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Mozambique

ENERGY – OIL & GAS

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This country-specific Q&A provides an overview of energy – oil & gas laws and regulations applicable in Mozambique.

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MOZAMBIQUE ENERGY - OIL & GAS



1. Does your jurisdiction have an established upstream oil and gas industry? What are the current production levels and what are the oil and gas reserve levels?

Almost 60 years after the first discoveries of petroleum in the Mozambican territory, only in the past 20 years has that sector gain the deserved attention with international players settling in the country with the purpose of exploring the resources. According to the Mozambican National Petroleum Institute (Instituto Nacional de Petróleo - INP), Mozambique has proved natural gas reserves of over 100 trillion cubic feet, which sets it in the lead for one of the African countries with the largest proved natural gas reserves.

After five licensing rounds (the first held in 1984 and all other four from 2005 to 2014), besides the already well established onshore fields located in Pande and Temane in the province of Inhambane, south of Mozambique, which holds proven reserves of 2.6 trillion cubic feet (TCF) (which has been operated by Sasol, a South African energy firm which, after processing of the gas in Temane in a central processing facility, exports natural gas via a 865 km pipeline that connects the Pande and Temane fields to South Africa), the discoveries in the Rovuma Basin area, close to the border of Tanzania, more specifically Areas 1 and 4, both offshore, have put Mozambique in the spotlight, due to the discovery of over 180 TCF of natural gas reserves.

The main players in Areas 1 and 4 of the Rovuma Basin include Total (which acquired the American company Anadarko) Mitsui, ENH (owned by the Mozambican Government), PTTEP, BPRL Ventures, ONGC Videsh, Beas, Exxon Mobil, ENI, CNPC, Galp, Kogas. The allure of such large reserves has caught the interest of these multinational oil and gas companies which have already (in case of Total in Area 1) or may approve in the near future (in case of Exxon Mobil in Area 4) the final investment decisions, summing up to billions of dollars in investment on the construction of a Liquefied Natural Gas (LNG) and a Floating Liquefied Natural Gas production facility (FLNG), to process the natural gas of the Rovuma

Basin, with a capacity to produce up to 20 million tonnes per year starting from 2024 (current estimate).

Compared to the country's natural gas sector, the oil sector in Mozambique is still relatively incipient.

2. How are rights to explore and exploit oil and gas resources granted? Please provide a brief overview of the structure of the regulatory regime for upstream oil and gas. Is the regime the same for both onshore and offshore?

The Constitution of Mozambique provides that all-natural resources, whether located on land, underground, inner waters, territorial sea, and the continental platform or in the Mozambican exclusive economic area, are property of the State.

The oil and gas legislation regulate how private entities access the exploration of petroleum resources and states that any operation must be previously authorised by the State, through either an administrative authorisation or a licence. The Government reserves the right to be part of any project implemented to conduct petroleum operations, through State-owned company Empresa Nacional de Hidrocarbonetos, EP ("ENH").

Therefore, rights for conducting petroleum operations in upstream interests are granted through concession contracts and are generally attributed by a public tender process. Such rights may also be attributed by simultaneous or direct negotiations in relation to areas that had already been declared available when (i) no concession was granted pursuant to previous public tender, (ii) rescission, relinquishment and abandonment or (iii) the need to join adjacent areas to a concession, where justified, due to technical and economic reasons.

Concession contracts are administrative contracts, subject to the authorisation of and supervision by the

Administrative Court, the main clauses therein being subject to publication in the official gazette.

The following rights may be conferred under the following concession contracts (be it onshore or offshore, when applicable):

- Reconnaissance;
- Exploration and production (EPCC);
- Pipeline construction and operation; and
- Infrastructure construction and operation.

From the list referred above, the EPCC contract is the key contract applicable to upstream activities, as it grants an exclusive right to carry out petroleum exploration and production.

MIREME has approved an official template of an EPCC which is published in the INP website (<http://www.inp.gov.mz/pt/Politicis-Regime-Legal/Modelo-de-Contratos-de-Pesquisa-e-Producao>).

