EN

Case No COMP/M.5005 -
GALP ENERGIA /
EXXONMOBIL IBERIA

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REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(2) NON-OPPOSITION
Date: 31/10/2008

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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION IN CONJUNCTION WITH 6(2)

To the notifying party:

Dear Sirs,

Subject: Case No COMP/M.5005 – Galp Energia/ ExxonMobil Iberia Notification of 12 September 2008 pursuant to Article 4 of Council Regulation No 139/2004[1]

1. On 12 September 2008, the Commission received a notification of a proposed concentration by which the undertaking Galp Energia, SGPS, S.A. ("Galp Energia", Portugal) belonging to the Galp Energia group ("GALP", Portugal) and controlled by ENI S.p.A. ("ENI", Italy), Amorim Energia B.V. ("Amorim", Portugal) and Caixa Geral de Depositos S.A. ("CGD" Portugal), acquires control of the whole of the undertakings Esso Portuguesa Lda. (Portugal), a wholly owned subsidiary of ExxonMobil Portugal ("ExxonMobil Portugal"), Esso Española S.L. ("ESSO Spain") and a part of ExxonMobil Petroleum & Chemical ("EMPC", Belgium), all of them wholly owned subsidiaries of ExxonMobil Corporation ("ExxonMobil", US), by way of purchase of shares.

I. THE PARTIES AND THE OPERATION

2. **The Galp Energia group** ("GALP", also referred to as "the notifying party") is a vertically integrated energy company active in the markets for exploration, production and marketing of oil and petroleum products (gasoline, diesel, fuel oil, LPG, jet fuel and bitumen). Furthermore, GALP is present in supply, transport, storage and distribution of natural gas as well as in the market for electricity cogeneration. In 2008, GALP acquired Agip España as well as its 100% subsidiary, Agip Portugal Combustiveis S.A., active in the wholesale and retail sales of refined oil products in Spain and Portugal.[2] GALP is jointly controlled by ENI, Amorim and CGD[3]. ENI is

[1] OJ L 24, 29.1.2004 p. 1.

[2] Case No COMP/M.5169 – Galp Energia España / Agip España (decision of 09/09/2008).

a vertically integrated energy company. Amorim is indirectly controlled by Mr. Americo Amorim, whose business portfolio does not include any further stakes in the energy sector. CGD is a financial institution, a bank owned by the Portuguese state. CGD is active in retail and corporate banking services, investment banking and asset management.

3. **ExxonMobil Corporation** is active in exploration, production and sale of crude oil and natural gas, refining and marketing of petroleum products and power generation. **ExxonMobil Portugal** is an affiliate of the Exxon Mobil Corporation and is the sole shareholder of Esso Portuguesa Lda. **Esso Portuguesa** operates in the supply of petroleum products in Portugal (including retail and non-retail motor fuels, LPG and aviation fuels). **Esso Spain** is an affiliate of the Exxon Mobil Corporation active in the market of retail fuel sales and aviation fuel. **EMPC** is an affiliate of the ExxonMobil Group. Its lubricants and specialties' businesses in Spain and Portugal include the marketing and sale of finished lubricants, bitumen, base oils and specialties products.

4. The envisaged transaction consists of the acquisition by Galp Energia of the entire share capital of ExxonMobil Portugal and Esso Spain. Furthermore, Galp Energia intends to acquire certain assets of lubricants and specialties' business of EMPC in Portugal and Spain. It represents a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

II. COMMUNITY DIMENSION

5. The transaction has a Community dimension pursuant to Article 1(2) of the Merger Regulation. The parties have a combined aggregate worldwide turnover in excess of EURO 5 billion (GALP: EURO […] million; ExxonMobil[4]: EURO […] million in 2007) and each of at least two of the undertakings concerned has a Community-wide turnover in excess of EURO 250 million (GALP: EURO […] million; ExxonMobil: EURO […] million in 2007). The parties do not achieve more than two thirds of its Community-wide turnover in one and the same Member State.

III. RELEVANT MARKETS

A. PRODUCT MARKETS

6. <u>At the upstream level</u>, motor fuel retailers obtain their supplies from different sources. Integrated companies, such as GALP, get their supplies from their own crude oil refining operations.

7. In previous decisions[5], the Commission stated that motor fuels can be sold directly from the refinery to third parties in cargo (ex-refinery sales) and they can then be re-

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3 The creation of this joint venture was authorised by the Commission in case No COMP/M.4130 – ENI/Grupo Amorim/CGD/GALP. All strategic commercial decisions in relation to GALP's business still require unanimity between ENI, Amorim and CGD.

4 Turnover in the Iberian Peninsula, including: ExxonMobil Portugal turnover, Esso Spain turnover and EMPC turnover in Spain and Portugal. EMPC turnover does not include businesses in Spain that are not in the scope of the proposed transaction.

5 Case No COMP/M.4588 – Petroplus/Coryton Refinery Business (decision of 26/04/2007).

sold to retailers and other large industrial customers (non-retail sales) usually in quantities equivalent to one tanker lorry. The Commission found that ex-refinery sales and non-retail sales constitute two separate product markets.

8. In the upstream level, GALP is active in the supply of refined oil products at the ex-refinery/cargo market with the two and only refineries situated in Portugal. Neither of Esso Portuguesa, Esso Spain or EMPC have any refineries in the Iberian Peninsula.

9. At the downstream level of refined oil products value chain, the transaction concerns the following markets in the Iberian Peninsula: (i) retail and (ii) non-retail sales of motor fuels (gasoline, diesel and, an "automotive LPG"), (iii) Liquid Petroleum Gas ("LPG"), (iv) lubricants, (v) bitumen and (vi) aviation fuels (horizontally affected markets). Additionally, a vertical relationship between the parties exists with regard to these markets due to GALP's strong presence at the level of ex-refinery sales in Portugal.

Non-retail sales of gasoline and diesel

10. In line with previous Commission decisions[6], the notifying party submits that retail and non-retail sales of motor fuels should be considered as distinct product markets. Non-retail sales of motor fuels are made to independent resellers and high volume end-consumers.

11. In past decisions, the Commission has further subdivided the segment for non-retail sales of motor fuel into sales of gasoline and diesel[7]. The notifying party considers that this segmentation is not appropriate as there is a significant supply side substitution and the method of distributing the motor fuels to resellers and high-volume end-users would be identical. However, all the respondents to the market investigation have confirmed that diesel and gasoline constitute separate product markets at the non-retail level. Suppliers of motor fuels have separate pricing and marketing strategies for non-retail sales of diesel and gasoline. Non-retail sales are usually business-to-business, characterised by term contracts. Some large customers organise tenders, other have some discretion to negotiate more favourable contractual terms, therefore the competitive dynamics of non-retail market is much different from retail markets, which validates the split between the two kinds of fuels at the non-retail level.

Retail sales of motor fuels

12. Retail sales of motor fuel (gasoline, diesel and automotive LPG) include sales made to motorists from branded and unbranded service stations. In line with the Commission’s past practice[8], the notifying party submits that the relevant product market is constituted by the retail sales of motor fuels with no need for a further

6 Case No IV/M.727 – BP/Mobil; case No IV/M.1383 – Exxon/Mobil; case No COMP/M.1859 – ENI/GALP; case No COMP/M.3375 – Statoil/SDS.

7 Case No IV/M.727 – BP/Mobil; case No COMP/M.1859 – ENI/GALP.

8 Case No M.1383 – Exxon/Mobil; case No M.3516 – Repsol YPF/Shell Portugal; case No M.3291 – Preem / Skandinaviska Raffinaderi.

segmentation between gasoline and diesel. As regards an automotive LPG, the question whether retail sales of automotive LPG should be treated separately from retail sales of gasoline and diesel can be left open as GALP's and ExxonMobil's combined market share for diesel and gasoline is similar to their combined share for retail sales of automotive LPG. Therefore, the competitive assessment will not be different if automotive LPG retail sales would be defined as a separate market[9].

13. In previous decisions, the Commission has considered a further sub-division of the market for retail sale of motor fuels into motorway and non-motorway sales[10]. The notifying party does not consider that this distinction is necessary. Their view has been broadly confirmed by the market investigation. Moreover the market shares of the parties' on-motorway are not much different from the off-motorway market position. Therefore, the Commission considers that it is not relevant to assess the effects of the proposed concentration separately at the level of on- and off-motorway sales of motor fuels.

LPG in bulk and bottles

14. LPG, a mixture of propane and butane gases, may be sold either in steel bottles or in bulk. Bottles are sold usually for domestic use whereas LPG in bulk is mostly sold to industrial customers and bottles filling stations.[11] The Commission left open whether non-retail sales of LPG conditioned in bottles belong to the same product market as LPG in bulk[12]. The notifying party submits that such segmentation is not appropriate. As a result of the market investigation, however, a sub-segmentation of non-retail sales of LPG into LPG conditioned in bottles and LPG bulk seems valid. According to respondents, each of these products require specific infrastructure and separate licensing. Switching from non-retail sales of LPG conditioned in bottles to LPG bulk and vice versa is hindered by the length of licensing procedures and by the existence of exclusive networks of concessionaires supplied with bulk LPG at the upstream level. Furthermore, there exist bulk LPG sites in Portugal which are not connected to bottling plants. Lastly, the parties' competitors responded that a demand-side substitution between LPG bottles and bulk is limited by differing customer requirements.

15. Accordingly, the Commission considers that it is necessary to assess the impact of the proposed concentration separately for LPG conditioned in bottles and LPG bulk.

