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MOZAMBIQUE: SUPPORT IN THE DEVELOPMENT OF THE LEGAL FRAMEWORK FOR THE LNG PROJECTS

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MOZAMBIQUE: SUPPORT IN THE DEVELOPMENT OF THE LEGAL FRAMEWORK FOR THE LNG PROJECTS

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ABBREVIATIONS

AFNOR	Association Française de Normalisation
AMA1	Anadarko Mozambique Área 1, Lda
ANSI	American National Standards Institute
API	American Petroleum Institute
ANE	Administração Nacional de Estradas
ANEA	National Atomic Energy Agency
APC	Anadarko Petroleum Corporation
ASME	American Society of Mechanical Engineers
ASTM	American Society of Testing and Materials
BC	Business Concession
BoM	Central Bank of Mozambique
BOOT	Build, Own, Operate and Transfer
BOT	Build, Operate and Transfer
BSI	British Standards Institution
CEN	European Committee for Standardization
CFM	Portos e Caminhos de Ferro de Moçambique
CNG	Compressed natural gas
DBOOT	Design, Build, Own, Operate and Transfer
DBOT	Design, Build, Operate and Transfer
DIN	Deutsches Institut für Normung
DINAPOT	National Directorate of Planning and Spatial Development (),
DNAIA	National EIA Directorate
DNFT	National Directorate of Land and Forestry
DPCAA	Provincial Directorate for the Coordination of Environmental Affairs
DUAT	Use and Enjoyment of Land
EDM	Electricidade de Moçambique, E.P.
EIA	Environmental Impact Assessment
ENH	Empresa Nacional de Hidrocarbonetos
ENI	Eni East Africa S.pA
EPCC	Exploration and Production Concession Contracts

EITI	Extractive Industry Transparency Initiative
FCC	Facility Concession Contracts
GoM	Government of Mozambique
HSE	Health, Safety and Environment
IACM	Mozambique Civil Aviation Institute
IFC	World Bank's International Finance Corporation
IMOPETRO	Importadora Moçambicana de Petróleos
INAMAR	National Marine Institute
INAV	Instituto Nacional de Viação
INNOQ	Instituto Nacional de Normalização e Qualidade
INP	Instituto Nacional de Petróleo
INSS	Instituto Nacional de Segurança Social
IPI	Instituto da Propriedade Industrial
ISO	International Standardization Organization
ISSM	Insurance Supervising Authority
LPG	Liquefied petroleum gas
MC	Ministry of Culture
MIC	Ministry of Industry and Commerce
MINAG	Ministry of Agriculture
MIREM	Minister of Mineral Resources
ML	Ministry of Labor
MPWH	Ministry of Public Works and Housing
MSA	Ministry of State Administration
MSHA	Mine Safety and Health Administration of the U.S. Department of Labor
ME	Ministry for Energy
MdP	Ministry of Fishing
MI	Ministry of Interior
MP	Ministry of Planning
MPL	Mega Project Law
MICOA	Ministry for the Coordination of Environmental Action
MTC	Ministry of Transport and Communications
NFPA	National Fire Protection Association
NIOSH	U.S. National Institute for Occupational Safety and Health
NIST	U.S. National Institute of Standards
NORSOK	Norwegian National Standards Institute
PDGM	Maputo and Marracuene Natural Gas Distribution Project
PETROMOC	Petróleos de Moçambique SA

PPP	Public-Private Partnership
PRM	Commander-General of Police
ROMPCO	Mozambique Pipeline Investment Company
ROOT	Rehabilitate, Own, Operate and Transfer
ROT	Rehabilitate, Operate and Transfer
SOW	Statement of Work
Special Regime	Special Regime for the Rovuma LNG Projects
UFSA	Unit for the Supervision of Acquisitions

EXECUTIVE SUMMARY

The specific objectives of this project are to assist in the interpretation of Mozambique's current legal framework (in the context of LNG projects) and to support the development of a legal framework that allows the LNG projects to progress while guaranteeing an optimal outcome for the country.