The Reconnaissance Concession confers a non-exclusive right to perform preliminary appraisal and evaluation of the contract area and is granted for a maximum period of two years, non-renewable, and allows drilling up to a 100-metre depth.

The Pipeline Construction and Operation Concession allows the concession holder to construct and explore oil or gas pipelines for transportation of crude oil and natural gas, should such operations not be covered under the EPCC Agreement. These agreements shall be detailed and include the specification of the oil or gas pipeline and provisions regarding the rights of use of land.

Lastly, the infrastructure construction concession agreement allows the concession holder to construct and operate oil production infrastructure, such as processing and conversion facilities that are not covered by an approved appraisal and production plan.

As a final remark, the construction, installation, alteration, replacement, operation and demobilization of petroleum infrastructures, including the storage and exercise of transport by circulating means is subject to previous licensing by the National Institute of Petroleum ("INP") which is subject to the payment of a fee.

3. What are the key features of the licence/production sharing contract/concession/other pursuant to which oil and gas companies undertake oil

and gas exploration and exploitation?

The Exploration and Production Concession Contract ("EPCC") confers its holder an exclusive right to perform petroleum operations, as well as a non-exclusive right to construct and operate production and transportation infrastructure.

The exclusive exploration right under the EPCC shall not exceed eight years and is subject to area abandonment provisions. In the event of a discovery, the concession holder may maintain the exclusive right to complete the work initiated within a specific area, in relation to the appraisal period, to comply with his work and appraisal obligations and to determine commercial value and allow oil development and production.

The concession holder may maintain the exclusive right, under the development plan approved by the Government, to develop and produce oil and gas in the development area, subject to renewal for equal or shorter periods, as deemed most advantageous for national interest.

4. Are there any unconventional hydrocarbon resources (such as shale gas) being exploited and is there a separate regulatory regime for unconventional?

There is no specific legislation regulating unconventional upstream interests nor any registered findings of shale gas in Mozambique.

5. Who are the key regulators for the upstream oil and gas industry?

According to the legislation in force, several public entities have control over the oil and gas industry, as follows below:

The Council of Ministers is the highest governmental body with competence to approve primary sector legislation and grant concessions, including the approval of the respective contracts.

The Ministry of Mineral Resources and Energy ("MIREME") is the governmental body that, in accordance with the principles and objectives set by the Government, steers and monitors the implementation of Government policy in the geological investigation and exploitation of minerals 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, in addition to being responsible for the supervision of the INP.

The INP was created through Decree no. 25/2004, of 20 August 2004, and with head office in Maputo, manages and oversees Mozambique's petroleum resources in its role as a national agency, and is the regulatory entity responsible for the administration, promotion and supervision of petroleum activities, under the tutelage of the MIREME. More specifically, it is responsible for the guidelines for the participation of the public and private sectors in the prospecting and exploration of petroleum products and their derivatives, and for the regulation and control of operations and tender procedures, as well as for the licensing of certain petroleum infrastructures or activities, as indicated under question 2. above, while guaranteeing the preservation of public interest and the protection of the environment, by ensuring compliance with the applicable requirements set out in the law.

Alongside the entities mentioned above, a new entity was created, as indicated in the Petroleum Law (approved by Law no. 21/2014, of 18 August 2014), which is the High Authority for the Extraction Industry ("AAIE"), whose role is to supervise petroleum activities in Mozambique. However, this entity has not yet become operational, given that its composition, status, powers and organisational structure have not been defined by the Council of Ministers.

6. Is the government directly involved in the upstream oil and gas industry? Is there a government-owned oil and gas company?

The Mozambican State-owned company ENH is the national entity responsible for the prospecting, exploration, production and commercialisation of petroleum products, representing the Mozambican State in all petroleum operations.

ENH's responsibility is 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 determines that the Government ensures the financing of ENH, as its exclusive representative in the improvement and stabilisation of the Government's participation in the oil and gas business.

7. Are there any special requirements for

or restrictions on participation in the upstream oil and gas industry by foreign oil and gas companies?

