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# Energy: Oil & Gas

**Mozambique**

Henriques, Rocha e Associados

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# MOZAMBIQUE



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# Law and Practice

*Contributed by Henriques, Rocha e Associados*

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## 1. General Structure of Petroleum Ownership and Regulation

### 1.1 System of Petroleum Ownership

The basic principle under the Constitution of Mozambique in relation to natural resources is set in Article 98, whereby "*the natural resources located in the soil and subsoil, inland waters, territorial sea, continental shelf and the exclusive economic zone are property of the State.*" The same article then provides that "*the law [ordinary law] defines the legal regime of public domain assets as well as their management and conservation,*" with the law referred to in this provision being, in the first instance, the set of acts that apply directly to the oil and gas sector.

Therefore, under the Constitution, all petroleum belongs to the State. Notwithstanding, one of the main points of the Oil & Gas legislation is to determine the circumstances and conditions in which private entities may have access to petroleum. The basic rule is that any operations relating to petroleum may only be carried out by private entities if they are duly authorised by the State by means of an administrative authorisation or licence. In all cases, the Government reserves the right to be part of the project for the conduct of petroleum operations, through state-owned company Empresa Nacional de Hidrocarbonetos, EP ("ENH").

### 1.2 Regulatory Bodies

- **The Council of Ministers** is the highest governmental body with competence to approve primary sector legislation and to grant concessions and approve concession contracts.
- **The Ministry of Mineral Resources and Energy** (MIREME in the Portuguese acronym – www.mireme.gov.mz) is the governmental body that, in accordance with the principles, objectives and tasks set by the Government, directs and monitors the implementation of Government policy in geological investigation, the exploitation of mineral and energy resources, including coal and hydrocarbons, and the development and expansion of electricity supply infrastructure, natural gas and petroleum products. It performs day-to-day governance and develops and implements oil and gas sector policies, and has custody over petroleum operations and the INP.
- **The National Institute of Petroleum** (INP – www.inp.gov.mz) was created through Decree 25/2004, of 20 August, to manage and oversee Mozambique's petroleum resources. It is the regulatory entity responsible for the administration, promotion and supervision of petroleum activities, under the tutelage of MIREME, and is also responsible for the guidelines for participation of the public and private sectors in the prospecting and exploration of petroleum products and their derivatives.

It is responsible for the regulation and control of operations, tender procedures, and the preservation of public interest and the environment by setting applicable requirements, managing information and ensuring compliance.

INP is a public legal entity, with autonomous legal, administrative, and financial and assets personality.

- **The High Authority for the Extraction Industry** (AAIE) is a new entity to be created, as indicated in the Petroleum Law (approved by Law 21/2014, of 18 August), which states that its function will be to control petroleum activities. However, this new entity is yet to be created, and its composition, status, powers, skills and organisational structure are yet to be defined by the Council of Ministers.

### 1.3 National Oil or Gas Company

**Empresa Nacional de Hidorcarbonetos** (ENH) is the national entity responsible for the prospecting, exploration, production and commercialisation of petroleum products, and represents the Mozambican State in the petroleum operations. It is a State-owned company that participates in the hydrocarbons sector.

It is ENH's responsibility to participate in all petroleum operations and respective stages, and to manage the oil and gas quotas destined for the development of the national market and the country's industrialisation.

Any investor interested in the exploration of petroleum resources in Mozambique shall enter into a partnership with ENH, the exclusive State representative. The Petroleum Law establishes that the Government ensures the financing of ENH, to promote the improvement and stabilisation of its participation in the oil and gas business. This provision does not constitute a full faith guarantee creating an obligation for the Government to pay if ENH fails to comply with its financial obligations.

### 1.4 Principal Petroleum Law(s) and Regulations

- **The Petroleum Law** (Law no. 12/2014, dated 18 August 2014) establishes the general framework that is applicable to all oil and gas operations in the Republic of Mozambique. It determines the rules for the granting of rights to petroleum operations, and applies to petroleum operations and any infrastructure belonging to or held by the holder of rights or third parties and used in connection with oil operations, subject to Mozambican law, and including mobile infrastructure under a foreign flag located in Mozambique with the purpose of conducting or assisting in petroleum operations in a concession contract area.
- **The Petroleum Operations Regulation** (Decree no. 34/2015, of 31 December 2015) is a development of the Petroleum Law principles and general rules, setting out the rules for the awarding of the right to conduct operations under the Petroleum Law in order to ensure that petroleum operations are performed in a systematic manner and on such terms that allow for its comprehensive and co-ordinated supervision.
- **The Rovuma Basin Decree Law** (Special Regime for Natural Gas Liquefaction Projects in Areas 1 and 4 of the Rovuma Basin approved by Decree-Law no. 2/2014, of 2 December 2014) establishes a special legal and contractual framework that applies to concessionaires under existing exploration and production concession contracts ("EPCCs") and to any special purpose vehicles established by such concessionaires and any persons entering into contracts with concessionaires or special purpose vehicles (contractors, financiers and employees) in connection with activities relating to the development and operation of Offshore Areas 1 or 4 which are undertaken under existing EPCCs or any other contracts with the Government of Mozambique.
- **The Petroleum Production Tax Law** (Law no. 27/2014, of 23 September 2014) establishes the specific tax regime for petroleum operations, which applies to corporate entities incorporated and registered under Mozambican law, as well as to national or foreign individuals carrying out petroleum operations under a concession contract.
- **The Petroleum Production Tax Regulation** (Decree no. 32/2015, of 31 December 2015) sets forth the rules that apply to the calculation and payment of Petroleum Production Tax, special rules that apply to the calculation of income tax for the entities involved in petroleum operations, and tax benefits in connection with petroleum operations.
- **The Rules on Import, Export, Distribution, Storage and Transport of Oil Products** (Decree no. 45/2012, of 28 December 2012) establishes the legal framework that applies to downstream operations.
- **The Regulation of Employment of the Foreign Citizens in the Petroleum and Mining-sector** (Decree no. 63/2011, of 7 December 2011) establishes the legal regime that applies to national and foreign employers in the petroleum and mining industries, and to the foreign citizens who intend to work in these industries.
- **The Environmental Regulation for Petroleum Operations** (Decree no. 56/2010, of 22 November 2010) sets out the requirements to be satisfied in order to perform oil operations. The regulation specifies Environment Impact Assessment procedures and protection and control measures in order to prevent environmental disasters.
- **The Strategy for Concession of Areas for Petroleum Operations** (Resolution no. 27/2009, of 8 June 2009) establishes the legal regime to guide the concession on the appraisal and production of oil rights offshore and onshore, contributing to the development of the extractive industry in Mozambique.
- **The Regulation on the Licensing of Petroleum Facilities and Activities** (Ministerial Diploma no. 272/2009, of 30 December 2009) applies to all concessionaires, as well as

any sub-contracted company or natural person involved in petroleum operations.