Current Gas Market Development in Mozambique

- Enormous natural gas reserves were recently discovered by Anadarko and ENI in the Rovuma Basin off the northern coast of Mozambique which will provide the feedstock for the LNG facility and associated infrastructure in the Palma region. This requires a set of conditions that currently are not present in Mozambique. The key element is the legal and institutional framework which the operators, project financiers and gas off-takers require in order to embark on a project of this magnitude in terms of capital, risk and duration. However, security and stability for operators and investors also have to be balanced with the duty of the government to legislate and negotiate terms and conditions that maximize the benefit for the people of Mozambique.
- In anticipation of the Natural Gas Master Plan of 2014, the GoM has developed and is already implementing strategies for maximizing the value of the large natural gas reserves not only through the revenue from export sales, but also for the industrial development of Mozambique. The gas fields and all facilities for transport, storage and use of natural gas are being, and will in future be, operated by private companies with a substantial participation of the State. Part of the gas produced by Sasol Ltd since 2004 is being used as feedstock for power plants and cement factories. Most recently, the 1st phase of a city gas project has been completed which distributes natural gas to hotels, restaurants and industries in the Maputo region, is already being used for motor vehicles and will eventually supply fuel to some 68,000 households, replacing imported petroleum products.

Status of the Rovuma Basin LNG Project

- The partners in the Rovuma Basin LNG project are subsidiaries of the US based Anadarko Petroleum Corporation (APC) and ENI S.p.A., an Italian multinational oil and gas company. Other international petroleum companies have already acquired participations in Anadarko's and ENI's offshore gas fields. They and others have expressed interest to participate in the onshore gas liquefaction project as investors and/or purchasers of the LNG.
- The 2006 Exploration and Production Concession Contracts for the Rovuma Basin give the state-owned Empresa Nacional de Hidrocarbonetos (ENH) the right to 10-15% ownership in the gas fields and the Rovuma LNG Project.
- Planning and initial design of the LNG Project are ongoing. A major achievement is the approval of the EIA Report in September of 2014. Critical issues presently being addressed by the government and the companies include the development of the supporting infrastructure and logistics for the project.
- Complex negotiations between the GoM, Anadarko, ENI and other participants have been essentially completed after passing of the Enabling Law No 25/2014 of 23 September, authorizing the Council of Ministers to legislate on a special regime for the LNG Project. The resulting Decree-Law still requires approval by Mozambique's Parliament. The companies can now finalize their financing arrangements, which are expected to be in place in the second half of 2015.

Summary of the Legal Framework for Mozambique's Petroleum Industry

- During the last few months, Mozambique has achieved the promulgation of new Petroleum and Mining Laws, Tax Laws and the Special Regime for the LNG Rovuma Project. This is in addition to the range of existing laws and regulations, such as the Megaprojects Law, Labor Law, Exchange Control Law, Environmental Law, Civil Construction Regulations, Investment Law and Arbitration Law. The result is a complex, in some cases contradictory, legal framework that has introduced a problematic level of uncertainty for regulators, investors and operators.
- However, important parts of the new regulatory and institutional framework are still pending, such as the regulations under the new Petroleum Law, the Decree-Law for the LNG project, as well as amendments or re-interpretation of other general laws and regulations which contradict or overlap the new legislation.
- Mozambique's Constitution of 1990, last revised in 2004, contains several mandates for control and exploitation of natural resources which are very modern and much more detailed than those in most other countries. They include clear definitions of the role of the State, the specific reference of the importance of the private sector, the mandate to promote knowledge and valorization of natural resources, as well as rules about the protection of the environment and the ecological balance, rational use of natural resources and balanced socio-economic development and other mandates for the extractive industry sector, including oil and gas exploration and exploitation.
- Chapter 3 of this report offers a summary and brief analysis of Mozambique's oil and gas legislation, of general laws and regulations applicable to the sector and of those of particular importance for the LNG project.