In order for foreign legal entities to be holders of the right to carry out petroleum operations, they must be registered in Mozambique and demonstrate that they have the technical capability and adequate financial resources for the effective conduction of petroleum operations.

Also, foreign legal entities which directly or indirectly hold or control legal entities that own rights under a concession contract, shall be established, registered and administered under a transparent jurisdiction. For this purpose, the Government may, independently, verify the ownership, management and control, fiscal situation of a foreign legal person who wishes to participate or participates in petroleum operations. Foreign legal entities that associate with Mozambican legal entities shall take advantage of the preference right in the granting of concession contracts.

In the context of the acquisition of goods or services by the petroleum operations right holders, single or collective foreign entities that provide services to the petroleum operations shall associate with single or collective Mozambican entities.

8. What are the key features of the environmental and health and safety regime that applies to upstream oil and gas activities?

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 natural resources.

In light of the above, 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 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, and ensuring the safe closure and decommission of all holes and wells before abandonment.

There are no specific rules that apply to offshore development and for that reason, the internationally accepted marine standards shall apply to the floating or fixed facilities used offshore, which 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.

9. How does the government derive value from oil and gas resources (royalties/production sharing/taxes)? Are there any special tax deductions or incentives offered?

The Government obtains its revenue from bonus payments, training programmes, relinquishment fund and other financial obligations set out in the concession contracts.

In addition to that, entities entitled to perform petroleum operations are subject to the following general taxes: income tax; value added tax; municipal tax (when applicable); and also to the specific petroleum tax regime.

The petroleum tax regime levies a Production Tax (*Imposto sobre a produção do petróleo* - "IPP") on oil and gas produced in each concession area. The IPP payment is triggered when the oil or gas is extracted.

The cost recovery and production sharing mechanisms are also regulated, drawing on the traditional concepts of cost oil, available oil, profit oil and produced oil. Costs incurred by the concessionaire on oil operations, excluding interest and other financial costs, are recovered from 60% of the annual available oil - the portion exceeding this limit is transferred to the following years. In turn, profit oil is shared between the State and the concessionaire according to a variable scale, the result of which is obtained through a mathematical formula.

The special rules foreseen to determine the Personal Income Tax (*Imposto sobre o Rendimento das Pessoas Singulares* - "IRPS") or Corporate Income Tax (*Imposto sobre o Rendimento das Pessoas Colectivas* - "IRPC") due on the income obtained from oil operations include, namely: (i) the characterisation of deductible and non-deductible costs and expenses; (ii) amortisation rules; (iii) thin capitalisation rules; (iv) registration of inventory; and (v) a withholding flat tax rate of 10% on the payment of services related to concession agreements undertaken by non-resident entities.

Transfer pricing rules are also further developed, including the application of the arm's length principle to the transfer of assets between different concession agreements held by the same concessionaire.

The tax regime also tightens the ring-fencing rules and clarifies that the IRPC of entities running petroleum

operations under a concession agreement should, as a general rule, be calculated individually for every concession area (costs and income should also be determined separately in relation to each area).

10. Are there any restrictions on export, local content obligations or domestic supply obligations?

In addition to the production sharing rules set out under the petroleum tax regime, the Petroleum Law also sets out that 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 to regulate the acquisition, price and other matters inherent to the use of the aforementioned oil and gas quota. We further note that the oil companies are obliged to give the State preference in the acquisition of oil produced in the concession area, according to special legislation, when required for reasons of national interest.

The exportation of petroleum products is subject to licensing. Entities wishing to distribute petroleum products may provide bunker services for the re-exportation of those products, as long as such activities are accompanied by a sale in the national market too.

Entities not based in the country, which seek to carry out bunker activities from Mozambique for the international shipping of products which are located in the country or purchased in a foreign currency exclusively for that purpose, and activities for transporting those products to and from neighbouring countries, must do so through the licensed entities.

In relation to local content obligations, private investors carrying out petroleum upstream operations must comply with the requirements set below.

According to the oil and gas legal framework, holders of oil and gas titles and exploitation rights (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 offered by Mozambican individuals or entities 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 and gas title holders must have an association with Mozambican natural or legal entities in order to be able to do any business. This means that Mozambican companies must always be included in the projects as providers of services or products, whether directly or through an association with foreign entities.