- **The Mega-Projects Law** (Law no. 15/2011, of 10 August 2011) governs public-private partnerships (PPPs), Large-Scale Projects and Business Concessions, establishing a legal framework that is conducive to greater involvement among private partners and investors in pursuing such investments on the one hand, and to greater efficiency, effectiveness and quality in the operation of resources and other national property assets on the other, as well as the efficient provision of goods and services to society.
- **The Mega-Projects Law Regulation** (Decree no. 16/2012, of 4 July 2012) determines the applicable procedures for the contracting, implementing and monitoring of PPPs, Large-Scale Projects and Business Concessions ventures.
- **The Small-Scale Projects Regulation** (Decree no. 69/2013, of 20 December 2013) sets out the applicable procedures for the contracting, implementing and monitoring of PPPs and Business Concessions ventures that do not exceed an investment of MZN5 million.

## 2. Private Investment in Petroleum - Upstream

### 2.1 Forms of Allowed Private Investment in Upstream Interests

Private investors may obtain upstream interests through the granting of concession contracts, which are generally attributed by public tender processes. Such exploration, development and production rights may also be attributed to private investors by means of simultaneous or direct negotiations in relation to available areas whenever no concession was granted pursuant to a previous public tender, or due to rescission, relinquishment and abandonment, or the need to join adjacent areas to a concession, where justified, due to technical and economic reasons.

Concession contracts are administrative contracts, subject to supervision by the Administrative Court, which includes the need for its previous authorisation and the publication of its main clauses in the official gazette.

Concession contracts may confer the following rights:

- reconnaissance;
- exploration and production ("EPCC");
- pipeline construction and operation; and
- infrastructure construction and operation.

Note that the EPCC is the key contract applicable to upstream activities, as it grants an exclusive right to carry out petroleum exploration and production.

MIREME has approved a model of the EPCC, which is published on the INP website (referred to above), and contains guidelines that shall serve as a starting point for the negotiations to be entered into between MIREME, ENH and the operators.

### 2.2 Issuing Upstream Licences

The process for the concession of upstream licences begins with the INP determining which areas within the Mozambican territory are available. The INP then promotes a public tender for interested parties to submit their bids, making available to all interested parties the prerequisites, the guidelines for applications and the bidding criteria. This information can be found on INP's site: http://www.inp-mz.com/documents.

The bids are evaluated according to the defined published criteria, which include aspects relating to Health, Safety and Environment (HSE), financial strength, technical competence/capability and the economic terms offered to the Mozambican State.

Companies carrying out petroleum operations (either upstream or downstream) need to secure certain necessary licensing, namely the following, among others that may be required depending on the specific case:

- a licence to set up petroleum facilities;
- authorisation to build petroleum facilities;
- a licence to explore petroleum facilities;
- a licence to explore oil pipeline;
- a licence to explore unloading terminal;
- a Production Licence;
- a Storage Licence;
- a Distribution Licence;
- a Retail Licence; and
- a Demobilisation Licence.

### 2.3 Typical Fiscal Terms Under Upstream Licences

The typical fiscal terms for upstream activities encompass a combination of corporate income tax and royalty-based taxation, in addition to bonus payments, training programmes, relinquishment funds and other financial obligations set out in the concession contract. Accordingly, concessionaires are generally subject to Petroleum Production Tax (IPP) and the specific rules of Corporate Income Tax (IRPC) and the mechanisms of production sharing, with the latter drawing on the traditional concepts of cost petroleum, available petroleum, profit petroleum and produced petroleum.

A percentage of the income generated by petroleum operations must be allocated to the community in the area where the petroleum operations are undertaken. The percentage payable is established by the State budget law, which takes

into account the estimated petroleum production income for the relevant period.

Liability for the IPP arises when the oil or gas is extracted, and the applicable tax rates are 10% for crude oil and 6% for natural gas. These rates are reduced by 50% when the production of oil and gas is destined for use by local industry, whereby the IPP rate will be 5% for crude oil and 3% for natural gas.

In addition, the tax regime provides tax stability for ten years, subject to an additional payment of 2% of the IPP effective from the 11th year of production.

### 2.4 Income or Profits Tax Regime Applicable to Upstream Operations

Entities that are entitled to perform petroleum operations are subject to the following general taxes: IRPC; value-added tax (VAT); municipal tax (when applicable); and custom duties (when applicable). In addition, such entities are also subject to the specific petroleum tax regime, which levies a IPP on oil and gas produced in each concession area.

The IPP is equivalent to a royalty and is due on the value of the oil and gas produced in Mozambique at the development and production site, with the taxable base being the value of petroleum produced determined on the basis of the weighted average prices of sale by the producer and respective contractors in the month to which the tax corresponds. The value of the sale of petroleum obtained by the taxpayer is determined on the basis of the free on-board price, or in accordance with equivalent conditions at the delivery point.

The value of petroleum declared on exports relates to every sale agreement and, in the case of sales to subsidiaries/affiliates, it is determined by agreement between the Ministries that oversee the petroleum and finance sectors. In the case of sales to subsidiaries/ affiliates, the estimated value for natural gas produced from the gas fields in the contract area relates to every sale agreement, and is determined by agreement between the Ministries that oversee the petroleum and finance sectors.

The IPP becomes payable at the time the petroleum produced enters the measuring station, as defined in the concession contract. IPP is generally paid in cash, and may be paid partially or fully paid in kind, at the option of the government.

Specific rules relating to the IRPC cover ring-fencing, cost definition, depreciation rates, capital gains taxation and the mechanisms for production-sharing with the government.

The standard IRPC rate is 32%, applicable to companies and similar corporate entities (petroleum operators included) for income generated in Mozambique and abroad (worldwide income). All capital gains are taxed at 32%, including if they arise from the direct or indirect transfer of petroleum rights between non-resident entities with or without permanent establishment in Mozambique. This capital gains tax is due by the seller or transferred, but the purchaser and the Mozambican entity holding the petroleum rights have several and joint liability for the payment of the tax. This provision mainly entails that gains resulting from the direct or indirect transfer between non-resident entities of shares or other participating interests or rights involving assets located in the Mozambican territory, whether for a consideration or not, are considered to be income obtained in Mozambique, irrespective of the place where the transfer occurs.

Exploration costs are considered to be a cost in the financial year in which they are incurred, subject to special provisions in concession contracts. Provisions created by companies involved in the petroleum-extracting industry related to the reconstruction of wells can be deducted for tax purposes, in addition to those provisions designed for the recovery of the landscape and environment of the exploration site after the conclusion of the work being undertaken.

