

37. The principal Regulations are amended by deleting the heading of Part VI and substituting for it the following:

“PART VIII
PENALTIES”

Addition of regulation 27E

38. The principal Regulations are amended by adding immediately after Part VIII as amended, the following:

“Penalty for distortion

27E. A person who distorts BPS commits an offence and shall, upon conviction, be liable to a penalty as prescribed in the Schedule to these Regulations.”.

Deletion and substitution of regulation 28

39. The principal Regulations are amended by deleting regulation 28 and substituting for it the following:

“Late delivery

28.-(1) A supplier who delays to deliver petroleum product and the delay

is due to any cause other than force majeure shall pay a penalty as prescribed in the Schedule to these Regulations to compensate buyers for compromising their minimum stocks.

(2) The penalty prescribed in subregulation (1) shall be paid to the Agency for onward payment to the OMCs or to offset the OMCs outstanding dues, and the payment shall be made within thirty calendar days from the date of receiving demand note from the Agency.

(3) For the purpose of determining payment of penalty under subregulation (1) to which late arrival of the BPS vessel relates, laytime shall commence when the vessel berths.

(4) The demurrage costs resulting from cascading effect caused by late delivery of the BPS vessel shall be borne by the supplier of the late delivery vessel.

(5) For purpose of this regulation, the cascading effect shall be limited to three subsequent vessels which have to discharge petroleum products after the late delivery vessel.

(6) For purposes of ensuring efficient and effective BPS, the Agency shall take necessary measures to minimize cascading effects.”.

Addition of
regulation

40. The principal Regulations are amended by adding immediately after regulation 28 the following:

28A

“Demurrage costs

28A.-(1) The demurrage costs and its related effects shall be borne by the person who caused the demurrage.

(2) The Agency shall evaluate demurrage claims by the supplier and isolate-

(a) acceptable demurrage charges to be paid by the industry; and

(b) unacceptable demurrage charges to be paid by causative person.

(3) A person who causes delay of vessel discharge due to either ullage constraints or any other reasons shall be liable to pay for the respective demurrage charges.

(4) For the purpose of these Regulations, demurrage charges shall be the actual cost stipulated in the charterparty agreement.”.

Deletion and substitution of regulation 29

41. The principal Regulations are amended by deleting regulation 29 and substituting for it the following:

“Default on delivery

29. Without prejudice to the penalty provided in regulation 28(1), a supplier whose vessel is delayed for more than fifteen days from the last day of the delivery date window shall be deemed to have defaulted on the delivery and shall be liable to penalties as prescribed in the Schedule to these Regulations.”.

Deletion and substitution of regulation 30

42. The principal Regulations are amended by deleting regulation 30 and substituting for it the following:

“Late payment

30.-(1) An OMC who fails to pay for its apportioned petroleum product at the due date shall-

- (a) be charged a late payment penalty of SOFR +6% per annum;
- (b) be barred from participating in the four subsequent BPS tender; or
- (c) be liable for both measures under subparagraphs (a) and (b).

(2) The penalty prescribed in subregulation (1) shall be paid to the Agency within seven days from the date of determination of such failure for onward payment to the supplier.

(3) For the purpose this regulation “due date” shall be sixty days from the first day of delivery date range.”.

Addition of regulations 30A and 30B

43. The principal Regulations are amended by adding immediately after regulation 30 the following:

“General penalty

30A. Any person who contravenes the provisions of these Regulations for which no specific penalty is prescribed shall be liable on conviction to a fine not less than five million shillings or twenty percent of the value of the total consignment whichever amount is greater or to imprisonment for a term not exceeding

two years or to both.

Penalty for continued defiance

30B.-(1) Any person who is in continuous breach shall be liable to a fine of not less than one million shillings for each day on which the contravention occurs or continues.

(2) Any OMC, Supplier or Independent Inspector who employs an agent, clerk, servant or other person, shall be answerable and liable for any acts or omissions of such persons in so far as the OMC, Supplier or Independent Inspector is concerned.”.