As for the employment of foreign workers, it is important to reiterate that the basic principle is that Mozambican workers must be hired preferably, and extensive and well-detailed training programmes must be put in place by the operators to develop the local workforce.

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 by more than 10% from international markets, inclusive of taxes and related fees.

Besides 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 integral to the use of the aforementioned oil and gas quota.

In relation to the regime applicable specifically to the Rovuma Basin, it is important to identify the following local content requirements:

- 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; and
- 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 concessionaires 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.

11. Does the regulatory regime include any specific decommissioning obligations?

The Environmental Impact Study Report, which is an important step in the environmental impact assessment, comprehends the decommissioning and rehabilitation plan.

A detailed Decommissioning Plan shall be prepared in consultation with the INP and submitted, no less than 2 years prior to the date on which production operations are expected to cease, for the approval of the Minister with authority over the petroleum industry.

The Decommissioning Plan shall include, among others, the following items:

- (a) Tail-end production schedules and the economic threshold for termination of operations;
- (b) Alternatives for continuing Petroleum Operations;
- (c) Further use or subsequent disposal of facilities;
- (d) Plans for plugging and abandonment of production wells;
- (e) Schedule of decommissioning activities and description of equipment needed for the restoration of land sites and/or the seabed;
- (f) Inventory of dangerous material and chemicals existent in the facilities and plans for their removal;
- (g) Evaluation of environmental impact of termination and abandonment activities.

Activities categorized as A Category must proceed with the following stages: (i) pre-assessment of the proposed project by the relevant environmental department and provision of written response (including the indication of the number of the required copies of Terms of References and Studies on the Pre-Feasibility and Scoping Activities (EPDA) to be submitted); (ii) appointment of a government-registered environmental consultant; (iii) working with the environment consultant to develop an (EPDA); and (iv) working with the environment consultant to develop the ToR's. Subsequently, it will be required to submit the number of copies of the EPDA and ToR's 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's or requesting alterations and re-submission. If the application is successful, the contracted government-registered environment consultant undertakes the EIA based on the approved ToR's.

In parallel and 120 days before the decommissioning activities begin, a license must be obtained from INP and it shall be valid for the duration of the decommissioning plan. The decommissioning activities are also subject to the INP's supervision, which includes assessing if any environmental damages have been duly repaired.

12. What is the regulatory regime that applies to the construction and operation of offshore and onshore oil and gas

pipelines?

Other than the applicable regime already indicated under question 2. above, which establishes that a right must be conferred for that purpose by the Mozambican Government and under a concession contract, as per Decree 84/2020, of 18 September, an operating license shall also be requested to INP and the site will be subject to a previous inspection. The license will be valid for the duration of the concession contract and the infrastructures shall be subject to regular inspections from INP.

13. What is the regulatory regime that applies to LNG liquefaction and LNG receiving terminals? Are there any such terminals in your jurisdiction?

The current available general legal framework is silent in respect of the specific regulation of LNG facilities. Only Mozambique's Special Regime for Natural Gas Liquefaction Projects in Areas 1 and 4 of the Rovuma Basin (Decree Law 2/2014, of 2 December) – which applies to concessionaires under existing EPCC's, regulate any special purpose vehicles established by such concessionaires and any persons entering into contracts with concessionaires or special purpose vehicles (contractors, financiers and employees) as well as their subcontractors, and in connection with activities relating to the development and operation of Offshore Areas 1 or 4 and which are undertaken under existing EPCCs or any other contracts with the Government of Mozambique.

Accordingly, any SPV's established by concessionaires must be incorporated in Mozambique, although SPV's 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 Mozambique government consent). While this "transparent" jurisdiction standard is equivalent to the standard imposed on new concessionaires under the Petroleum Law, unlike the requirements of the Petroleum Law, neither the existing concessionaires of Areas 1 and 4 nor their SPV's are required to be listed on the Mozambican Stock Exchange.