Lubricants

16. Lubricants are used to reduce friction and wear between moving parts. In previous decisions, the Commission found that there are a number of different applications for

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9 It must be additionally born in mind that an automotive LPG is a very small market in Portugal as only around 1% of motorists in Portugal use it as motor fuel.

10 Case No IV/M.1383 – Exxon/Mobil, recital 437; case No COMP/M.1628 – TotalFina/Elf.

11 Case No COMP/M.3375 – Statoil / SDS.

12 Idem.

lubricants (automotive, industrial, marine and aviation)[13]. The notifying party's view is that these distinctions are not appropriate in this case. In particular, irrespective of any demand-side considerations, they submit that supply-side factors suggest that a broader perspective is appropriate. Specifically, the blending capacity used to produce lubricants from base products and additives is used to manufacture the full range of different lubricant products.

17. As the parties' activities overlap in the area of automotive and industrial lubricants only, the market investigation focused primarily on differences between these two types of lubricants. On one hand, respondents indicated that both automotive and industrial lubricants are stored and transported in the same way and using the same facilities. On the other hand, however, switching production between different types of lubricants would not be easy as suppliers have separate business lines and personnel for each type of lubricants. Also, each product type requires different know-how and distinct technology. Marketing strategies differ significantly in order to take account of the reality of each customer segment and their requirements. Finally, significant differences between automotive and industrial lubricants concern also pricing and transport costs incurred.

18. In view of the responses to the market investigation, the Commission considers that in this case it is appropriate to assess automotive lubricants separately from industrial lubricants.

Bitumen

19. Bitumen is a heavy distillate resulting from the crude oil refining process and primarily used in asphalt production[14]. It is also a logistics-intensive product since it needs to be kept and delivered at high temperature (at 130-140°C) to end-users. Similarly, storage of bitumen is limited to dedicated storage tanks where the product has to be kept above 130°C. In previous decisions, the Commission considered that bitumen should be distinguished from other refined oil products based on its characteristics and specific end use[15]. Also in the past, it analysed all types of bitumen as constituting one market, mostly due to supply-side substitutability considerations. The notifying party agrees on the Commission's definition of the product market with regard to bitumen. As the market investigation has also not contradicted such a market definition, the Commission considers that in this case bitumen constitutes a separate product market without the need of any further sub-division.

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13 See case No COMP/M. 1891 – BP Amoco/Castrol, case No COMP/M.3543 – PKN Orlen/Unipetrol.

14 It is also applied by other industries (industrial bitumen), such as the construction (for the manufacture of waterproof dams and roofing material) and the paper industry.

15 See e.g. case No COMP/M.2533 – BP/EON, recital 28; case No COMP/M. 727 – BP/Mobil recital 31; case No COMP/M.1464 – Total/Petrofina, recital 18; case No COMP/M.3516 – Repsol Ypf/Shell Portugal, recital 13; case No COMP/M.3543 – PKN Orlen/Unipetrol, recitals 21-20.

Aviation Fuels

20. Aviation fuel is a kerosene type of fuel that is used for powering jet aircraft engines. In previous Commission decisions[16], aviation fuel was considered as a distinct product market from other refined oil products.

21. The aviation fuel markets involve a two-tier distribution system. At the upper level of the supply chain, jet fuel is sold ex-refinery – sometimes directly into the customer's storage – to wholesalers and other oil companies but also to airlines which have access to the required transport and storage infrastructure. At the lower level of the supply chain, jet fuel is sold at the airport into plane, generally under a supply agreement with airlines. The into-plane supply business includes arrangements with the service companies that operate the airport fuelling infrastructure (e.g. storage facilities, hydrants, pipelines) and that actually fuel the plane with tanker trucks or by hydrants. The Commission has previously found that ex-refinery and retail/into-plane sales are distinct product markets.[17] The notifying party does not contest this view and the respondents to the market investigation agreed with the distinction between ex-refinery and into-plane operations.

B. GEOGRAPHIC MARKETS

Non-retail sales of gasoline and diesel

22. With regard to the geographic scope of non-retail sales of gasoline and diesel, the Commission found in previous decisions that the markets could be narrower than national in scope as resellers and end-users seek to economise on transportation costs[18]. In other decisions, however, the Commission took the view that the geographic market could be national[19] or even regional[20] but ultimately left this question open. The notifying party submits that the markets for non-retail sales of gasoline and diesel should be analysed from a pan-Iberian perspective due to the geography of Portugal, extending only 200 km from East to West but 700 km North to South and consequently, the closest fuel storage facilities to many points in Portugal are actually located in Spain.

23. The pan-Iberian perspective has been widely rejected by the respondents to the market investigation. For both gasoline and diesel, the respondents pointed to technical and administrative barriers between Portugal and Spain.

24. With regard to gasoline, Spanish and Portuguese products have different colouring, technical specifications (e.g. RVP, Read Vapour Pressure) and there are differing requirements relating to the content for bio-ethanol for gasoline in both countries.

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16 Case No COMP/ M.3110 – OMV / BP (Southern Germany package), recital 17.

17 See case No COMP/M.3110 – OMV/BP (Southern Germany Package), recitals 18-19.

18 Case No COMP/M.1383 – Exxon/Mobil, recitals 443, 445.

19 Case No COMP/M.3375 – Statoil/SDS; case No COMP/M.3543 – PKN Orlen/Unipetrol, case No COMP/M.3516 – Repsol/Shell Portugal.

20 Case No M.3291 – Preem/ Skandinavska Raffineradi, recitals 16 and 17

Although all these differences one by one do not make the imports impossible, the market investigation indicated that they may increase the administrative burden involved in cross-border transportation. Storage capacity indispensible for non-retail imports from Spain appears to be increasingly scarce in Portugal. Finally, the trade flow figures do not confirm the pan-Iberian perspective. Total imports of diesel constitute around 20% of the Portuguese needs; out of these 20% only around half (i.e. 10% of the total consumption) is imported from Spain. Gasoline imports from Spain are even lower as they constitute one third of all the imports. This proportion is highly unlikely to change as Spain is short in motor fuels (especially diesel) and is obliged to import a considerable proportion of its demand.[21]

25. Based on the above, the Commission considers it appropriate to examine the competitive impact of the proposed concentration on the non-retail markets for gasoline and diesel from the national perspective.

Retail sales of motor fuels

26. In previous Commission decisions, the geographic market for retail sales of motor fuels was defined as national in scope[22]. However, it has been also pointed out that there is a strong local element to the retail fuel market (vehicle owners usually resort to service stations in their vicinity). It also appears a common practice in this industry for suppliers to monitor neighbouring retail fuel stations around each of their own retail fuel stations in a given country, region or local area[23]. The notifying party submits that the market for retail sales of motor fuels should be regarded as Iberian in scope as there would be extensive overlaps in the catchment areas of individual service stations which would transcend national boundaries. In their view, due to the geography of Portugal extending only 200 km from East to West but 700 km North to South, many service stations in Portugal would be closer to counterparts in Spain than in Portugal. Therefore, the notifying party submits that the constraints from across the Spanish border should be taken into account.

27. As stated above, the motor fuels market is to a very large extent driven by national particularities which points toward retail markets being at most national. As regards retail sales, only 3% of the total market seems to be affected by "petrol tourism" and contrary to the notifying party's contention the pricing behaviour of the Spanish stations usually does not propagate significantly further than 10 km. Certain competitors also indicated that they monitor their competitors' prices at the local level.

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21 The parties were not able to provide credible import statistics for the non-retail sales only, therefore the total demand and total import data has been used for the calculations with the co-efficient 38%, which corresponds to the proportion of non-retail motor fuel sales out of total sales. Therefore, it cannot be excluded that for purely non-retail sales the imports are even lower, which would further strengthen the reasoning in favour of national scope of the market.

22 Case No IV/M.1383 – Exxon/Mobil; case No COMP/M.3516 – Repsol/Shell Portugal.

23 This is often done by defining a list, also called "cluster" or "trade area", of stations around each of their own station where prices are monitored regularly, the prices of these neighbouring competitors' stations being used in order to adjust their own prices to locally competitive levels.

28. Consequently, the effects of the proposed concentration on the retail level of motor fuels in the Iberian Peninsula will be assessed from a national perspective, taking into account also competition that takes place at the local level.

LPG in bottles and bulk LPG

29. The Commission has previously considered that LPG markets appear to be national in scope[24]. Moreover, in a previous case[25] the Commission considered that the relevant geographic market was mainland Portugal[26]. The notifying party submits that the relevant geographic market for the supply of LPG encompasses Spain and Portugal.

30. The majority of respondents considered the LPG markets to be national in scope. This view is supported by the fact that LPG quality and product mix is considerably different in Portugal than in Spain. Due to these differences, the product mix offered in Spain cannot be easily imported to Portugal. Spanish refineries which aim at supplying Portugal with LPG need to be adapted to different Portuguese standards. As a result, it is estimated that only 8% of LPG available on the Portuguese market is acquired from Spain. Moreover, unlike Portugal, the LPG market in Spain is highly regulated with predetermined prices and sizes of LPG bottles. Prices differ significantly in both countries, with Portugal having higher prices for LPG. Due to these differences in product specifications as well as rather significant transport costs and scarcity of LPG storage facilities in Portugal, the respondents would not source LPG from Spain in case of a small but significant price increase in Portugal.

31. Therefore, the Commission will assess the impact of the proposed concentration on the LPG markets from a national perspective.