Exemption from custom duties for a period of five fiscal years (from the date of approval of the development plan) is provided for in the law, particularly on the importing of capital goods to be used in petroleum operations.

Costs incurred by the concessionaire on petroleum operations, excluding interest and other financial costs, are recovered from 60% of the annual available petroleum; the portion exceeding this limit is transferred to the following years.

Profit oil is shared between the government and the concessionaire according to a variable scale, the result of which is obtained through a mathematical formula.

A withholding flat tax rate of 10% applies on the payment of services related to concession agreements undertaken by non-resident entities.

Ring-fencing rules set forth that the IRPC of entities undertaking petroleum operations under a concession agreement should generally be calculated individually for every concession area (costs and income should also be determined separately in relation to each area), and that each concession agreement area must have its own taxpayer number (NUIT).

### 2.5 Special Rights for National Oil or Gas Companies

As mentioned above, the Government reserves the right to participate in petroleum operations through ENH, and any investor interested in exploring Mozambican oil resources

must proceed in association with ENH. However, no indication is given as to what amount ENH's stake should be.

Under the recent Licensing Rounds, ENH's stake was established at 10% in the project in Area 4 of the Rovuma Basin, and at 15% in the project in Area 1 of the Rovuma Basin.

### 2.6 Local Content Requirements Applicable to Upstream Operations

Private investors are obliged to comply with certain local content requirements applicable to upstream operations.

Under the general Oil & Gas legal framework, holders of Oil & Gas titles and exploitation rights (either upstream or downstream) must give preference to local products and services whenever these are comparable to foreign products and services in terms of quality standards, and whenever the local products and services do not exceed the price of imported goods by more than 10% (including taxes).

Also, foreign companies wishing to provide services and goods to Oil & Gas title holders must have an association with Mozambican natural or legal entities in order to be able to do so. Therefore, Mozambican companies must always be included in the projects as providers of services or products, whether directly or by association with foreign providers.

As for the employment of foreign workers, the basic principle is that preference must be given to hiring Mozambican workers, with the operators having to put extensive and very well-detailed training programmes in place in order to develop the local workforce.

With respect to insurance, except in relation to reinsurance or captive insurance relating to petroleum operations, construction or facilities, the concessionaires shall give preference to Mozambican insurance companies if the insurance available locally is comparable to international standards and the prices do not exceed the price of comparable insurance coverage from international markets by more than 10%, inclusive of taxes and related fees.

In addition to promoting the Mozambican business community in the oil and gas sector, the Government should ensure that no less than 25% of the oil and gas produced in the national territory is destined for the national market, and should regulate the acquisition, price and other matters that are integral to the use of the aforementioned oil and gas quota.

Regarding the Rovuma basin spefically, the acquisition of goods and services shall be carried out in conformity with the State's objective of giving preference to national companies, with such companies being held by Mozambican citizens or legal entities and/or owned by Mozambican citizens or Mozambican legal entities in partnership with foreign companies, in order to facilitate the gradual transfer of operational capacity and empower the local economic private sector.

The concessionaires and specific purpose entities (SPEs) shall, individually, draw up a local content plan for each Rovuma Basin Enterprise, which shall be approved by the Government.

Each local content plan shall establish the participation of singular or legal Mozambican entities and of Mozambican citizens in the supply of goods and services intended for a particular Rovuma Basin Enterprise, which shall be updated every three years so that it can be readjusted to the growth of the Mozambican petroleum and gas industry.

The Local Content Plan shall be drawn up in conformity with the following principles:

- preference in the supply of goods and services shall be given to singular or legal Mozambican entities;
- preference shall be given to goods, materials, services and equipment available in the Republic of Mozambique, provided that such goods, materials, services and equipment are competitive in terms of quality and availability, and that they comply with international standards for the industry and their price does not exceed the price of such items if imported, including import duties, by more than 10%.
- in relation to goods and services requiring specialised know-how, preference shall be given to singular or legal Mozambican entities or to foreign companies associated with singular or legal Mozambican entities by any means permitted by law, including subcontracting or partnerships of an associative or non-associative nature, independent of the level of participation of each of their Mozambican or foreign associates; and
- as regards main contracts and/or contracts for the supply of goods or the rendering of services related to technology, patents or the provision of special requisites – including, namely, those related to the construction, operation and maintenance of the Rovuma Basin Project infrastructure – the contracting entity may freely acquire such goods or services either from foreign companies or from singular or legal Mozambican entities.

The concessionaries and SPEs may adopt different rules in connection with the acquisition of goods and services in respect of projects totally or partially financed by an agency providing credit for exports, insofar as the adoption of different rules is expressly provided for as a condition in such financing contracts.

### 2.7 Requirements of Licence Holder to Proceed to Development and Production

All operators are obliged to report all discoveries to the INP within 24 hours of detection, and the INP must also be kept informed of any test results and evaluation of the commercial discovery, based on an appraisal programme by the operator to evaluate the discovery. Within six months of completing the appraisal programme, the operator shall submit an appraisal report containing the results of the activities performed and their evaluation.

Within one year of the submission of the appraisal report, the operator shall confirm with the MIREME whether the petroleum deposits covered by the discovery may be commercially developed. This notification shall include a "Declaration of Commerciality" comprising a complete description of the relevant support data, surveys and evaluations, which shall constitute the basis for the Government's decision as to whether it will exercise the option to participate in the development and production of the petroleum deposits.

Following the Declaration of Commerciality, the operator must submit a development plan to the INP within a maximum period of one year. The development plan, and its subsequent implementation, shall be based on the rational use of the petroleum reserves and existing facilities. The production of petroleum from multiple zones with reserves through a sole line of production will only be authorised if such method of production is necessary to render the production commercially profitable. If the development includes an oil or gas pipeline system, the requirements of a pipeline development plan will also be applicable.

Approval of a development plan for a petroleum deposit that covers more than one EPCC area will be contingent upon the respective operators signing a unitisation contract.

The appeal of any denials of approval by the Government may be conducted before the Administrative Courts.

### 2.8 Other Key Terms of Each Type of Upstream Licence

The reconnaissance concession contract grants the non-exclusive right to carry out preliminary exploration work and assessment operations in the concession area, through airborne, terrestrial and other surveys, including geophysical, geo-chemical, palaeontological, geological and topographical studies. This contract is executed for a maximum period of two years, is non-renewable, and permits the drilling of wells to a depth of 100 metres below the surface or at the bottom of the sea.