The New Petroleum Law No. 21/2014

- In 2012, when significant gas reserves were discovered in the Rovuma area, government and industry realized that the antiquated Petroleum Law of 2001 and a few incomplete regulations would not provide an adequate and equitable framework to promote and control further investment and operations for the rapidly expanding upstream and midstream sector and the related industrialization and infrastructure, especially for processing and export of LNG. Prime concerns were to offer a competitive environment and regulatory security to the industry and, at the same time, to secure long-term economic and social benefits for the population together with the efficient protection of health, safety and the environment.
- The new upstream Petroleum Law No. 21/2014 was promulgated on 18 August 2014 after it had been discussed for several years. It revokes the Petroleum Law No. 3/2001 and any other legislation contrary to it. Unfortunately, since the new law does not specify which existing legislation is actually revoked or amended, there remains a high degree of uncertainty about the applicable legal framework. It is strongly recommended that this situation is clarified by special regulations to be issued under the new law.
- In 2012 and 2013, drafts of the new Petroleum law were published and have since been extensively discussed by local and international law firms, oil and gas companies, NGOs and other interested parties in the media, in local workshops and international conferences. Most analysts considered the last draft as a reasonable and progressive approach, notwithstanding critical comments to specific provisions. It would have been a good piece of legislation.
- Annex III to this report offers the consultants' comparative analysis of the old petroleum law, the 2012 draft and the final version of the new law. Under criteria of general legislative methodology and the concepts of modern petroleum legislation, outlined in section 3.1 of the report, it appears that the final version of new law has deteriorated in comparison with the last drafts. The main points of concern are:

- Changes and additions by the legislators which are not well coordinated with the text of the draft, overlapping, duplicating and, sometimes, contradicting other provisions.
- Additions are poorly worded and disregard basic rules of regulatory drafting by, for instance, using a variety of terms which are totally ignoring the “definitions”.
- Many additions are not really legally binding provisions, but rather declarations of political or socio-economic concepts.
- Undefined criteria for potential government intervention leave unreasonable room for discretion, delays, abuse and corruption.
- The scope of the new law definitely includes “upstream” and certain “midstream” oil and gas installations, such as the processing plants for LNG with the related infrastructure. The scope excludes “downstream” installations and operations for petroleum products, but there are no specific provisions for the downstream use of natural gas.
- The “Alta Autoridade da Indústria Extractiva” for the petroleum and mining sectors is created, but its responsibilities are still to be defined within 12 months;
- Petroleum operators have to acquire goods or services above a “set amount” through a public tender, but the amount has still to be defined by regulation.
- It remains unclear whether the obligation of foreign-owned companies to take in local partners only applies to the operators or also to their sub-contractors.
- There are no rules for transparent rate-setting methodology of pipeline tariffs, and no clearly defined operating rules and obligations, such as access and balancing.
- Some well-known concepts, accepted and demanded by modern and sophisticated markets, as well as considered and appreciated as conditions of good governance are missing in the law, such as the “*One Stop Window*” and the principle of “*Administrative Silence*” which forces regulators to make critical decisions within a maximum time period;
- The new Petroleum Law redefines and expands the use of concession contracts. It remains to be seen whether the regulations will develop one or more new model contracts,

Legislation for LNG Projects

- The EPCCs signed by Anadarko and ENI in 2006 allow exploration and exploitation in the Rovuma gas fields, but did not anticipate the possibility of processing the production in a local LNG plant. A new concession contract had to be negotiated for the project.
- The GoM, Anadarko, ENI, their partners, their potential sub-contractors and other interested parties have been for quite some time drafting and negotiating terms and conditions for the concession contracts, technical design, financing and many other complex issues in connection with the Rovuma LNG Project. Among the most important issues to be addressed were:
 - Nature of the instrument to govern the LNG project and a special; legal regime;
 - Land rights;
 - Stabilization of the fiscal regime and consequences of changes in critical laws.
 - International arbitration;
 - Application of the Mega Project Law;
 - Exchange control rules, customs duties and other incentives and exemptions;

- Procurement issues and labor issues.
- The Enabling Law No. 25/2014 of 23 September, analyzed by the consultants, is an adequate and constructive approach, corresponding to modern legislative methodology.
- Another important piece of legislation is the Mega Project Law No. 15/2011, of 10 August, and its Regulation, Decree No. 16/2012, of 4 July, establishing the rules for the process of contracting, implementing and monitoring joint ventures between public and private partners. However, there is currently a discussion as to whether this law is applicable to the LNG Project.
- Section 3.6.2 of this report briefly analyzes other legislation applicable to LNG Project