Automotive and industrial lubricants

32. In previous decisions, the Commission found that the geographic market for lubricants is at least national and probably EEA-wide in scope[27]. The notifying party agrees with the Commission where it considers that the lubricants market could be as wide as the EEA, since, in their view, lubricants are produced according to international standards and are largely traded across Member States. However, since the impact of the transaction is limited to Spain and Portugal, they propose to proceed on the basis that the relevant market is at least as wide as Spain and Portugal.

33. The market investigation confirmed that there are EEA-wide standards applying to the production of automotive and industrial lubricants and no significant differences

24 See case No COMP/M.1628 – TotalFina/Elf.

25 Case No COMP/M.3664 – REPSOL BUTANO/SHELL GASS (LPG) of 2005.

26 In this case, there was no need to determine if the Portuguese Islands (Acores and Madeira) constituted separate markets as there was no overlap due to the fact that Repsol Butano was not active in either of Portuguese islands.

27 See case No COMP/M. 1891 – BP Amoco/Castrol; case No COMP/M.3543 – PKN Orlen/Unipetrol; case No COMP/M.3375 – Statoil/SDS.

in the product quality, mix and the post-tax price levels exist between Portugal and Spain.

34. On the other hand, the procurement of lubricants in Portugal takes place at the national level with tenders organised at the national level and clear customer preference for short delivery times. Also, suppliers have separate price lists and commercial organisations for Spain and Portugal. Both customers and competitors indicated that it is important to have access to storage facilities in Portugal, preferably located nearby, for both kinds of products.

35. Based on the foregoing, for the assessment of the markets for automotive and industrial lubricants in the case at hand the Commission cannot exclude that the markets could be national in scope.

Bitumen

36. In previous decisions, the Commission has not found markets for bitumen to be wider than national, but rather analysed whether the geographic scope of the bitumen market was possibly narrower than national (without ever concluding on the market definition). Analysing the Portuguese bitumen market, the Commission indicated that *"due to the significance of transport costs, the existence of regional areas within Portugal cannot be completely ruled out."*[28]

37. The national or narrower perspective of the bitumen market is supported by the fact that transportation costs increase considerably with distance larger that 200 km. Nonetheless, all the competitors who replied to the market investigation, import bitumen from Spain or even further, e.g. Antwerp-Rotterdam. In fact, around 50% of Portuguese demand for bitumen is supplied from abroad. Additionally, there appear to be no significant differences between Spain and Portugal in terms of product quality and price.

38. Thus, the Commission considers for the purpose of this case that the market for bitumen in Portugal is not narrower than national, however leaving open whether it could be considered wider in scope.

Aviation Fuels

39. The parties' activities do not overlap horizontally at the aviation fuels ex-refinery level. In the into-plane market for aviation fuels, where an overlap occurs, the key asset is the access to or the ownership of the specific distribution and loading infrastructure that enables the operator to effectively deliver fuel of strictly defined quality into the aircraft. The Commission has previously defined geographic markets on a local scope, i.e. on the basis of individual airports for into-plane market[29]. This view has not been disputed by the notifying party and widely confirmed by the market investigation.

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28 See case No COMP/M.3516 – Repsol Ypf/Shell Portugal, recital 13. Similarly, in the case No. COMP/M.2533 – BP/EON recital 43, the Commission considered whether a bitumen market was local in scope.

29 Case No COMP M.1383 – Exxon/Mobil and case No COMP/M.3110 – OMV/BP (Southern Germany Package).

C. COMPETITIVE ASSESSMENT

40. For the purposes of the present decision, the assessment will focus on the markets for retail and non-retail sales of motor fuels, LPG, lubricants, bitumen and aviation fuels in Portugal. The parties' activities with regard to the same product markets in Spain either do not overlap or the overlap does not exceed 25%.

Non-retail sales of gasoline and diesel

41. With regard to non-retail sales of motor fuels in Portugal, the parties' and their competitors' estimated sales (in volume) and market shares are set out below.

Non-retail Sales DIESEL 2005 to 2007						
Volume in m3						
Competitors	2005		2006		2007	
	Volume	Share	Volume	Share	Volume	Share
Galp	[…]	[40-50]%	[…]	[40-50]%	[…]	[30-40]%
Exxon	[…]	[0-5]%	[…]	[0-5]%	[…]	[0-5]%
BP	[…]	[10-20]%	[…]	[10-20]%	[…]	[20-30]%
Repsol	[…]	[20-30]%	[…]	[20-30]%	[…]	[20-30]%
Cepsa	[…]	[5-10]%	[…]	[5-10]%	[…]	[5-10]%
Total[30]	[…]	[0-5]%	[…]	[0-5]%	[…]	[0-5]%
Agip	[…]	[0-5]%	[…]	[0-5]%	[…]	[0-5]%
Others	[…]	[5-10]%	[…]	[5-10]%	[…]	[0-5]%
Total Market	[…]		[…]		[…]	

Source: Form CO

Non-retail Sales GASOLINE 2005 to 2007						
Volume in m3						
Competitors	2005		2006		2007	
	Volume	Share	Volume	Share	Volume	Share
Galp	[…]	[30-40]%	[…]	[30-40]%	[…]	[20-30]%
Exxon	[…]	[0-5]%	[…]	[0-5]%	[…]	[0-5]%
BP	[…]	[30-40]%	[…]	[20-30]%	[…]	[20-30]%
Repsol	[…]	[10-20]%	[…]	[10-20]%	[…]	[20-30]%
Cepsa	[…]	[5-10]%	[…]	[5-10]%	[…]	[5-10]%
Total	[…]	[0-5]%	[…]	[0-5]%	[…]	[0-5]%
Agip	[…]	[0-5]%	[…]	[0-5]%	[…]	[0-5]%
Others	[…]	[0-5]%	[…]	[5-10]%	[…]	[10-20]%
Total Market	[…]		[…]		[…]	

Source: Form CO

30 In April 2008, Total sold to CEPSA its refining and marketing affiliate in Portugal. As a result, Total is not active in Portugal anymore.

42. The parties' combined market share for diesel would be [40-50]% (GALP: [30-40]%, Agip: [0-5]%; ExxonMobil: [0-5]%), which is almost twice as high as the market share of the second largest competitor. With regard to gasoline the parties' combined market share would be [30-40]% (GALP and Agip: [20-30]%; Esso Portuguesa: [0-5]%). The notifying party submits that the proposed transaction is unlikely to give rise to competition concerns on any of these markets since the impact will be negligible due to ExxonMobil's low market share increment.

43. It must, however, be pointed out that diesel is the key motor fuel in Portugal and sales of diesel are 5 times greater than gasoline and likely to grow even further. A number of respondents expressed concerns about a further reinforcement of GALP that is already considered by them as a dominant player on the Portuguese fuel market. As noted above, with [30-40]% GALP is already a leading player on the diesel market. GALP is even stronger in the upstream ex-refinery sales as it owns the only two refineries in the country. In 2007, GALP supplied around […] km^3 of diesel to the Portuguese market on the ex-refinery basis, which corresponded to [70-80]% of the total diesel market.

44. Furthermore, GALP controls a significant share of capacity in storage and import terminals, namely [30-40]% of depots with import capacity and [60-70]% of depots without import capacity, whereas ExxonMobil controls a sea terminal and depots with import capacity, with an estimated share of [5-10]% in Portugal. The market investigation confirmed that control of infrastructure and storage facilities is a very important competitive advantage in the Portuguese non-retail market. In this context, respondents also expressed concerns about past and potential foreclosure by GALP.

45. Lastly, the Portuguese non-retail market is highly concentrated, with 4 largest players (which do not include ExxonMobil) accounting for around [90-100]% of the market. These four players have various forms of agreements giving each other access to their respective fuel depots across the Iberian Peninsula.

46. In the light of the above, the acquisition by GALP of ExxonMobil Portuguese business could have a negative impact on the market for non-retail sales of diesel. However, as the remedies submitted by GALP to remove serious doubts on the markets for LPG (see below) will also address the overlap in the market for non-retail sales of diesel, it is not necessary to conclude on this point.

Retail sales of motor fuels

47. On the market for retail sales of motor fuels in Portugal, GALP's market share post-transaction would increase from its current estimated market share of [30-40]% to [30-40]%. Competitors are reported to have the following positions: BP ([20-30]%), Repsol ([20-30]%), Cepsa/Total (around [10-20]%) and a number of smaller players and unbranded stations jointly about [0-5]%.

48. The notifying party submits that the transaction will not give rise to competition concerns as ExxonMobil cannot be characterised as a source of dynamic competitive pressure in the market. The market investigation has not pointed to any evidence that ExxonMobil's low market shares underestimate its competitive pressure or that GALP would become dominant with market shares below [40-50]%. The market investigation revealed that supermarkets and independent resellers are considered to exert a more significant price discipline over competitors in the retail motor fuels market, although they have a similar market share to ExxonMobil. A breakdown

between the Portuguese regions does not change this assessment. The parties' combined market shares would remain at around [40-50]% even in the North around Porto and Braga where most of the Esso's retail sites are located.

49. Consequently, the Commission concludes that the transaction does not raise serious doubts in the retail sales of motor fuels market in Portugal.

LPG (bulk and bottles)

50. With regard to LPG in Portugal, the parties' and their competitors' estimated sales (in volume) and market shares are set out below.

Sales LPG 2005 to 2007						
Volume in KTon - 2005						
Competitors	**2005**		**2006**		**2007**	
	Volume	**Share**	**Volume**	**Share**	**Volume**	**Share**
Galp	[...]	[40-50]%	[...]	[40-50]%	[...]	[40-50]%
Exxon	[...]	[5-10]%	[...]	[5-10]%	[...]	[5-10]%
Repsol	[...]	[10-20]%	[...]	[20-30]%	[...]	[20-30]%
BP	[...]	[20-30]%	[...]	[20-30]%	[...]	[20-30]%
Others	[...]	[10-20]%	[...]	[5-10]%	[...]	[5-10]%
Total Market	[...]		[...]		[...]	