The EPCC contract grants an exclusive right – not exceeding eight years – to carry out petroleum exploration and production, as well as a non-exclusive right to construct and operate oil or gas pipeline systems for the transportation of crude oil or natural gas, or to construct and operate infrastructure for the liquefaction of gas produced from the concession contract area, except where access to an existing oil pipeline or gas pipeline system or other existing infrastructure is available on reasonable commercial terms.

In the event of a discovery of crude oil or non-associated natural gas, an extension may be granted of up to two or eight years respectively, depending on the efforts needed to conduct an appraisal programme or a commercial evaluation of the discovery.

The oil/gas pipeline system concession granted following a public tender confers the right to construct and operate pipeline systems for the purpose of transporting crude oil or natural gas in those cases where such operations are not covered by an EPCC. A pipeline system concession contract is to be accompanied by the relevant development plan, which is an integral part of the concession contract.

The construction and operation of petroleum infrastructure grant the right to construct and operate infrastructure for petroleum operations, such as processing and conversion, which are not covered by an approved exploration and production development plan. The concession and operation of infrastructure is enabled through a concession contract following a public tender.

All concession contracts may be terminated under the following circumstances:

- total relinquishment of the contract area;
- rescission; or
- abandonment.

### 2.9 Requirements for Transfers of Interest in Upstream Licences

The transfer of interest in upstream licences attributed under a concession contract is subject to governmental approval, and must observe Mozambican law. Such governmental approval is also necessary for the direct or indirect transfer of any participation interests in the concession agreement, including through the assignment of shares or any other form of ownership stake of the entity holding the concession rights.

## 3. Private Investment in Petroleum - Downstream

### 3.1 Forms of Allowed Private Investment

The activities and facilities related to the receipt and transport by pipeline of crude oil or other raw materials used in the production of petroleum products, as well as the stor-

age and transport of crude oil, including local production, except with regard to the attribution of rights for petroleum operations under the terms of the applicable legislations in the geographical areas covered by such rights, are set out under the Rules on Import, Export, Distribution, Storage and Transport of Oil Products.

The distribution and trade of piped natural gas and the international transit service are governed by specific legislation.

Liquefied petroleum gases (GPL), car fuels, aviation and illumination fuels and fuel oils are imported by a single private entity, Importadora Moçambicana de Petróleos, Limitada (IMOPETRO), which is the designated Liquid Fuels Purchases Operator. The acquisition of fuel products using governmental credits or donations is also carried out through IMOPETRO, with certain exceptions. The potential suppliers are chosen through international public tender.

The national retail oil company Petróleos de Moçambique, S.A. (PETROMOC) holds 51% of the share capital of IMOPETRO, and authorised operators hold shares in proportion to their stake in the domestic market.

IMOPETRO is supervised by the Commission for the Purchase of Liquid Fuels (CACL), an entity established with the purpose of ensuring transparency and competitiveness in the processes of purchasing liquid fuels and any petroleum products, using government donations or credits.

IMOPETRO functions include:

- drawing up the purchase plans and proposals for revision;
- mobilising the funds necessary to comply with the acquisition programmes;
- preparing tender documents, launching tender processes, evaluating proposals, proposing the selection of suppliers, and negotiating and assigning the contracts for the financial intermediation of the acquisitions;
- negotiating the terms of use of foreign currency funds for the payment of importations, credit cards, bank guarantees and other bank operations necessary for importation;
- negotiating and hiring the services of agents, transport operators and petroleum product handlers, insurers, inspectors and brokers, and any other entities whose participation may be necessary;
- confirming the shipments and supervising all the actions and follow-up actions, from the point of origin to the delivery of the products to the warehouse, including any notifications, warnings and claims that may be necessary in each case; and
- co-ordinating interactions between the distributors and (i) financial institutions for the purposes of payments due for importations; (ii) customs for all procedures related to the dispatch of products and the payment of any customs' levies due; and (iii) any other entities involved in the processes of acquisition to co-ordinate the respective actions and essential payments.

IMOPETRO is also responsible for:

- systematically researching the national and international markets to maintain complete and up-to-date data on international prices and other items related to the supply of petroleum products, in current and future terms and on all potential suppliers;
- periodically obtaining the necessary data from distributors to compare their market shares and any possible additional requirements; and
- regularly collecting, compiling and divulging specific statistical data on purchases and trade by each distributor and on international prices.

IMOPETRO may charge the distributors a commission destined to cover functioning expenses and ensure the repositioning of investments that are necessary for the performance of its attributions.

IMOPETRO cannot, inter alia, pursue the activity of production, distribution or commercialisation of oil products, nor hold equity in any company or make financial commitments that are not directly connected to its attributions.

### 3.2 Rights and Terms of Access to Any Downstream Operation Run by a National Monopoly

The following rights (under a licence) may be granted to private investors:

- distribution;
- retail;
- exploration of oil pipelines; and
- exploration of unloading terminals.

The aforementioned licences are generally granted by MIREME. However, licences for retail activities in a petrol station are granted by the Provincial Directorates (*Direcções Provinciais*) responsible for the energy sector (except for the storage or supply of compressed natural gas or when located within national roads' protection areas, which are within the authority of MIREME), and licences for retail activities in resale stations are granted by the municipality or district government in the respective areas of jurisdiction.

An entity may hold more than one of the aforementioned licences, as long as that does not condition the development of competitive markets for the petroleum products in accordance with the activities the entity pursues. Notwithstanding this, the holder of a distribution licence cannot hold a retail licence except in the case of liquid gas and compressed natu-

ral gas, and except for the operation of a sole point of fuel supply for the purposes of training in each of the country's provinces.

In exceptional cases, the Minister of MIREME may authorise the distributor to operate more than one point of supply per province.

The retail licence covers the operation of retail activities at fuel supply points and the operation of retail activities at points of resale.

### 3.3 Issuing Downstream Licences

Downstream licences are granted upon application to the competent authority by the interested party. Any application for downstream activities licences shall include the following principal documentation:

- a certified copy of the identification document and Criminal Record Certificate, in the case of individual persons;
- for foreign citizens, a residence or employment permit and proof of domicile in the national territory;
- a certificate of registration with the Legal Entities Registry and a copy of the articles of association (statutes) if the applicant is a corporate entity; and
- a taxpayer number.

Special requirements and terms of service will depend on the operation to be licensed.

The application for a storage licence must include a description of the prices and tariffs for each service being rendered at the relevant facilities. Entities holding storage licences have an obligation to receive, dispatch, handle, store, mix or conduct – without discrimination and in acceptable commercial terms – a third party's fuel-related products in their facilities, as long as they have enough technical capacity, and provided that the products are technically compatible. This access for third parties is subject to a payment, based on the industry standards. The transfer of oil products between facilities, including by tank vehicles, is to take place in strict compliance with the applicable health, safety and environmental rules.