Deletion and substitution of Part VII

44. The principal Regulations are amended by deleting the heading of Part VI and substituting for it the following:

“PART IX
MISCELLANEOUS PROVISIONS”

Deletion and substitution of regulations 32 and 33

45. The principal Regulations are amended by deleting regulations 32 and 33 and substituting for them the following:

Receiving line

33. All entities having their storage facilities connected to KOJ shall ensure that:

- (a) their facilities have independent line per product from KOJ and SBM to their storage facilities;
- (b) their lines have a larger diameter of not less than 14 inches as prescribed by the

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Authority.

Fines to be
civil debts

33A. For the purpose of these Regulations a penalty for non-compliance shall be a fine which shall be equal to a civil debt

Amendment
of Schedule

46. The principal Regulations are amended by deleting the Schedule and substituting for it the following

"SCHEDULE

(Made under regulation 27E)

S/N	OFFENCE	PRINCIPAL PENALTY	ADDITIONAL PENALTY
1	Any person, either individually or collectively with other person cause the Agency not to function as required	General penalty as per R. 30A	
2	OMCs delay or failure to finance their cargoes.	<ol style="list-style-type: none"> 0.5 USD per MT per day Pay demurrage resulting from failure to open LC Not to be allowed to submit requirement until when the product on financial hold has been paid for and all penalties have been paid. 	If the OMC delays to pay the late LC opening penalty with in the required period, shall pay an addition of 10% per annum of the penalty ought to be paid.
3	Non-compliance with guidance or directives issued by the Agency.	<ol style="list-style-type: none"> General penalty as per R. 30A Pay all cost, loss or charges resulting 	If the offence has been committed twice in a calendar year to be reported to

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		from non-performance or delay to act as directed by the Agency	the Authority for license revocation.
4.	Supplier delays to deliver the cargo	<ol style="list-style-type: none"> 1. Pay late delivery penalty as stipulated below; <ol style="list-style-type: none"> (a) late delivery of 1 to 7 days, shall attract a penalty of USD 0.5 per MT per day; (b) late delivery of 8 to 14 days, shall attract a penalty of USD 1.0 per MT per day, (c) late delivery of 15 days and above, shall attract penalty of USD 1.5 per MT per day. 2. Pay 50,000 USD to the Agency for any delay of more than 7 days. 3. Pay demurrage resulting from cascading effect. 4. Not to be allowed to participate in tenders until the full amount has been paid. 5. For delays of more 	<ol style="list-style-type: none"> 1. If the supplier delays for more than fifteen days twice in a period of six months, the supplier will be suspended for a period of six months. 2. If the supplier delays to pay the late delivery penalty with in the required period, shall pay an addition of 10% of the penalty ought to be paid.

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		than 15 days the supplier shall be suspended to participate in BPS tenders for three months.	
5.	OMCs delays or fails to pay demurrage within the required time.	Outstanding demurrage shall be subjected to payment of 10% per annum of the demurrage amount per month.	If demurrage has not been paid for three consecutive months, the OMC shall be reported to the Authority for license revocation
6.	Supplier failure to refund OMCs the overpaid amount within fourteen days from LC or pre-payment maturity date.	Outstanding refunds shall be subjected to payment of 10% per annum of the refund amount per month.	Not to be allowed to participate in tenders until the entire amount has been refunded and all penalties have been paid
7.	Any OMC wilfully and with no justifiable reasons fails to import petroleum products for six (6) consecutive months;	The OMC will be reported to the Authority for revocation of the license	
8.	Any person who fails to receive the ordered products due to failure to create ullage	<ol style="list-style-type: none"> 1. Pay USD 5000 to the Agency per incidence; 2. Pay demurrage resulting from failure to create ullage. 3. Pay all cost associated with failure to make arrangement to receive or ordered quantity. 	
9.	A supplier or OMC acts in a manner which endangers the security of supply;		Three months suspension to participate in BPS