Bottles (in Kt)

Galp	[...]	[40-50]%
Exxon	[...]	[5-10]%
Galp+Exxon	[...]	**[50-60]%**
Total market	[...]	100%

Bulk (in Kt)

Galp	[...]	[30-40]%
Exxon	[...]	[0-5]%
Galp+Exxon	[...]	**[30-40]%**
Total market	[...]	100%

51. As a result of the proposed transaction, GALP would further strengthen its position in LPG supply in Portugal (GALP had a market share of [40-50]% and Esso Portuguesa [5-10]% in 2007, together [40-50]% of the market). If LPG markets are disaggregated into bottles and bulk, the merged entity would account for more than [50-60]% of the Portuguese market for bottled LPG and the increment would be considerable (GALP: [40-50]%; Esso Portuguesa: [5-10]%) For bulk, the merged entity would account for around [40-50]% of the Portuguese market (GALP: [30-40]%; Esso Portuguesa: [0-5]% in 2007).

52. The notifying party submits that the transaction does not give rise to competition concerns as the competitive presence of both Repsol and BP in Portugal is far greater than that of Esso Portuguesa. Moreover, Esso's Trafaria facility in Lisbon,

which operates as a sea terminal for bulk LPG and a LPG bottling plant, does not constitute a significant constraint on GALP's market conduct.

53. However, there are several indications that Esso Portuguesa exerts a more significant competitive constraint on LPG supplies in Portugal then it is claimed by the notifying party.

54. First, as can be seen from the above table, the Portuguese market for LPG is highly concentrated, in which context Esso's competitive significance expressed in market shares might be underestimated. Indeed, certain respondents have considered Esso Portuguesa as a source of vigorous competition mainly due to its Trafaria import terminal. They pointed to Trafaria's favourable location in the area of highest LPG consumption in Portugal and its suitability for imports at competitive prices. Certain respondents also indicated that access to LPG in bulk is restricted and raised foreclosure concerns. The market investigation broadly confirmed that all major players in the Portuguese LPG market have a network of exclusive distributors which are bound by long-term contracts. Against the background of GALP's market share at the ex-refinery/cargo level estimated at [60-70]% and complaints about the shortage of import and storage facility for (bulk) LPG in Portugal, it appears that Esso Portugal's import terminal, storage capacity and bottling plant contributes significantly to competition in the Portuguese LPG market.

55. Based on the foregoing, the Commission has serious doubts about the proposed transaction's compatibility with the common market with regard to the Portuguese LPG markets.

Lubricants

56. With respect to lubricants, the parties' combined market share would be around [30-40]% in Portugal with competitors – Shell and BP/Castrol – holding market shares of [20-30]% and [20-30]% respectively in Portugal.

57. Furthermore, if the lubricants market is disaggregated into two different segments (i.e. automotive and industrial), GALP would have a market share of around [40-50]% in the market for automotive lubricants (with a significant increment of around [10-20]%) and a market share of [20-30]% in the market for industrial lubricants in Portugal. Certain respondents (both competitors and customers) to the market investigation considered ExxonMobil as a source of vigorous competition and complained about its removal from the market.

58. In light of the above, the acquisition by GALP of ExxonMobil Portuguese business would have a negative impact on the Portuguese lubricants markets. However, the remedies submitted by GALP to remove serious doubts address the overlap in this market and remove the above mentioned competition concerns.

Bitumen

59. From a national perspective, GALP had a market share in bitumen of [30-40]% into Portugal in 2007, whilst EMPC had [5-10]%. Therefore, the parties' combined market share after the transaction would be around [40-50]% of the Portuguese bitumen market.

60. However, as stated above the assessment must not disregard the influence of imports to Portugal, which constitute around 50% of the Portuguese demand for bitumen. This volume is mainly imported from Spain through operators that have bitumen production capacity in Spain and are active in the Portuguese market[31], but it is also imported from third countries such as Benelux or USA. It must also be underlined that Spain is long in bitumen production, mostly due to its specialized bitumen refinery in Tarragona, as well as the refineries in Huelva and Bilbao. In that sense, the market investigation confirmed that bitumen customers would have enough suppliers of bitumen after the transaction (most of the respondents replied they would have enough suppliers after the transaction). In addition, there are strong competitors currently active in the Portuguese market, such as Repsol ([20-30]%) and Cepsa ([20-30]%), which have the means and the incentives to extend further their bitumen activities in the Portuguese market.

61. It follows from above that the proposed concentration would not have a negative impact on competition in the Portuguese bitumen market, thus no competitive concerns could arise due to the transaction.

Aviation Fuels

62. The transaction raises no concerns on the aviation ex-refinery level as ExxonMobil has no refinery in the Iberian Peninsula and does not import aviation fuel into Portugal or Spain. On the other hand, GALP supplies more than [90-100]% of jet fuel consumed in Portugal and it cannot be excluded that such a high market share could enable it to engage in anti-competitive vertical practices. However, the remedy proposed by the notifying party would resolve both vertical concerns as well as removing the key overlap in the downstream into-plane market.

63. Esso is active only in the downstream business (i.e. into-plane operations) in a number of Portuguese airports. As noted above the essential asset for the viable provision of into-plane services is access to relevant infrastructure enabling the refuelling of planes. This access is often organised by the formation of joint ventures between competing suppliers in order to increase efficiency and reduce operating costs. For example at many airports, the use of a single on-apron hydrant system is mandated by the competent authority for safety and operational reasons.

64. ExxonMobil is involved in two categories of on-airport joint venture ("JV"): storage (which may or may not include a hydrant operation) and into-plane (i.e. operation of refuelling trucks). At the Portuguese airports in question the variations are: storage and hydrant (Lisbon and Faro), storage and into-plane (Porto) and into-plane only (Santa Maria). The terminal JV at Ponta Delgada is not an on-airport JV.

65. In three of the airports the accretion of market shares would be considerable: (i) Lisbon [60-70]% (GALP: [60-70]%, Esso [5-10]%); (ii) Porto [70-80]% (GALP [50-60]%, Esso [10-20]%); (iii) Faro [50-60]% (GALP: [40-50]% Esso: [10-20]%). As regards these three airports, in the last three years the market shares of the parties

31 The commercial suppliers in the Portuguese bitumen business with no production activities in the country are the following: Cepsa; Repsol; Nynas; Probigasa; Asfalma; Aeco; Bensaude; Isidoro.

have been rather stable. The into-plane markets are very concentrated – in Faro and Lisbon the parties have faced two other competitors – BP and Repsol, holding market shares similar to that of ExxonMobil. In Faro there has been an additional fifth competitor – Cepsa, holding the lowest market share – around [5-10]%.

66. In the two remaining airports the transaction would not lead to competition concerns. In Ponta Delgada the merged entity would hold around [40-50]% market share, against BP holding [50-60]%, and in Santa Maria GALP would have [30-40]% market share, against Repsol holding [60-70]%[32]. Although the merger is three-to-two, the transaction would not facilitate coordinated effects as over the last few years ExxonMobil was not a source of vigorous competition. In both airports it was considerably losing market share at the expense of two other competitors[33]. Moreover, these markets are very vulnerable to countervailing buyer power. In the first place, into-plane markets are bidding markets and in these small airports few airlines that are sophisticated buyers account for an overwhelming majority of sales. Therefore, there is a situation where a large buyer may successfully tempt one of coordinating firms to deviate in order to let it gain a substantial market share. Secondly, the airlines have certain possibility of "tankering"[34] and therefore they can threat the coordinating firms with reducing their demand in these airports if the jet fuel prices get uncompetitively high. Finally, the Commission has found no evidence of previous coordination.

67. In the case of these airports the vertical concerns do not arise. They are far outside the mainland of Portugal (actually both cities are located in Açores Islands) and GALP has no refinery close to these airports and therefore no competitive advantage at the upstream level. This is well illustrated in case of Ponta Delgada where the key upstream supplier is actually GALP's competitor (i.e. BP).

68. The notifying party contends that in the case of into-plane operations, several characteristics of the market imply that market shares provide a poor indication of the degree of competition in the market. GALP’s currently high share at Lisbon airport, for example, would be attributable mainly to the fact that it has secured a contract to supply TAP – the Portuguese national airline, which by itself represents [60]% of all GALP’s sales at Lisbon airport. The airlines would hold substantial negotiating power, forcing suppliers to offer highly competitive prices. The notifying party argues that switching is easy as there would be few restrictions on the freedom of a customer, at any given time, to change its suppliers altogether or simply to change the proportions in which it is supplied by several suppliers at an airport.

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32 It must be also born in mind that the demand in these airports is very low as compared to the mainland ones. In Santa Maria it is […]k m3 and in Ponta Delgada the total demand is […]k m3. By comparison the total demand at Lisbon airport is[…]k m3 and Madrid airport […]k m3.

33 In Ponta Delgada Exxon's market share was [40-50]% in 2005 and [20-30]% in 2007, in Santa Maria Exxon's market share was [60-70]% in 2005 and [30-40]% in 2007

34 Tankering is the practice of airline operators to take more fuel than needed on board at a certain airport, for the particular route. Airline operators could by tankering minimize the volumes needed at airports where aviation fuel is (more) expensive.