An application for a distribution licence must also include the following:

- a list of the storage facilities to be used by the applicant for each product, including those facilities being shared with other distributors (and with detailed information on the location, capacity, ownership and identification of other distributors sharing the same facilities and a plan of investments to be made on storage infrastructures for a period of at least five years from the date of application for the licence);
- proof of ownership and registration of the storage facility for the various products being distributed and, for purposes of creating permanent reserves in the national territory, the storage facility is required to have a minimum capacity of 10,000 cubic metres and must be located at an oceanic terminal; and
- a storage contract entered into with the tanks' owner or with the storage facility's owner (when not owned by the applicant) that is valid for at least 24 months and for a guaranteed capacity of at least 10,000 cubic metres, and linked to at least one oceanic terminal, except where the licence is for GPL distribution, in which case a guaranteed capacity of 100 cubic metres is required.

Any holder of a distribution licence must only sell the petroleum products mentioned in the respective licence to holders of a supply point retail licence or to holders of a registration document for consumer facilities. These are banned in quantities of less than 400 litres of liquid fuels and 110 kg of LPG per delivery or capacity of recipient.

The loading of petroleum products on to any means of transport for which a valid registration document or certificate for petroleum equipment has not been presented is prohibited.

In exceptional cases, the Minister who is responsible for the energy sector may authorise the sale of petroleum products by the distributors to any retailer who holds a licence for retail at points of resale.

Distributors are specifically required to keep a permanent reserve for each of the following petroleum products in storage in national territory, specifically at an ocean facility in each region in which they operate:

- no less than 6% of the quantities to be extracted acquired for trade and own consumption in the previous twelve months, in the case of motor fuel, aviation gasoline, aviation fuel, illumination oil, diesel fuel and fuel oils; and
- no less than 3% of the quantities to be extracted acquired for trade and own consumption in the previous twelve months, in the case of LPG.

Applications for a retail licence at a fuel supply point must include the following:

- the address of the location of the fuel supply point;
- a copy of the registration of the facility; and
- a copy of the contract for the supply of petroleum products with a licensed distributor.

The holder of a licence for retail at a fuel supply point must only sell the petroleum products mentioned in the respective licence to end users and to retailers who are holders of a licence for retail at a point of resale, or to holders of a

registration document for consumer facilities, in the case of quantities greater than 110 kg of LPG or 100 litres of illumination fuel, per delivery or recipient, in the terms defined in the Regulations for Construction, Exploitation and Security of Liquid Fuel Supply Points. LPG recipients with an individual capacity of less than 3 kg, the maximum quantity for which is 50 kg, are excluded from these requirements.

The retailer must only acquire petroleum products from a licensed distributor with which it has entered into a supply contract. Furthermore, a retailer holding a licence for the operation of small-scale activities at points of resale must only acquire the product from a licensed retailer. For these purposes, sales of up to 10,000 kg of LPG and 3,000 litres of illumination fuel per month at petroleum facilities are classified as small-scale activities, in the terms defined in the Regulations for Construction, Exploitation and Security of Liquid Fuel Supply Points.

The construction of any petroleum facility is subject to authorisation, which must be made in co-ordination with the entity responsible for the registration of the facility. The relevant application must contain the following information and/or documentation:

- a site plan provided by the entity with jurisdiction over the area in which the petroleum facility is to be installed and the respective authorisation for its construction;
- a certified copy of the DUAT (land use and development right) or any other title arising from the law or from a contract conferring legitimacy to proceed with the construction;
- a design of the petroleum facility with the pieces designed to an appropriate scale; and
- an environmental licence for the implementation of the project issued by the competent entity, the Ministry for Land, Environment and Rural Development.

Special importation authorisations may be granted for the importation of aviation gasoline and asphalt, and other bituminous products. The MIREME shall be responsible for overseeing the processes for special importation authorisation.

The licensing entity must consider the licence application within a maximum period of 30 days from the date of submission.

Charges for licensing vary between MZN1,000 and MZN1,000,000. In addition to the licensing charges, applicants for licences are liable for a payment of a geographic incentive fee of MZN1,500,000, charged on the basis of location and the number of any installations and equipment.

Before beginning the exploitation of any petroleum facility and/or equipment, the owner must request an inspection of the facilities and/or equipment for the purposes of registering with the competent entity. Once the inspection has been completed and compliance with the applicable technical regulations has been verified, the competent body in the energy sector should carry out the registration of the facilities by means of presenting proof of payment of the registration fee. The following must be registered:

- the exploitation of the petroleum facility;
- storage for own use;
- tank vehicles;
- point of supply;
- production facility;
- storage facility; and
- discharge terminal and oil pipeline, except in cases in which the total capacities of the products stored on the premises are less than 400 litres for liquid fuels and 110 kg for gaseous fuels.

The owner of a facility must communicate in writing to the licensing entity, within a period of 15 working days, the occurrence of any event that leads to any amendment of the registered items, namely:

- the transfer of property, for any reason;
- the change of the operating entity and of the respective technician responsible;
- any amendment to the type of petroleum or petroleum products authorised by the respective registration; and
- any substantial change to the facility (change of capacity and any change that, in any way, may affect the conditions of the running or operation of the facility, including the replacement or repair of pipework, tanks, pumps or structural elements).

### 3.4 Typical Fiscal Terms Under Downstream Licences

Maximum sale prices for petroleum products for consumption on the national market are established in the national currency per standard parameter of unit measure, as per the following sequence:

- bulk cost of imported product, stored in the warehouses at the distribution terminals (base cost);
- bulk sale price set by the distributors (distributor's sale price);
- price of sale to the public; and
- base cost.

The base cost for each product is the cost of the imported product at the distribution terminals, located at the port of Maputo (Lingamo-Matola) in the case of LPG and at the

ports of Maputo (Lingamo-Matola), Beira or Nacala for the remaining products.

The base cost is obtained from the following components: (i) the base price, (ii) correction of the base price, and (iii) costs with importation.

The base price for each petroleum product is the carriage and insurance paid (CIP) price at the distribution terminals, which includes port or docking expenses related to the product or tanker, demurrages, commissioning, unloading losses and other related expenses, whenever they are not included in the calculation of the importation-related costs component.

The importation-related costs component represents the value for covering the losses related to the acquisition, disembarkation, handling, transport and reception of the petroleum products, at the distribution terminals, which includes bank, port, administrative and unloading losses, and the commission for the services of IMOPETRO, as long as they are not considered in other components of the price structure, excluding the CIP price.