Protection of Health, Safety and Environment

- Mozambique’s environmental legislation for the petroleum sector, and in particular for the LNG plants and infrastructure, has not recently been updated. Section 3.7.1 of the report offers a summary of the applicable laws and regulations which are the basis for the recently approved EIA of the Rovuma LNG Project.
- According to sound legislative methodology, standards for protection of industrial safety, public health and the environment (HSE) should be a key component of the legal framework for every country’s oil and gas industry. Unfortunately, nowhere in Mozambique’s old or new petroleum law is any reference to specific national or international HSE standards. Only general statements are used that operations shall be conducted according to “*good petroleum industry practice*” or similar terms in different wording.
- General references to “*good oil field practices*” or international standards without further specifications create uncertainty and leave an unacceptable level of discretion for the private sector, on the one hand, and the government, on the other. As a consequence, the industry operator may select a certain set of standards, while the regulator uses different standards. This will then often result in disputes between the parties, which will endanger and delay the operations.
- Modern laws in many countries have established the adoption of international standards by reference as the preferred method for the generation of national HSE standards for the oil and gas industry. Those standards can then be referred to in the law, the regulations, concession contracts, licenses and other regulatory instruments.
- The LNG industry around the world has an excellent safety record, because it complies with rigorous government regulations, industry codes and standards for its engineering, operations, maintenance and personnel training. HSE standards for LNG are issued by many national and international bodies, such as the International Standardization Organization (ISO), the International Maritime Organization, the European Committee for Standardization (CEN), the U.S. Federal Energy Regulatory Commission, the U.S. Department of Transportation and the U.S. Coast Guard.
- The entity in charge of normalization, metrology and quality control in Mozambique is the Instituto Nacional de Normalização e Qualidade (INNOQ), an autonomous body operating under the Ministry of Industry and Trade pursuant to Decree No. 71-2013 and Resolution No. 51/2003. INNOQ has so far not been involved in the definition of the legal framework for the upstream oil and gas sector.
- In order to complete the regulatory framework for Mozambique’s petroleum sector in general, but in particular and urgently for the LNG project, the consultants recommend the following:
 - INNOQ should immediately initiate the process of selecting and adopting the most important standards for this sector.

- International standards which have not yet been formally adopted by INNOQ should be included by reference in tender documents, in the concession contracts for the petroleum sector and LNG processing and infrastructure projects and/or in construction, transport and other licenses. Compliance with those standards becomes mandatory for all parties to the contracts or regulatory instruments.
- The Council of Ministers Resolution could authorize the MIREM or another regulatory authority to allow the application of specific international standards.
- Since the Petroleum Law No. 21/2014 does not include any rules or procedure for the selection, adoption, adaptation, approval and enforcement of international standards in the form of national standards, a special regulation should fill this gap.

Institutional Structure

- As summarized in section 3.8 of the report, many different government institutions have the responsibility for diverse functions that have a bearing on the performance of Mozambique’s oil and gas sector. These functions include: mineral policy formulation, investigation of mineral potential, maintenance of geological and mining data, budgeting, granting of mineral rights, and the monitoring of operators' compliance with the applicable laws, concessions agreements and licenses.
- All of the many observers who have analyzed the institutional structure of Mozambique’s oil and gas sector have come to the conclusion that the key institutions do not yet have adequate human and material resources to discharge their responsibilities.
- In addition to the typical measures of institutional strengthening and capacity building, the consultants agree that particular attention should be given to the following aspects:
 - Create a centralized authority for regulation and supervision of infrastructure projects and inter-ministerial bodies or committees to coordinate regulatory actions;
 - Establish project planning bodies and institutional advisory boards comprising government, industry, labor and civil society to assist government in assessing applications for exploration rights, developing new laws, regulations, enhancing economic linkages and resolving disputes.
 - Offer non-academic vocational training through civil society organizations, business associations, labor and trade unions.