69. Although switching is contractually easy, there is no conclusive evidence that competition is dynamic in the into-plane market. Moreover, the stability of market shares over time could indicate the contrary. A number of respondents to the market investigation were concerned about the strengthening of the presently strong position or even dominance (in case of Lisbon and Porto) of GALP and consequential increases in prices.

70. Therefore given the high combined market shares of the parties, considerable increments and concerns expressed in the market investigation, the Commission concludes that ExxonMobil's removal from the into-plane market in Lisbon, Faro and Porto through the proposed transaction raises serious doubts.

V. PROPOSED REMEDIES

A. DESCRIPTION

71. In order to remove the Commission's concerns, the notifying party has submitted a number of remedies:

72. GALP commits to divest all tangible and intangible assets related to Esso Portuguesa's (i) Trafaria site land property; (ii) Trafaria LPG bottling plant (iii) LPG bulk and bottling businesses; (iv) Trafaria lubricants blending plant; (v) Trafaria LPG, gasoline and diesel terminal; (vi) Trafaria LPG, gasoline and diesel storage tanks; (vii) the supply of products and services to the Trafaria site; (viii) the commercial contracts for the supply of fuel from Trafaria.

73. In addition, GALP commits to divest (ix) JV shares ([…]% of Esso Portuguesa's shares in the Lisbon and Faro airport and […]% of Esso Portuguesa's shares in the Porto airport JV, including all rights and obligations therein; (x) into plane activities, including Esso Portuguesa's three airports assets (trucks and others) and jet fuel customers, and, as regards these previously referred airport assets: (xi) all operational permits and licenses; (xii) all personnel (operational staff and facility managers); (xiii) product and raw material stocks.

B. EVALUATION OF THE REMEDIES

74. The remedies remove the serious doubts raised by the transaction. This was largely confirmed by the market test.

1. LPG

75. The proposed remedies with respect to the affected national market in Portugal completely eliminate the overlap in LPG bottles and most of the overlap in LPG bulk created by the transaction. As noted above, the notifying party has offered to divest an import and storage facility as well as a bottling plant. However, under the proposed remedy they retain a part of the bulk LPG business, namely the piped LPG operations of ExxonMobil, including the related customer base. In the market test some competitors pointed out that this exclusion could undermine the viability of the

LPG business to be divested as the piped LPG business is characterized by far greater profitability and a stable customer base. Furthermore, these competitors contend that GALP would strengthen its already dominant position on the LPG market.

76. These concerns are however not sustainable. As regards the piped LPG business, the notifying party estimates that GALP and ExxonMobil supply around [20-30]% and [5-10]% respectively of piped LPG in Portugal. They estimate that competitors GASCAN and DIGAL each hold a share of around [20-30]% in this market and several further competitors exist with market shares under 5%. Therefore, even if piped LPG would be treated as a separate market from bulk LPG, there would be no competition concerns.

77. Furthermore, according to GALP, piped LPG amounts to 5% of total Portuguese LPG volumes sold, [10-20] % of volumes sold from the Trafaria plant and [10-20]% of total Portuguese LPG sales in value. Therefore, if piped LPG is considered as a part of bulk LPG post-transaction, the combined market shares in LPG bulk would remain below [40-50]% with a very small overlap[35].

78. The notifying party has also clarified that the divested activities in LPG, i.e. bottles and bulk, have viable positive margins (both gross and EBIT margins). Therefore, given that piped LPG accounts for at most [10-20]% of the sales of the divested business and that all the divested activities are profitable, the Commission concludes that the divested LPG business is viable without the piped LPG activity and the divestiture removes the serious doubts identified in the Portuguese LPG market.

2. Lubricants

79. GALP's remedy proposal includes assets relating to a lubricants' blending plant and a storage facility that is situated at the Trafaria Terminal, together with the LPG assets. The remedy stipulates that GALP would not enter into an asset sale agreement for the sale and purchase of assets referring to the sales of lubricants in Portugal as originally intended with ExxonMobil, where GALP would have become a distributor for ExxonMobil's lubricant products. As a result, the customers and respective contracts for the supply of lubricants would not be transferred to GALP and ExxonMobil would continue executing the contracts still in force. As a consequence, ExxonMobil's customers may be freely approached by any operator in the market and such operators, other than GALP, would have an opportunity to seek a distribution agreement with ExxonMobil. Therefore, the transaction would not result in any accretion of GALP's market share in lubricants and as a result any serious doubts would be clearly removed.

35 As noted above the parties' estimated market shares for LPG in bulk in Portugal are: GALP: [30-40]%; ExxonMobil [0-5]%.

3. Non-retail sales of diesel

80. The notifying party's remedy proposal includes assets relating to the import and storage facility for motor fuels in Trafaria.

81. The notifying party clarified that most of the sales from the Trafaria Terminal are made either on a spot basis or on an internal basis to ExxonMobil retail sites. There exist only two customer supply contracts linked to Trafaria directly and the notifying party undertook further to divest these contracts. In light of this, the Commission concludes that any serious doubts in the Portuguese market for non-retail sales of diesel will be removed.

4. Aviation fuels

82. The notifying party proposed to divest Esso Portuguesa's shareholdings in the joint ventures of Lisbon, Faro and Porto airports and all the other tangible and intangible assets belonging to ExxonMobil in these three airports. Excluded from this divestiture are 50% of Esso Portuguesa's share in Porto's joint venture[36] and all the ExxonMobil assets and interests linked to the airports of Ponta Delgada and Santa Maria. Certain respondents contended that the whole Esso Portuguesa's aviation business should be divested as in light of GALP's monopoly at the upstream level of ex-refinery sales of aviation fuel in Portugal, GALP's influence on infrastructure related to the down-stream into-plane operations would raise competitive concerns.

83. As regards the two other airports, i.e. Ponta Delgada and Santa Maria, it must be noted that for the time being GALP is not the leading or dominant player and that, post-transaction, no dominant position would be created. In the case of these airports, vertical concerns are unlikely to arise as they are far outside the mainland of Portugal and GALP has no refineries close to them. This is well illustrated in the case of Ponta Delgada where the key upstream supplier is actually GALP's competitor.

84. With respect to the joint venture shareholding in the Porto airport, the remedy includes the necessary operational licences to operate the into-plane business at Porto airport and thus ensures that the divested business is viable. Moreover, it allows for a new entrant to operate competitively and quickly gain customers. The market for into-plane operations is characterised by high flexibility of customers who can easily switch partially or totally to another supplier as the supply agreements are of a limited duration (generally 1-year tenders) and foresee no exclusivity or minimal requirement clauses. Into-plane markets are bidding markets and airlines are sophisticated buyers exerting considerable bargaining power. A divestiture of a […]% shareholding in the Porto airport JV is sufficient to resolve all

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36 It must be noted that at present GALP is not a shareholder to the Porto joint venture, where the only parents are Exxon […]%, BP […]% and Repsol […]%. This is in contrast to two other airports where GALP is already a shareholder. For this reason if GALP retains half of the shareholding, it guarantees that they will be no less than three shareholders in the Porto JV.

identified competition concerns in this market as there is no connection between volumes supplied to customers and the share in the JV. The notifying party submits that JV agreements can in fact be seen as co-ownership contracts, according to which each co-owner may deliver jet fuel into the common facilities and extract a similar volume in order to supply its own customers (the barter account rule). Thus, a minority shareholder can utilise the storage capacity to a greater extent than its actual shareholding in the JV and therefore could gain a higher market share. Furthermore, any shareholder can at all times enter into throughput agreements with third parties, who would deliver jet fuel into the common facilities, ensuring that end-consumers' supply requirements are always met. In addition to this, a shareholder cannot be prevented by the remaining shareholders from performing further investments that it considers necessary to operate in the airport.[37] This shareholder would be then the sole beneficiary of such investments. Lastly, the JV agreements remain in force and operational until all shareholders unanimously agree to terminate them. Thus, GALP's minority shareholding in the JV cannot prevent other players from successfully operating in the market or result in weakening or dismantling of the joint venture.

85. In light of the above, the Commission concludes the aviation business to be divested is viable and that the proposed divestiture removes serious doubts identified in the Portuguese airports.

VI. CONDITIONS AND OBLIGATIONS

86. The Commitments under Section B and the corresponding Schedule of the attached Commitment texts constitute conditions of this decision, as only through full compliance therewith (subject to any change pursuant to the review clause), can the structural change on the relevant markets be achieved. The remaining commitments constitute obligations, as they concern the implementing steps which are necessary to achieve the sought structural change.

VII. CONCLUSION

87. The Commission has concluded that the remedies submitted by the notifying party are sufficient to remove the serious doubts raised by the concentration. Accordingly, subject to the full compliance with the commitments submitted by the notifying party, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)b and Article 6(2) of Council Regulation (EC) No 139/2004.

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37 As the facilities are located in "public lands", they are however subject to a prior approval by the competent Portuguese authority.

88. The detailed text of the commitments is annexed to this decision. The full texts of the annexed commitments form an integral part to this decision.

For the Commission
(signed)
Neelie KROES
Member of the Commission

By fax: 00 32 2 296 4301

European Commission – Merger Task Force

DG Competition

Rue Joseph II 70 Jozef-II straat

B-1000 BRUSSELS

Non-confidential Version

Case M. 5005 – GALP ENERGIA/ESSO IBERIA

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2), of Council Regulation (EEC) No. 139/2004 as amended (the "***Merger Regulation***"), **GALP ENERGIA, SGPS, S.A.** (the "**GALP ENERGIA**") hereby provide the following Commitments (the "***Commitments***") in order to enable the European Commission (the "***Commission***") to declare the acquisition by **GALP ENERGIA** of (i) the entire share capitals of **EXXONMOBIL PORTUGAL** and **ESSO SPAIN**; (ii) the assets of certain of the lubricants and specialties' businesses of **EMPC** in Portugal and Spain compatible with the common market and the EEA Agreement by its decision pursuant to Article 6(1)(b) of the Merger Regulation of the Merger Regulation (the "***Decision***").