The distributor's sale price (DSP) for each product is the maximum price of bulk sale to the distribution terminals' address used by the distributors, and is obtained by the sum of the following components: (i) the base cost, (ii) the distributor's margin, and (iii) the fiscal charges in force.

When supply to the distributors is not carried out in bulk (considered a quantity of product that is greater than or equal to 400 litres per delivery, item of packaging or container), packaging costs may be added to the DSP.

The price of sale to the public (PSP) for each petroleum product is the maximum price to be employed at points of sale and points of storage of liquid fuels, located in the municipalities of cities with distribution terminals. The PSP shall be obtained by the sum of the following components:

- the distributor's sale price;
- the transport differential;
- the retailer's margin; and
- the fiscal charges in force.

The PSP may also include: (i) compensation for transport, (ii) items in addition to the operators' margins, and (iii) packaging costs.

It is the responsibility of the Ministers responsible for the energy and finance sectors to establish the mechanisms for calculating the PSP of the mixture of biodiesel with fuel oil and of ethanol with petrol, by means of Joint Ministerial Statute.

For sales made outside the territorial municipalities of cities with distribution terminals, the distributor's sale price may be added to the transport costs in force on the market for cabotage, train and/or road transport. For bulk sales carried out at the client's address in cities or towns where there are central storage facilities, the distributor's sale price may be added to the transport differential. The purpose of the transport differential is to charge the operating costs and to achieve an adequate return on investment for the bulk transport of products between the central storage facility and the supply or resale point or the consumer's premises situated within the same location.

The retailer's margin represents the maximum limit of the profit margin to be employed by the retailers, to cover operating costs in addition to an adequate return on the investment and working capital necessary for the retail of the respective product.

Prices of any petroleum product shall be revised monthly, and updated and communicated to the duly licensed distributors on the third Wednesday of each month, or, if it is a bank holiday, on the working day immediately following it, wherever: (i) the respective base cost has a variation greater than 3% compared to the in-force base cost on the date of the calculation, or (ii) there is an alteration in the applicable fiscal charges.

It is up to the Ministers responsible for the energy and finance sectors to proceed with the alteration of the prices of petroleum products, provided that the price of sale to the public of any product does not vary by more than 20% compared to the in-force price. The Council of Ministers is responsible for the alteration of the prices of petroleum products, wherever the variation in the price of sale to the public of any product is greater than 20% compared to the in-force price.

### 3.5 Income or Profits Tax Regime Applicable to Downstream Operations

Please see **2.4Income or Profits Tax Regime Applicable to Upstream Operations**.

### 3.6 Special Rights for National Oil or Gas Companies

Please see **3.1 Forms of Allowed Private Investment** and **3.2 Rights and Terms of Access to Any Downstream Operation Run by a National Monopoly**.

### 3.7 Local Content Requirements Applicable to Downstream Operations

Please see **2.6 Local Content Requirements Applicable to Upstream Operations**, as the requirements are the same.

### 3.8 Other Key Terms of Each Type of Downstream Licence

See **3.3 Issuing Downstream Licences**.

### 3.9 Condemnation/Eminent Domain Rights

Pursuant to the Mozambican Constitution and Mozambican law fundamental principle, all land belongs to the State. Therefore, an entity (whether Mozambican or foreign) cannot be the owner of the land where any infrastructure is implemented, but may be granted the right of use and enjoyment of the land (DUAT) for a 50-year renewable period.

The holder of the DUAT becomes the owner of any infrastructure built on the land to which the DUAT relates. Despite the land belonging to the State, any buildings/premises or immovable assets erected on such land belong to the entity that holds the DUAT.

The holder of a DUAT may sell the immoveable property built on the land by means of a public deed. With the sale of the immoveable property, the DUAT relating to the land on which said property is implemented is automatically transferred to the acquirer of the property.

### 3.10 Rules for Third Party Access to Infrastructure

The holders of distribution, landing terminals, storage or oil pipeline licences are obliged to receive, issue, handle, store, mix or manage third-party petroleum products at their petroleum storage facilities, landing terminals or oil pipelines, without discrimination and in nondiscriminatory commercial terms, provided that there is available space at the petroleum facility concerned and there are no insurmountable technical problems that impede the use of the petroleum facility to meet the requirements of third parties.

If the available capacity of the petroleum facility concerned or the dimensions or route of pipelines is insufficient to meet the requirements of third parties, the licence holder is obliged to make a modification to the facility so that third-party requests can be met in commercially acceptable terms, provided that such modification does not have an adverse effect on the technical integrity or the safe operation of the petroleum facility. The requesting third parties must ensure sufficient funds to support the costs of the required modification.

The MIREME may waive compliance with the obligation described above if reasonable efforts have been made to meet the requirements of third parties and to prove that it is not possible to receive, send, handle, store, mix or manage the third-party petroleum products or carry out the requested modification of the petroleum facility.

The holders of licences or the operators of the petroleum facilities must act with transparency in the negotiation of access to their facilities, and may not impose discriminatory conditions. Accordingly, the holders of such licences must make available, in non-discriminatory terms, the relevant records on the petroleum facility in question to third parties who request it, in order to facilitate the negotiation of acceptable commercial terms.

If the parties have not reached an agreement on the commercial or operational terms that ensure the access sought within six months of the notification of the request for access to the petroleum facility or to increase its respective capacity, depending on the terms of the contract, the matter may be submitted for resolution (i) to an independent commission, (ii) to arbitration proceedings, or (iii) to the competent judicial authorities.

It is up to the MIREME to establish the tariff/pricing methodology for third-party access to the petroleum facilities.

In addition to its needs for supply to the national market, the entity in possession of storage infrastructure in the ocean terminals must reserve at least 15% of its capacity for third-party access to products for the national market.

### 3.11 Restrictions on Product Sales into the Local Market

The local petroleum products market must primarily be supplied with products from local production, as long as:

- they are in compliance with the characteristics established in the applicable specifications;
- they are locally available; and
- their prices are established to be freely competitive with the prices of equivalent products obtained on the international market, but there must be a mechanism in place ensuring the continuity of local production in cases in which they are not competitive.

The import of petroleum products can only occur whenever the option referred to in the previous paragraph is exhausted.

The re-exportation of petroleum products shall be authorised once the needs of the national market have been met.

Any written or tacit agreement between market participants for the supply of petroleum products for national consumption or for the use of a dominant market position to obtain operational margins above those that would result from a competitive market situation, or that results in the prevention or reduction of competitiveness in processes related to the purchase of petroleum products, is prohibited and should be penalised under the terms of the applicable legislation.

### 3.12 Requirements for Transfers of Interest in Downstream Licences

All downstream licences are transferable, subject to written authorisation from the licensing entity, with the exception of distribution licences.