CONCLUSIONS

1) Regulatory Security:

- The most important aspect of any extractive industry project with foreign investors is the “regulatory security” offered by the host government in order to attract risk capital and international know-how.
- The analysis by the consultants and other observers shows that the complex regulatory framework created by the new Petroleum Law and related legislation do not yet offer the necessary level of regulatory security which should be expected from modern legislation. They still leave a problematic level of uncertainty for regulators, investors and operators, mainly due to
 - insufficient definition of the responsibilities of the principal sector regulators and no mechanism for coordination with other relevant authorities;
 - no clear distinction of the State’s role as regulator and investor;
 - undefined criteria and discretionary provisions leaving unreasonable room for government intervention, regulatory delays, abuse and corruption;

- unusual time limits in stability clauses for fiscal benefits and contradictory conditions for access to international arbitration.
- Among the remedies recommended by the consultants are the adoption of international HSE standards, the establishment of a “*one stop window*” for licensing and the implementation of the concept of “*administrative silence*” for regulatory actions.

2) Regulations under the New Petroleum Law

- The regulations to be issued offer the opportunity to clarify many of the provisions of the law and to complete the new legal framework by closing gaps and adding specific requirements in order better define the operators’ obligations and, at the same time, limiting the discretion of the regulators.
- While the law requires the regulations to be issued within 60 days from its effective date, there are no legal consequences if the deadline is not met. It is, therefore, strongly recommended for the GoM to take its time and to seek expert advice in drafting the various regulations, to take into account international experiences and to seek adequate stakeholder input before approving the secondary legislation.

3) The Decree Law for the Rovuma Basin LNG Project

- In principle, the concept of the Enabling Law is pragmatic and constructive by allowing the participants to negotiate special terms and conditions for this extraordinary project. While writing this report, final negotiations between the GoM, Anadarko, ENI and their partners were under way and are expected to be concluded before the year end.
- It is understood that the GoM as well as the investors and operators are fully aware of the critical importance of this project for the industry, the country and the region, and most observers expect that the negotiations will be concluded successfully and the resulting Decree-Law will be approved by the Parliament.
- As with the new Petroleum Law in general, a final assessment of the regulatory and contractual framework for the Rovuma Basin LNG Project will only be possible after the regulations are issued and the approved concession contracts are published.

4) Institutional Capacity Building

- Good economic and social performance in the extractive industry is directly related to a country's institutional capabilities. Strong, accountable and efficient institutions have the capacity not only to define objectives and priorities, but also to implement social policy frameworks, stimulating controlled economic growth through private and public sector investments and to enforce the rule of law, especially for the protection of health, safety and environment.
- The main strategy in Mozambique should not be to expand budgets for the regulators, but to increase absorption capacity and government effectiveness, which has to include building institutional capacities together with modernization and simplification of systems.
- Building and enhancing the technical capacity of the government agencies entrusted with sector regulation, monitoring and enforcement are necessary for the effective and transparent implementation of government policies, laws and regulations.
- A problem common to government entities in many developing countries is how to retain qualified civil servants, given the limitations imposed by public compensation and human resource management policies. To overcome these limitations some

countries have created autonomous regulatory agencies and NOCs which are exempted from civil service rules.

- There are multiple donor programs available at this time in Mozambique for institutional capacity development. Also, the legislation and the concession contracts contain provisions concerning obligations to train locally recruited personnel and strict requirements for local employment and content.
- Using these resources, it will be of critical importance to not promote only academic education but broad based vocational training for technicians and qualified workers, such as welders, pipe fitters, electricians, mechanics, laboratory staff etc.

1. INTRODUCTION AND OBJECTIVES

The objective of this report is to analyze the current legal environment for the launch of Mozambique's Liquefied Natural Gas (LNG) industry with a view to introducing clarity and transparency for all participants and ultimately to propose a solution that balances the interests of all parties. The specific objectives are:

- a) To assist in the interpretation of Mozambique's current legal framework (in the context of LNG projects);
- b) To support Mozambique in the development of a legal framework that allows the LNG projects to progress while guaranteeing an optimal outcome for the country.

To undertake the study, a team of two consultants was contracted: Dr. Hilmar Zeissig, international oil & gas and legal expert, and Taciana Peão Lopes, a Mozambican legal expert.

During the month of October 2014, in their home offices, the consultants collected laws, regulations, previous studies and other documentation and available information. They performed a comprehensive analysis, prepared a preliminary report and their presentations for the mission to Mozambique.