The Commitments shall take effect upon the date of adoption of the Decision. This text shall be interpreted in the light of the Decision to the extent that the Commitments are attached as conditions and obligations, in the general framework of Community law, in particular in the light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EEC) No 139/2004 and under Commission Regulation (EC) No 802/2004.

Section A. Definitions

For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Party and/or by the ultimate parents of the Party whereby the notion of control shall be interpreted pursuant to Article 3 Merger Regulation and in the light of the Commission Notice on the concept of concentration under Council Regulation (EEC) No 139/2004.

Closing: the transfer of the legal title of the Divestment Business to the Purchaser.

Divestment Business: the business or businesses as defined in Section B and the Schedule that the Party commits to divest.

Divestiture Trustee: one or more natural or legal person(s), independent from the Party, who is approved by the Commission and appointed by **GALP ENERGIA** and who has received from **GALP ENERGIA** the exclusive Trustee Mandate to sell the Divestment Business to a Purchaser […].

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of […] from the Effective Date.

Hold Separate Manager: the person appointed by **GALP ENERGIA** for the Divestment Business to manage the day-to-day business under the supervision of the Monitoring Trustee.

Key Personnel: all personnel necessary to maintain the viability and competitiveness of the Divestment Business, as listed in the Schedule.

Monitoring Trustee: one or more natural or legal person(s), independent from the Party, who is approved by the Commission and appointed by **GALP ENERGIA**, and who has the duty to monitor **GALP ENERGIA**'s compliance with the conditions and obligations attached to the Decision.

Personnel: all personnel currently employed by the Divestment Business, including Key Personnel, staff seconded to the Divestment Business, shared personnel and the additional personnel listed in the Schedule.

Purchaser: the entity approved by the Commission as acquirer of the Divestment Business in accordance with the criteria set out in Section D.

Trustee(s): the Monitoring Trustee and the Divestiture Trustee.

Trustee Divestiture Period: the period of […] from the end of the First Divestiture Period.

GALP ENERGIA: **GALP ENERGIA, SGPS, S.A.**, incorporated under the laws of Portugal, with its registered office at Rua Tomás da Fonseca, Torre A, 1600-209 Lisboa, Portugal and registered with the Commercial/Company Register at Lisbon under number 504 499 777.

Section B. The Divestment Business

Commitment to divest

1. In order to restore effective competition, **GALP ENERGIA** commits to divest, or procure the divestiture of the Divestment Business by the end of the Trustee Divestiture Period as a going concern to a purchaser and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 15. To carry out the divestiture, **GALP ENERGIA** commits to find a purchaser and to enter into a final binding sale and purchase agreement for the sale of the Divestment Business within the First Divestiture Period. If **GALP ENERGIA** has not entered into such an agreement at the end of the First Divestiture Period, **GALP ENERGIA** shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraph 24 in the Trustee Divestiture Period.

2. **GALP ENERGIA** shall be deemed to have complied with this commitment if, by the end of the Trustee Divestiture Period, **GALP ENERGIA** has entered into a final binding sale and purchase agreement, if the Commission approves the Purchaser and the terms in accordance with the procedure described in paragraph 15 and if the closing of the sale of the Divestment Business takes place within a period not exceeding […] after the approval of the purchaser and the terms of sale by the Commission.

3. In order to maintain the structural effect of the Commitments, the Party shall, for a period of 10 years after the Effective Date, not acquire direct or indirect influence over the whole or part of the Divestment Business, unless the Commission has previously found that the structure of the market has changed to such an extent that the absence of influence over the Divestment Business is no longer necessary to render the proposed concentration compatible with the common market. Structure and definition of the Divestment Business

4. The Divestment Business consists of any and all tangible and intangible assets related with Esso Portuguesa's (i) Trafaria site land property; (ii) Trafaria LPG bottling plant (iii) LPG bulk and bottling businesses; (iv) Trafaria lubricants blending plant; (v) Trafaria LPG, gasoline and diesel terminal; (vi) Trafaria LPG, gasoline and diesel storage tanks; (vii) the supply of products and services to the Trafaria site; (viii) the commercial contracts for the supply of fuel from Trafaria; (ix) JV shares ([…]% of Esso Portuguesa's shares in the Lisbon and Faro airport and […]% of Esso Portuguesa's shares in the Porto airport JV and in SABA), including all rights and obligations therein; (x) into plane activities, including Esso Portuguesa's three airports assets (trucks and others) and jet fuel customers, and, as regards the previously referred assets (xi) all operational permits and licenses; (xii) all personnel (operational staff and facility managers); (xiii) product and raw material stocks. The present legal and functional structure of the Divestment Business as operated to date is described in the Schedule. The Divestment Business, described in more detail in the Schedule, includes:

(a) all tangible and intangible assets (including intellectual property rights), which contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business;

(b) all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business;

(c) all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records of the Divestment Business (items referred to under (a)-(c) hereinafter collectively referred to as "***Assets***");

(d) the Personnel.

Commitment not to Implement Agreement

GALP ENERGIA will not enter into an Asset Sale Agreement for the Sale and Purchase of Assets of EXXONMOBIL PETROLEUM & CHEMICAL, BVBA, referring to Portugal, relating to the transfer of assets pertaining to the Portuguese lubricants market, including without limitation (except for the "Excluded Assets" under such agreement):

(a) The novation process of all agreements (whether written, verbal or implied by past conduct) with customers for the sale of lubricants; and
(b) All product-related goods and services purchasing contracts.

The customers and respective contracts included in this agreement would therefore not be transferred to **GALP ENERGIA** through such agreement (or by any process of novation) and EMPC would continue executing the contracts still in force. As a consequence, the customers may be freely disputed by any and all operators in the market.

Section C. Related commitments

Preservation of Viability, Marketability and Competitiveness

5. From the Effective Date until Closing, **GALP ENERGIA** shall preserve the economic viability, marketability and competitiveness of the Divestment Business, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Business. In particular **GALP ENERGIA** undertakes: (a) not to carry out any act upon its own authority that might have a

significant adverse impact on the value, management or competitiveness of the Divestment Business or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Business; (b) to make available sufficient resources for the development of the Divestment Business, on the basis and continuation of the existing business plans (c) to take all reasonable steps, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Business.

Hold-separate obligations of Party

6. **GALP ENERGIA** commits, from the Effective Date until Closing, to keep the Divestment Business separate from the businesses it is retaining and to ensure that Key Personnel of the Divestment Business – including the Hold Separate Manager – have no involvement in any business retained and vice versa. **GALP ENERGIA** shall also ensure that the Personnel does not report to any individual outside the Divestment Business.

7. Until Closing, **GALP ENERGIA** shall assist the Monitoring Trustee in ensuring that the Divestment Business is managed as a distinct and saleable entity separate from the businesses retained by the Party. **GALP ENERGIA** shall appoint a Hold Separate Manager who shall be responsible for the management of the Divestment Business, under the supervision of the Monitoring Trustee. The Hold Separate Manager shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by the Party.

8. To ensure that the Divestment Business is held and managed as a separate entity the Monitoring Trustee shall exercise **GALP ENERGIA**'s rights as shareholder in the Divestment Business (except for its rights for dividends that are due before Closing), with the aim of acting in the best interest of the business, determined on a stand-alone basis, as an independent financial investor, and with a view to fulfilling **GALP ENERGIA**'s obligations under the Commitments. Furthermore, the Monitoring Trustee shall have the power to replace members of the supervisory board or non-executive directors of the board of directors, who have been appointed on behalf of **GALP**

ENERGIA. Upon request of the Monitoring Trustee, **GALP ENERGIA** shall resign as member of the boards or shall cause such members of the boards to resign.

Ring-fencing

9. **GALP ENERGIA** shall implement all necessary measures to ensure that it does not after the Effective Date obtain any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Business. In particular, the participation of the Divestment Business in a central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Business. **GALP ENERGIA** may obtain information relating to the Divestment Business which is reasonably necessary for the divestiture of the Divestment Business or whose disclosure to **GALP ENERGIA** is required by law.

Non-solicitation clause

10. The Party undertakes, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Business for a period of 24 months after Closing.

Due Diligence

11. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, **GALP ENERGIA** shall, subject to customary confidentiality assurances and dependent on the stage of the divestiture process:

(a) provide to potential purchasers sufficient information as regards the Divestment Business;

(b) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

12. **GALP ENERGIA** shall submit written reports in English on potential purchasers of the Divestment Business and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every month following the Effective Date (or otherwise at the Commission's request).

13. The Party shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of an information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

Section D. The Purchaser

14. In order to ensure the immediate restoration of effective competition, the Purchaser, in order to be approved by the Commission, must:

(a) be independent of and unconnected to the Party;

(b) have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Party and other competitors;

(c) neither be likely to create, in the light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed, and must, in particular, reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business (the before-mentioned criteria for the purchaser hereafter the "***Purchaser Requirements***").

15. The final binding sale and purchase agreement shall be conditional on the Commission's approval. When **GALP ENERGIA** has reached an agreement with a purchaser, it shall submit a fully documented and reasoned proposal, including a copy of

the final agreement(s), to the Commission and the Monitoring Trustee. **GALP ENERGIA** must be able to demonstrate to the Commission that the purchaser meets the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with the Commitments. For the approval, the Commission shall verify that the purchaser fulfils the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with the Commitments. The Commission may approve the sale of the Divestment Business without one or more Assets or parts of the Personnel, if this does not affect the viability and competitiveness of the Divestment Business after the sale, taking account of the proposed purchaser.