The transfer of the property of petroleum facilities that may result from their sale or disposal or from the exercise of any commercial agreements, mergers or any other transactions between two or more entities requires authorisation from the MIREME. Such authorisation shall be granted if, having considered the participation of the parties involved in the petroleum products market and the share of that market associated with the facilities and equipment in question, it is verified that none of the parties involved is obtaining or may obtain more than a 30% share of the national market for petroleum products as a direct result of the respective transfer, or is increasing or may increase its share of the national market for petroleum products if it already has more than 30%.

The MIREM may authorise the transfer of a petroleum facility property that exceeds the limits imposed in the previous paragraph if the beneficiary of the transfer is duly licensed to operate in the national petroleum product market and is at least 51% owned by the Mozambican State. Distributors of petroleum products licensed to operate in the national market may invest in new petroleum facilities and equipment, and in the expansion and repair of existing ones they own, even if they thus obtain more than a 30% share of the national market.

## 4. Foreign Investment

### 4.1 Foreign Investment Rules Applicable to Investments in Petroleum

A foreign investment to be carried out in Mozambique (which indicates the applicable guarantees and incentives to these) will be regulated by the Investment Law, the Regulation of the Investment Law and the Code of Fiscal Benefits. Accordingly, foreign investors – ie, individuals or legal entities bringing their own capital and resources to Mozambique from abroad, on their own account and at their own risk – may be granted a specific free exchange control regime, provided that some conditions are met. In addition to a favourable exchange control regime, foreign investors may be eligible for tax incentives in Mozambique, such as deductions from taxable income, deductions from the amount of tax assessed, accelerated depreciation, tax credits, exemption from tax and a reduction of the rate of taxes and other fiscal payments, the deferment of the payment of taxes and other special fiscal measures, as provided for under the diplomas referred to above, which are a set of rules designed mainly to attract foreign investment into the country.

Foreign direct investment in petroleum, solely or jointly, may be made as follows if it is quantifiable in pecuniary terms:

- value paid in money freely convertible by total or partial acquisition of shares in a company incorporated in Mozambique or the authorisation for petroleum activity in the cases of partial or total transfer, as long as the value is paid into a bank registered in Mozambique or into an external authorised account in the terms of the foreign exchange law;
- equipment and its respective accessories, materials and other imported goods;
- in specific cases and under the terms agreed upon, and sanctioned by the relevant entities, the transfer of the rights of use of patented technology and registered trademarks, in terms to be regulated; and
- value spent in geological studies or other activities in the scope of the obligations under the Petroleum Law.

The value of direct investment, duly accounted and confirmed by an audit company of recognised independence, covers the expenses incurred in operations of prospecting and exploration, treatment, development and processing, and other petroleum operations related to exploration and petroleum production.

The government of Mozambique will guarantee the following to investors with approved investment projects carried out in accordance with the Investment Law and Regulation:

- security and legal protection on property rights and other rights in connection with investments made;
- freedom to import equity capital or loans to carry out investments;
- full remittance abroad of the following:
  - (a) exportable profits resulting from investments eligible for the export of profits;
  - (b) royalties and other payments for the remuneration of indirect investments associated with the granting and transfer of technology;
  - (c) amortisation of loans and payment of interest on loans contracted in the international financial market and applied in investment projects in the country;
  - (d) proceeds of any compensation paid; and
  - (e) invested and re-exportable foreign capital, independent of the eligibility (or ineligibility) of the investment project to export profits;
- repatriation of capital invested upon liquidation;
- total or partial sale of the undertaking; and
- fair and equitable compensation in the event of expropriation based on absolutely necessary and weighty reasons of public and national interest, health and public order.

The Petroleum Law specifically provides for the legal safety and protection of property over assets and rights, including

industrial property rights within the scope of the authorised and operated investments in the petroleum activity. In addition, expropriation may only occur exceptionally and when substantiated with regard to public interest, and is subject to the payment of fair compensation. All rights obtained under concession agreements relating to petroleum operations entered into under the previous Petroleum Law are to remain valid and unaffected by the Petroleum Law currently in force. Upon termination of these agreements, the new contracts and concessions are to be executed under the terms of the present law.

Mozambique is a signatory to ICSID and the Washington Convention of 15 March 1965 on the Settlement of Investment Disputes between States and Nationals of Other States, and is a member of the ICC and a signatory to the Additional Facility Rules of ICSID approved on 27 September 1978. Mozambique also became a signatory to the New York Convention on the Recognition and Execution of Foreign Arbitral Decisions since 10 July 1998, which is fully applicable in national territory. However, as permitted by Article I(3) of the New York Convention, when it acceded thereto, Mozambique declared that it would apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State, on the basis of reciprocity. In accordance, the Petroleum Law specifically provides for arbitration between the State of Mozambique and foreign investors to be conducted in accordance with:

- Mozambican arbitration law;
- the rules of ICSID, adopted in Washington on 15 March 1965, or pursuant to the Convention on the Settlement of Disputes between States and Nationals of other States;
- the rules set out in ICSID's Additional Facility adopted on 27 September 1978 by the Administrative Council of ICSID between States and Nationals of other States whenever the foreign entity does not meet the nationality requirements provided for in Article 25 of the Convention; and
- the rules of such other international instances of recognised standing as agreed by the parties in the concession agreements, provided that the parties have expressly defined the conditions for implementation in the agreement, including the method for the designation of the arbitrators and the time limit within which the decision must be made.

Furthermore, Mozambique is party to several Bilateral Investment Treaties (BITs) with key nations, generally to promote and strengthen investment relations between Mozambique and other countries. As a common characteristic, all these BITs aim to foster foreign direct investment into Mozambique, providing investors with guarantees and protection measures (security and protection of property rights, access to foreign loans and loan repayment, remittance of dividends, arbitration by the ICC or ICSID for dispute resolution, liberalised banking rates), but do not overcome or provide protection from foreign ownership restrictions imposed under sector-specific legislation.

## 5. Environmental, Health and Safety (EHS)

### 5.1 Principal Environmental Laws and Environmental Regulator(s)

The Constitution of the Republic of Mozambique specifically addresses matters relating to the environment and quality of life, and grants the people of Mozambique the right to live in a balanced environment. It commits the State and local authorities, in collaboration with other appropriate partners, to adopt policies for the protection of the environment and to care for the rational utilisation of all natural resources.