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			tenders
10.	Any act which amounts to cartel or sabotage	USD 200,000 payable to the Agency	Suspended to participate in tenders for 6 months
11.	Any person who conducts any malpractice or tampering with any facility during discharge, receipt and storing petroleum product which shall include; (i) breaking of the seals placed at petroleum infrastructure; (ii) receiving products in tanks which do not have valid calibration charts; (iii) Installing devices that aims at deceiving on the accurate measurement of the products.	Pay USD 50,000 to the Agency	Three months' suspension to participate in the following BPS tenders as Receiver/buyer, supplier, Storage facility/receiving terminal, independent inspector where the same offence has been repeated.
12.	Contaminating petroleum products after TBS has confirmed that the product arrived within the approved specifications.	1. USD 50,000 payable to the Agency 2. Pay all cost associated with evacuation of contaminated product and cleaning infrastructure, and bringing replacement cargo.	
13.	contamination of petroleum products in terms of regulation 21D	1. USD 50,000 payable to the Agency 2. the party	

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		responsible for the contamination to refund all costs borne by the other parties	
14.	Supplier delay in submitting the required document including final invoice as per the Shipping and supply contract.	<ol style="list-style-type: none"> 1. 0.5 USD per MT per each day of delay 2. Pay demurrage caused by the delay to send cargo documents 3. Pay all charges resulting from the delay to send cargo documents 	
15.	Terminal owners charging hospitality fee for products on financial hold above the rates approved by the Authority;	<ol style="list-style-type: none"> 1. USD 50,000 payable to the Agency 2. Refund to the receiver the extra amount paid. 	
16.	Any supplier who imports petroleum products which do not meet approved specification.	<ol style="list-style-type: none"> 1. 20% of the value of the cargo. 2. Late delivery penalty of USD 0.5 per MT per day till when the replacement cargo will arrive. 3. Suspension to participate in tender until all penalties have been paid. 	<ol style="list-style-type: none"> 1. If the offence is repeated within one year, suspension to participate in BPS tenders for two years 2. If the supplier delays to pay the late delivery penalty within the required period, shall pay an addition of 10% of the penalty ought to be paid.
17.	Concealing information which ought to have been	Compensate all parties which have been	

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	disclosed when managing BPS operation.	affected as a result of Concealing the information.	
18.	OMC who provides false information of the transit consignee at the time of placing orders for the parcel to be imported under BPS;	General penalty as per R. 30A.	Suspension to submit transit orders for three months
19.	Suppliers who submit tempered Charter Party Agreement	1. Pay USD 100,000 to the Agency 2. Not to be paid demurrage for the vessel in question	
20.	Supplier who disposes financial hold product without obtaining an approval from the Agency.	1. Pay USD 100,000 to the Agency 2. Pay the storage costs or hospitality fee for the disposed product 3. Refund any issued LC or cash payment made by the OMC who ought to have received the cargo.	
21.	Any supplier who brings products below or above the allowable tolerance as per Shipping and supply contract.	1. Pay 10% of the DAB value of the under delivered quantity. 2. Pay penalty of USD 10% of the value of the added arrival quantity. 3. Suspension to participate in tender until all penalties have been paid 4. The additional quantity shall not be offloaded.	If the offence is repeated within six months, suspension to participate in BPS tenders for three months.
23	Any person who submits false information to the	General Penalty as per R. 30A	

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	Agency for the purpose of; persuading the Agency to act on the submitted false information and obtaining any service or favour		
24	Any person abandon the ordered cargo under BPS	<ol style="list-style-type: none">1. The defaulters bank guarantee shall be cashed2. The defaulter may be suspended from BPS3. The defaulter may be deregistered	

Dodoma,
28th December, 2023

DOTO M. BITEKO
Minister for Energy