Section E. Trustee

I. Appointment Procedure

16. **GALP ENERGIA** shall appoint a Monitoring Trustee to carry out the functions specified in the Commitments for a Monitoring Trustee. If **GALP ENERGIA** has not entered into a binding sales and purchase agreement one month before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by **GALP ENERGIA** at that time or thereafter, **GALP ENERGIA** shall appoint a Divestiture Trustee to carry out the functions specified in the Commitments for a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Extended Divestment Period.

17. The Trustee shall be independent of the Party, possess the necessary qualifications to carry out its mandate, for example as an investment bank or consultant or auditor, and shall neither have nor become exposed to a conflict of interest. The Trustee shall be remunerated by the Party in a way that does not impede the independent and effective fulfilment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Business, the fee shall also be linked to a divestiture within the Trustee Divestiture Period.

Proposal by the Party

18. No later than one week after the Effective Date, **GALP ENERGIA** shall submit a list of one or more persons whom **GALP ENERGIA** proposes to appoint as the Monitoring Trustee to the Commission for approval. No later than one month before the end of the First Divestiture Period, **GALP ENERGIA** shall submit a list of one or more persons whom **GALP ENERGIA** proposes to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the proposed Trustee fulfils the requirements set out in paragraph 17 and shall include:

(a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;
(b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks;
(c) an indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or rejection by the Commission

19. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one name is approved, **GALP ENERGIA** shall appoint or cause to be appointed, the individual or institution concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, **GALP ENERGIA** shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by the Party

20. If all the proposed Trustees are rejected, **GALP ENERGIA** shall submit the names of at least two more individuals or institutions within one week of being informed of the

rejection, in accordance with the requirements and the procedure set out in paragraphs 16 and 19.

Trustee nominated by the Commission

21. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom **GALP ENERGIA** shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. Functions of the Trustee

22. The Trustee shall assume its specified duties in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or **GALP ENERGIA**, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

23. The Monitoring Trustee shall:

(i) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision.

(ii) oversee the on-going management of the Divestment Business with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by **GALP ENERGIA** with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:

(a) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Business, and the keeping separate of the Divestment Business from the business retained by the Party, in accordance with paragraphs 5 and 6 of the Commitments;

(b) supervise the management of the Divestment Business as a distinct and saleable entity, in accordance with paragraph 7 of the Commitments;

(c) (i) in consultation with **GALP ENERGIA**, determine all necessary measures to ensure that **GALP ENERGIA** does not after the effective date obtain any business secrets, knowhow, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Business, in particular strive for the severing of the Divestment Business' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Business, and (ii) decide whether such information may be disclosed to **GALP ENERGIA** as the disclosure is reasonably necessary to allow **GALP ENERGIA** to carry out the divestiture or as the disclosure is required by law;

(d) monitor the splitting of assets and the allocation of Personnel between the Divestment Business and **GALP ENERGIA** or Affiliated Undertakings;

(iii) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision;

(iv) propose to **GALP ENERGIA** such measures as the Monitoring Trustee considers necessary to ensure **GALP ENERGIA**'s compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Business, the holding separate of the Divestment Business and the non-disclosure of competitively sensitive information;

(v) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process, (a) potential purchasers receive sufficient information relating to the Divestment Business and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and

(b) potential purchasers are granted reasonable access to the Personnel;

(vi) provide to the Commission, sending **GALP ENERGIA** a non-confidential copy at the same time, a written report within 15 days after the end of every month. The report shall cover the operation and management of the Divestment Business so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers. In addition to these reports, the Monitoring Trustee shall promptly report in writing to the Commission, sending **GALP ENERGIA** a non-confidential copy at the same time, if it concludes on reasonable grounds that **GALP ENERGIA** is failing to comply with these Commitments;

(vii) within one week after receipt of the documented proposal referred to in paragraph 15, submit to the Commission a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Business after the Sale and as to whether the Divestment Business is sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Business without one or more Assets or not all of the Personnel affects the viability of the Divestment Business after the sale, taking account of the proposed purchaser.

Duties and obligations of the Divestiture Trustee

24. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell […] the Divestment Business to a purchaser, provided that the Commission has approved both the purchaser and the final binding sale and purchase agreement in accordance with the procedure laid down in paragraph 15. The Divestiture Trustee shall include in the sale and purchase agreement such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the legitimate financial interests of **GALP ENERGIA**, subject to the Party's unconditional obligation to divest […] in the Trustee Divestiture Period.

25. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report

written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to the Party.

III. Duties and obligations of the Party

26. **GALP ENERGIA** shall provide and shall cause its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of **GALP ENERGIA**’s or the Divestment Business’ books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and **GALP ENERGIA** and the Divestment Business shall provide the Trustee upon request with copies of any document. **GALP ENERGIA** and the Divestment Business shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

27. **GALP ENERGIA** shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Business. This shall include all administrative support functions relating to the Divestment Business which are currently carried out at headquarters level. **GALP ENERGIA** shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. **GALP ENERGIA** shall inform the Monitoring Trustee on possible purchasers, submit a list of potential purchasers, and keep the Monitoring Trustee informed of all developments in the divestiture process.

28. **GALP ENERGIA** shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale, the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee,

GALP ENERGIA shall cause the documents required for effecting the sale and the Closing to be duly executed.

29. **GALP ENERGIA** shall indemnify the Trustee and its employees and agents (each an "***Indemnified Party***") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to **GALP ENERGIA** for any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

30. At the expense of **GALP ENERGIA**, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to **GALP ENERGIA**'s approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should **GALP ENERGIA** refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard **GALP ENERGIA**. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 29 shall apply mutatis mutandis. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served **GALP ENERGIA** during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale.

IV. Replacement, discharge and reappointment of the Trustee

31. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a conflict of interest:

(a) the Commission may, after hearing the Trustee, require **GALP ENERGIA** to replace the
Trustee; or

(b) **GALP ENERGIA**, with the prior approval of the Commission, may replace the Trustee.

32. If the Trustee is removed according to paragraph 31, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 16-21.

33. Beside the removal according to paragraph 31, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

Section F. The Review Clause

34. The Commission may, where appropriate, in response to a request from **GALP ENERGIA** showing good cause and accompanied by a report from the Monitoring Trustee:

(i) Grant an extension of the time periods foreseen in the Commitments, or

(ii) Waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments.

Where **GALP ENERGIA** seeks an extension of a time period, it shall submit a request to the Commission no later than one month before the expiry of that period, showing good cause. Only in exceptional circumstances shall **GALP ENERGIA** be entitled to request an extension within the last month of any period.

Manuel Ferreira De Oliveira	**Fernando Gomes**
CEO	Board member
duly authorised for and on behalf of	duly authorised for and on behalf of
GALP ENERGIA, SGPS, S.A.	**GALP ENERGIA, SGPS, S.A.**

SCHEDULE

1. The Divestment Business as operated to date has the following legal and functional structure:

From the legal point of view, the Divestment Businesses are a number of assets and shares solely owned by Esso Portuguesa.

Regarding the Lisbon, Porto and Faro JVs:

Lisbon – Esso Portuguesa holds […]% of the Contractual JV that owns and manages the storage and hydrant operations at this airport. The proposed commitments will comprehend the sell to a third party of the entire current Esso Portuguesa participation in this JV.

Faro – Esso Portuguesa holds […]% of the Contractual JV that owns and manages the storage and hydrant operations at this airport. The proposed commitments will comprehend the sell to a third party of the entire current Esso Portuguesa participation in this JV.

Porto – Esso Portuguesa holds […]% of the Contractual JV that owns the storage and intoplane facilities at this airport and […]% of SABA, which is a Limited Liability Operating Company that operates the storage and into-plane. The proposed commitments will comprehend the sell to a third party of [...]% of the current Esso Portuguesa participation in the JV and in SABA.

Together with the JV participation, all of Esso Portuguesa's jet supply contracts, personnel and assets related to the current Esso's commercial activities in these airports will be included in the commitment to the future sell.