The principal environmental laws governing upstream and downstream operations are as follows:

- **The Environment Law** (Law no. 20/97, of October 7) establishes the basic legal framework for the correct use and management of the environment and its components, to ensure a balanced development. The law foresees the creation of environmental protected zones where any activity seen as having a negative impact on the environment must be subject to special licences.
- **The Environmental Impact Evaluation Regulation** (Decree no. 45/2004, of September 29, as amended by Decree 42/2008, of November 4) regulates environmental licensing procedures, proving a classification of the activities that are subject to an environmental impact assessment and the related specific requirements. It also creates a registry for environmental consultants.
- **The Environmental Regulations for Petroleum Operations** (Decree no. 56/2010, of November 22) establishes the requirements applicable to oil operations. In particular, it specifies the environment impact assessment procedures, and protection and control measures in order to prevent environmental disasters.
- **The Petroleum Law** (Law no. 21/2014, of August 18).
- **The Petroleum Operations Regulations** (Decree no. 34/2015, of 31 December).
- **The Regulation on the Environmental Quality and Effluents Release Standards** (Decree no. 18/2004, of June 2, as amended by Decree 67/2010, of December 31) aims to establish the standards for environmental quality and effluents release, in order to ensure the effective control and maintenance of the admissible standards for the concentration of polluting substances on the environmental components.
- **The Regulation on the Licensing of Petroleum Installations and Activities** (Ministerial Diploma no. 272/2009, of December 30).

In accordance with the nature, size and geographical location of the petroleum operation to be carried out, the MIREME may create an Interinstitutional Group.

The Ministry of Land, Environment and Rural Development, established by Presidential Decree no. 14/2015, of March 16, is in charge of supervising the environmental sector and compliance.

### 5.2 Environmental Obligations for a Major Petroleum Project

Environmental impact assessments, including impact reduction measures, shall be carried out in all areas that may be affected before commencing a major petroleum project. In addition, all environmental aspects influenced by the petroleum operations shall be recorded in a registry to be maintained during all phases.

For purposes of the categorisation of the petroleum operations, activities are classified as follows:

- Category A – activities subject to an environmental impact study (EIS), including oil, gas or mineral pipelines and submarine cables more than 5 km long;
- Category B – activities subject to a simplified environmental study (SES); and
- Category C – activities subject to compliance with the standards of good environmental management.

As a rule, any activity that may affect the environment is subject to evaluation of the potential impact,through an EIS, to determine its environmental feasibility, and concludes with the issuance of an Environmental Licence.

Activities in areas and ecosystems meriting special protection under national or international law, such as coral reefs, are specifically classified as Category A activities under the environmental legislation, and therefore require a full EIS and the issuance of an Environmental Licence as a prerequisite for the issuance of any other licence or permit that may be legally required.

The EIS initiates with the submission of an application to the Ministry for Co-ordination of Environmental Affairs (or the Provincial Delegation) and follows various stages, including a pre-assessment, drafting of terms of reference, a public consultation process and an environmental impact report.

In accordance with maritime legislation, the MIREME may introduce other requirements related to the performance of petroleum activities by floating facilities or by vessels, independent of whether they are registered in Mozambique or in a foreign state.

The holder of rights under the Petroleum Law shall act in petroleum operations in a safe and efficient manner with the aim of ensuring that the polluted waters and waste materials are disposed of in accordance with approved methods, as well as the safe closure and decommission of all holes and wells before abandonment.

### 5.3 EHS Requirements Applicable to Offshore Development

There are no specific rules that apply to offshore development.

In accordance with Mozambican legislation and internationally accepted marine standards, as a general rule, floating or fixed facilities used offshore shall be designed and equipped in such a manner as to ensure the stability or foundation necessary for their safe operation and the capacity to withstand the projected loads.

The docking gear, anchorage system and dynamic positioning system for ships or floating facilities used offshore shall be sized and operated in accordance with Mozambican legislation in force and with good oil field practices and internationally accepted marine standards.

### 5.4 Requirements for Decommissioning

The EIS Report shall also take the decommissioning and rehabilitation plan into consideration.

A specific fund must be constituted by the concession holders for the abandonment and decommissioning of infrastructure. Accordingly, pursuant to the Petroleum Law Regulation, a detailed decommissioning plan shall be prepared in consultation with the INP and submitted for MIREME's approval at least two years prior to the date on which production operations are expected to cease.

The decommissioning plan should contain the following information:

- final production plans and economic thresholds for the limit for termination of the operations;
- alternatives for continuing the petroleum operations;
- subsequent use or disposal of the premises;
- plans for the plugging and abandonment of production wells;
- a schedule of the decommissioning activities and a description of the equipment necessary for the restoration of the land sites and/or the seabed;
- inventory of dangerous equipment and chemicals existent on the facilities and plans for removal; and
- an environmental impact assessment of the decommissioning and abandonment activities.

Category A activities must proceed with the following stages:

- pre-assessment of the proposed project by the relevant environmental department and provision of a written response, including an indication of the required number of copies of the Terms of Reference (ToR) and Studies on the Pre-feasibility and Scoping Activities (EPDA) to be submitted;
- appointment of a government-registered environmental consultant;
- working with the environmental consultant to develop an EPDA; and
- working with the environmental consultant to develop the ToR. Subsequently, it will be required to submit the number of copies of the EPDA and ToR defined in the written response to the pre-assessment to the relevant environmental department.

Having received these documents, the relevant environmental government department has 30 working days to respond to the applicant, either approving the EPDA and ToR or requesting alterations and re-submission. If the application is successful, the contracted government-registered environmental consultant undertakes the EIA based on the approved ToR.

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## 6. Miscellaneous

### 6.1 Liquefied Natural Gas (LNG) Projects

Mozambique's Special Regime for Natural Gas Liquefaction Projects in Areas 1 and 4 of the Rovuma Basin, approved by Decree Law no. 2/2014, of December 2, applies to concessionaires under existing EPCCs, to any SPVs established by such concessionaires, and to any persons entering into contracts with concessionaires or SPVs as well as their subcontractors, and in connection with activities relating to the development and operation of Offshore Areas 1 or 4 and that are undertaken under existing EPCCs or any other contracts with the government of Mozambique.

Accordingly, any SPVs established by concessionaires must be incorporated in Mozambique, although SPVs for the purposes of raising finance or undertaking sales and shipping activities may be incorporated in any 'transparent' jurisdiction where the government of the jurisdiction can verify the ownership, management, control and fiscal situation of the investor (subject to Mozambican government consent). While this transparent jurisdiction standard is equivalent to the standard imposed on new concessionaires under the Petroleum Law, neither the existing concessionaires of Areas 1 and 4 nor their SPVs are required to be listed on the Mozambican Stock Exchange, unlike the requirements of the Petroleum Law.

### 6.2 Material Changes in Oil and Gas Law or Regulation

All the main legislation regulating this sector is recent, dating from 2014 and 2015, so there has not been any material change in the oil and gas legal framework over the past year.