Currently, no LNG Facilities exist in Mozambique but are under development by the concessionaires of Areas 1 and 4 of the Rovuma Basin.

14. What is the regulatory regime that applies to gas storage (not LNG)? Are there any gas storage facilities in your jurisdiction?

The activities and facilities related to the storage and transport of petroleum products, 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 Production, Import, Receipt, Handling, Transport, Distribution, Trade, Export and Reexport of Petroleum Products.

Downstream licenses are granted upon application to the competent authority by the interested party and the application for a storage license must include a description of the prices and tariffs for each service being rendered at the relevant facilities. Entities holding storage licenses 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.

The construction of storage facilities will develop further throughout the following years, as a result of the implementation of the projects of exploration of natural gas in the Rovuma Basin, in the North of Mozambique.

Lastly, storage facilities operated outside the concession areas or not included in any development plans are subject to an independent licensing process and the entity responsible for processing the applications and issuing these licenses is INP. The storage license has a validity of 10 years and may be renewed.

15. Is there a gas transmission and distribution system in your jurisdiction? How is gas distribution and transmission infrastructure owned and regulated? Is there a third party access regime?

Transportation and distribution of natural gas is at a very early stage with the transport network consisting of the Mozambican-Zimbabwe pipeline linking the coastal city of Beira to Zimbabwe's capital Harare, operated in

Mozambique by the *Companhia do Pipeline Moçambique Zimbabwe* and active for more than 30 years, also the Mozambique-South Africa pipeline from Pande Temane to Secunda and the recent distribution network (a public private partnership between state-owned Empresa Nacional de Hidrocarbonetos and Korean Kogas) restricted only to certain districts of the capital city, Maputo. New transport pipelines shall be developed, connecting the gas-rich north and south of Mozambique. Similarly, natural gas storage facilities shall be built only after production of offshore natural gas commences.

There are currently no secondary markets for the sale and purchase of natural gas in Mozambique.

Decree no. 44/2005 of November 29 establishes the Regulation for Distribution and Commercialisation of Natural Gas, pursuant to which these rights are attributed by means of concession agreements resulting from a public tender process. The attribution of rights through direct negotiations is only envisaged when the public tender process had no bidders or in areas that have not been designated as "Concession Areas" for distribution network or independent local networks by the MIREME. The concessionaire must be a commercial company, necessarily held by the successful tenderer(s), with registered office and administration in Mozambique.

The concessionaire may be given exclusive distribution and commercialisation rights in the whole or part of concession area for a certain period; however, once such exclusivity has ended, consumers are entitled to acquire natural gas from third parties.

The concession period for natural gas distribution and commercialisation networks is granted for a maximum of 25 years and the concession for exploration of independent local networks shall have a maximum duration of 10 years.

In relation to third party access, any holder of a license for distribution, landing terminals, storage or oil pipelines, is obliged to receive, issue, handle, store, mix, or manage, without discrimination and in non-discriminatory commercial terms, third party petroleum products at their petroleum storage facilities, landing terminals or oil pipelines, provided that:

(a) there is available space at the petroleum facility in question; and

(c) there are no insurmountable technical problems which impede the use of the petroleum facility to meet requirements of third parties.

If the available capacity of the petroleum facility in question, or the dimensions or route of pipelines, is

insufficient to meet the requirements of third parties, the license holder shall be obliged to make a modification to the facility so that, in commercially acceptable terms, third party requests can be met, provided that:

(a) such modification does not have an adverse effect on the technical integrity or the safe operation of the petroleum facility; and

(b) third parties have sufficient funds to support the costs of the required modification.

MIREME may waive compliance with the obligation provided above, on behalf of the holder of the license for distribution, a landing terminal, storage or oil pipelines, as applicable, 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 licenses or operators of the petroleum facilities must act with transparency in the negotiation of access to their facilities, and they may not impose discriminatory conditions.

The holders of licenses for distribution, loading terminals, storage or oil pipelines 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, within the period of 6 months after the notification of the request for access to the petroleum facility or to increase its respective capacity, the parties have not reached an agreement on the commercial or operational terms which ensure the access sought, the matter, depending on the terms of the contract, may be submitted for resolution:

(a) to an independent commission;

(b) to arbitration proceedings; or

(c) to the competent judicial authorities.