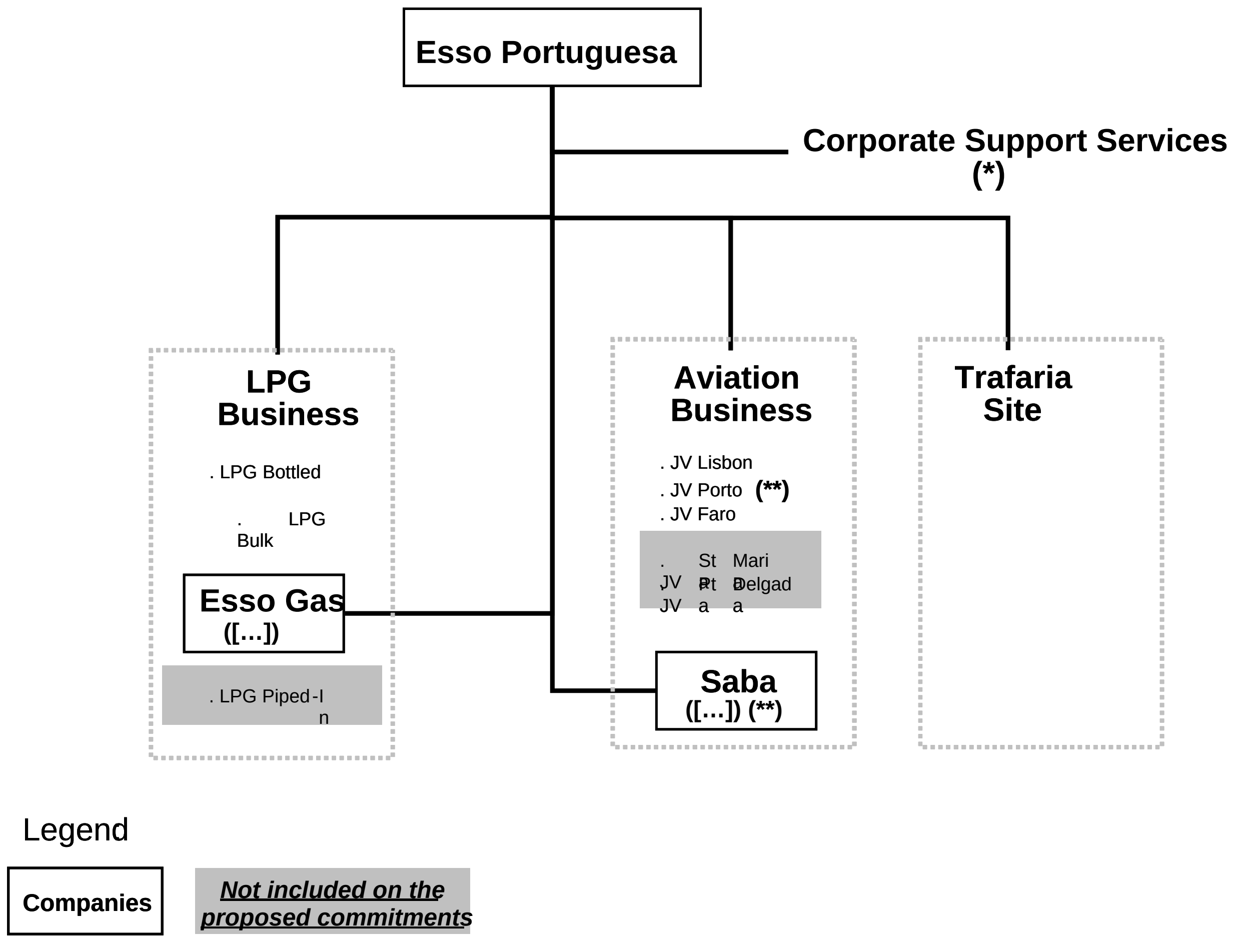
Regarding Trafaria Site and others:

Esso Portuguesa is the sole owner of the Trafaria site, its licenses and permits, and contracts of supply and sale of products. Also it is the sole employer of the site personnel. The proposed commitments will comprehend the sell to a third party of the entire site together with all its related tangible and intangible assets and employees.

Esso Portuguesa is the sole owner of all the contracts that allows the purchase of LPG from the suppliers, the sale of this product to bulk clients, the sale of bottled LPG to its reseller network, the sale of the product to Esso Gás and all the remaining activities of its LPG business.

The proposed commitments will comprehend the sell to a third party of the entire Trafaria LPG facilities and the LPG Bulk and Bottled assets, together with all the related commercial and back-office personnel.

GALP will also sell Esso Gás, Lda, but will keep the piped-in LPG activities. These activities amount to around 5% of the total Esso Portuguesa’s LPG activities and will not therefore be a relevant factor in the viability of the LPG divested businesses.



(*) Galp proposal will incorporate as part of the future sell to a third party all necessary Esso Portuguesa corporate staff that is currently developing crucial activities to the normal operation of the business/asset object of to the commitments.

(**) As previously described, Galp proposal is to keep […] of current Esso Portuguesa participation in the Porto logistic JV and in SABA, and to sell to a third party the remaining participation.

2. Following paragraph [4] of these Commitments, the Divestment Business includes, but is not limited to:

(a) the following main tangible assets:

(a.1) Concerns about the Aviation markets

(a.1.1) Lisbon airport

The divestment will involve, in benefit of the purchaser:

(i) the sale of the Esso Portuguesa Lisbon entire ([…]%) JV co-ownership share (which relates to the joint storage and hydrant airport facilities and equipments);

(ii) the transfer of any assets related to current Esso's commercial and operational;

(iii) the transfer of the Esso Portuguesa jet fuel end-customers contracts;

(iv) the transfer of personnel (management and operational) related with the aviation business;

(vi) the transfer of product stocks in volumes to be agreed upon with the purchaser;

(vii) the transfer of all operational permits and licenses.

(a.1.2) Faro airport

The divestment will involve, in benefit of the purchaser:

(i) the sale of the Esso Portuguesa Faro entire ([…]%) JV co-ownership share (which relates to the joint storage and hydrant airport facilities and equipments);

(ii) the transfer of any assets related to current Esso's commercial and operational activities;

(iii) the transfer of the Esso Portuguesa jet fuel end-customers contracts;

(iv) the transfer of personnel (management and operational) related with the aviation business;

(vi) the transfer of product stocks in volumes to be agreed upon with the purchaser;

(vii) the transfer of all operational permits and licenses.

(a.1.3) Porto airport

The divestment will involve, in benefit of the purchaser:

(i) the sale of […]% of Esso Portuguesa's Porto JV share (which relates to the joint storage and hydrant airport facilities and equipments);

(ii) the sale of […]% of Esso Portuguesa's share in SABA (i.e. […]% of the entire shareholdings) (a Limited Liability Operating Company that operates the storage and into-plane);

(iii) the transfer of any assets related to current Esso's commercial and operational activities;

(iv) the transfer of the Esso Portuguesa jet fuel end-customers contracts;

(v) the transfer of product stocks in volumes to be agreed upon with the purchaser;

(vi) the transfer of personnel (management and operational) related with the aviation business;

(vii) the transfer of all operational permits and licenses.

(a.2) Concerns about other markets:

The divestment will involve, in benefit of the purchaser, the Trafaria site and all current Esso Portuguesa's LPG business, apart from the assets referred to on item 3 below, including:

(i) the transfer of ownership over the Trafaria site, including all its activities and assets;

(ii) the transfer of ownership over the Trafaria storage facilities;

(iii) the transfer of ownership over the LPG bottles;

(iv) the transfer of bottled and bulk LPG commercial contracts, including without limitations supply of LPG to the Trafaria bottle filling plant, to end-customers and resellers;

(v) the transfer of fuel supply contracts from the Trafaria site;

(vi) the transfer of all services contracts related with the Trafaria filling plant; and

(vii) the transfer of personnel (management and operational) related with the Esso Portugal bottled LPG's activities;

(viii) the transfer of product stocks to be agreed upon with the purchaser;

(ix) the transfer of all operational permits and licenses regarding the Trafaria site and the LPG business activities.

(b) the following main intangible assets:

The disinvestment businesses include no brand names or other Intellectual Property Rights.

(c) the following main licences, permits and authorisations:

All the licences, permits and authorisations held by Esso Portuguesa necessary to operate the divested businesses.

(d) the following main contracts, agreements, leases, commitments and understandings;

GALP has only knowledge of the following contracts, regarding cylinder LPG supply:
[…]

GALP has only knowledge of the following contracts, regarding fuel supply from the Trafaria site:
[…]

(e) the following customer, credit and other records:
Please refer to 2(d) above.

(f) the following Personnel:

Trafaria Site and others:

All the current site management and operational personnel will be included in the proposed sale.

GALP ENERGIA's proposal includes in the sale all of Esso Portuguesa's LPG business personnel apart from the ones directly related to the management of the piped-in business (estimated as to be not more than 3 persons).

Lisbon, Porto and Faro Aviation business

All of Esso Portuguesa's operational personnel currently developing activities in the Lisbon, Porto and Faro airports will be included in the proposed sale.

GALP ENERGIA will also incorporate in the sale some of the current Esso Portuguesa's corporate personnel involved in the aviation business management.

(g) the following Key Personnel:

The transfer will include the personnel currently in charge of managing the operation of the Divested Business.

(h) at the purchaser option, **GALP ENERGIA** will enter into arrangements for the supply of LPG and aviation fuels for a transitional period of up to […] years after Closing pursuant to terms and conditions of supply in accordance with the then prevailing market conditions.

3. The Divestment Business shall not include:

(i) the supply contracts and related assets of Esso Portuguesa and its affiliates regarding piped LPG activities;

(ii) the commercial contracts related with the supply of lubricant's raw materials to the Trafaria blending plant;

(iii) the transfer of product and raw material stocks related to lubricants;

(iv) the commercial agreements regarding the supply of ExxonMobil lubricants;

(v) the sale of […]% of Esso Portuguesa's Porto JV share (i.e. […]% of the total JV);

(vi) the sale of […]% of Esso Portuguesa's share in SABA (i.e. […]% of the entire shareholdings) (a Limited Liability Operating Company that operates the storage and into-plane);

(vii) any assets or activities related with the Ponta Delgada and Santa Maria airports;

(viii) the sale of assets or shares related to Esso Portuguesa gasoline, diesel and LPG auto retail business;

(ix) the sale of assets or shares related to Esso Portuguesa gasoline, diesel non-retail business, apart from the logistic assets included in the Trafaria site sell (as previously mentioned);

(xi) the sale of any Esso Portuguesa's bitumen business related asset;

(xii) the transfer of any Esso Portuguesa's personnel apart from the ones related to businesses and assets targeted with the proposed commitments, and as mentioned previously;

(xiii) Any Esso or EMPC Spanish business related assets or shares.