It is up to MIREME to establish the 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 a storage infrastructure in the ocean terminals must reserve, at least, 15% of the capacity of its facilities for third party access to products for the national market.

16. Is there a competitive and privatised downstream gas market or is gas supplied to end-customers by one or more incumbent/government-owned suppliers? Can customers choose their supplier?

Please refer to the previous answer.

17. How is the downstream gas market regulated?

Decree no. 89/2019, of 18 November, defines the Rules on Production, Import, Receipt, Handling, Transport, Distribution, Trade, Export and Reexport of Petroleum Products and the respective sale prices in the national territory. This Decree provides for the following licences:

1. Production licence;
2. Storage licence in distribution terminals;
3. Storage licence in storage facilities;
4. Distribution licence;
5. Retail licence in storage facilities;
6. Retail Licence in fuel stations;
7. Retail licence in resale facilities;
8. Exploration of oil pipeline licence; and
9. Export licence;
10. Exploration of unloading terminal licence.

The aforementioned licences are generally granted by a licensing authority under the tutelage of MIREME or directly by the latter, in case of the production licence.

An entity may hold more than one of the licenses, as long as that does not limit the development of competitive markets for the petroleum products in accordance with the activities the entity pursues. However, the holder of a distribution license cannot hold a retail license except (i) in the case of liquid gas and compressed natural gas and (ii) 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, MIREME may authorise the distributor to operate more than one point of supply per province.

The production license comprises the categories of large-scale, medium-scale and small-scale production. The retail license covers the operation of retail activities at storage facilities, at fuel supply points or the operation of retail activities at points of resale.

18. Have there been any significant recent

changes in government policy and regulation in relation to the oil and gas industry?

Two new diplomas were recently enacted; The first being Decree 89/2019, of 18 November that repealed Decree 45/2012, of 28 December as analysed under the question above and which regulates the downstream market. The second is Decree 84/2020, of 18 September, as analysed under question 12. above, and which approved the regulation of licensing of petroleum operations infrastructure. It establishes the rules and procedures for the licensing of the construction, installation, alteration, replacement, operation and demobilization of petroleum infrastructures, including the storage and exercise of transport by circulating means, as well as authorizations through registration. It also determines the applicable fees and the sanctioning regime. Other than that, the main legislation regulating the oil and gas sector is still in force.

19. What key challenges have been identified by the government and/or industry in relation to your jurisdiction's oil and gas industry? In this context, has the Covid-19 pandemic had an impact on the oil and gas industry and if so, how has the government and/or industry responded to it?

The Mozambican Government and the private sector continue to identify as challenges the following:

- the development of infrastructures for the establishment of the facilities and easy access to same;
- the development of regulatory regime which approves the necessary guidelines for the growth of the oil and gas industry, obtaining more specific regulations and operational procedures to improve Government coordination and address overlapping roles and responsibilities;
- the compliance with local law content rules considering the country's active and qualified workforce.

In addition, the Covid-19 pandemic and its global effects were not foreign to Mozambique which suffered from the impact it had on oil and gas prices and the sudden and massive drop in global demand. That has forced the concessionaires in the Rovuma Basin to adjust the activities calendar accordingly also due to the restrictions of movement of people across the countries.

For instance, Area 4 initial forecast was that in 2025 the first batch of gas extracted would be exported; however, due to the pandemic, it should be delayed to 2030 (a five-year setback). Another effect was that some investments were put on hold and an example of this is the fact that ExxonMobil pushed back their final investment decision in the same Area 4.

The Government has been progressively reviewing the measures in force to fight this pandemic and permitting the entry and exit of people and goods in the country, which will allow for reactivation of many of the investments in country which depend largely on foreign

investment and investors.

20. Are there any policies or regulatory requirements relating to the oil and gas industry which reflect/implement the global trend towards the low-carbon energy transition?

No, but the increase in the number of renewable energies projects in the country indicates at least a diversification of energy sources.

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