From Nov.7 to 15, 2014, the international expert visited Mozambique for team briefings, collection of additional documentation and information, interviews and briefing sessions with public and private sector stakeholders and presentations during a workshop in Maputo.

The list of meetings and people met during the mission to Mozambique is attached as Annex II to this report.

2. BACKGROUND

Detailed descriptions of recent developments in Mozambique's natural resource sector and of the macroeconomic consequences have been published in many reports. The findings do not need to be repeated in this study, but some are used as source of information.¹

The enormous natural gas reserves discovered in Areas 1 and 4 of the Rovuma Basin off the coast of Mozambique's northern province of Cabo Delgado will provide the feedstock for the Liquefied Natural Gas (LNG) Facility and associated infrastructure in the Palma region. This first LNG project in Mozambique which is the main subject of this study is jointly developed by Anadarko Mozambique Area 1, Lda. and Eni East Africa S.p.A.

All analysts agree that moving forward with the LNG project requires a set of conditions that currently Mozambique does not present. The key element is the legal and institutional framework. The operators, project financiers and gas off-takers all require a very specific set of laws, regulations and guarantees in order to embark on a project of this magnitude in terms of capital, risk and duration. However, security and stability for operators and investors also have to be balanced with the objectives and aspirations of the host country which has a fiduciary duty to negotiate terms and condition that maximize the benefit for the people of Mozambique.

¹ Among the most comprehensive documents are: (1) Standard Bank, Mozambique LNG: Macroeconomic Study, 07/31/2014, together with Conningarth Economists. (2) ICF: The Future of Natural Gas in Mozambique: Towards a Gas Master Plan 12/20/2012. (3) Ministry of Mineral Resources, Strategy for the Implementation of the National Minerals Policy for Mozambique "Putting People First" August 2012,

2.1 CURRENT GAS MARKET DEVELOPMENT IN MOZAMBIQUE

In June 2014, the Government of Mozambique (GoM) approved the Natural Gas Master Plan², which has been prepared since 2012 with the assistance of the World Bank and international consultants, based on an analysis of opportunities for LNG in the world market, in domestic markets for power generation, fertilizer, methanol production, etc. and in regional markets, such as Zambia, Malawi, South Africa, and Zimbabwe. The objective of the plan is to develop strategies for maximizing the value of recent large finds of natural gas off the country's northern coast not only through the revenue from export sales, but also for the industrial development of Mozambique. Resolution No. 64/2009, 2 of November, already expressed the initial concepts of the gas market development strategy.

Since the new gas fields recently discovered in the Rovuma basin are not yet producing, natural gas production in Mozambique has been low, with Pande and Temane (Inhambane Province) being the only fields producing since 2004, operated by Sasol Ltd., an integrated energy and chemical company based in Johannesburg, South Africa. The gas is currently delivered to consumption and for export to South Africa. For the Anadarko/ENI LNG project, Japan, India, Germany, South Korea and Norway have been identified as future prospective markets.

The entities producing and developing natural gas are either privately owned or partially state-owned. The GoM holds share capital of the natural gas fields as well as in the transportation infrastructures, which allows it a share in present and future profits. Also, the gas transportation and storage facilities are publicly and privately owned, and the GoM is contractually entitled to hold participation interests in these activities. The only existing export pipeline extends 865 km between Temane and Secunda (South Africa) and is operated by the Mozambique Pipeline Investment Company (ROMPCO) which is owned by SASOL and the state company ENH. The operator is obliged by law to transport gas for third parties, subject to payment of fees and other conditions.

Commercial distribution of natural gas can be made through public or private networks under government concessions or licenses, respectively. Trading prices of natural gas are regulated. The domestic market for natural gas is still emerging, and the government is prioritizing power, fertilizers and petrochemical (ammonia, methanol, urea) industries. With royalty gas that the GoM receives from this SASOL production, several industries have been developed or are in the process of development around Maputo, including gas-fired power plants and cement factories. Presently, about 90% of generated electricity in Mozambique is from hydro power, thermal plants fueled by oil and gas represent only 10% or approximately 5,500 MW. The forecast is that the future increases of demand will be satisfied by gas to power which by 2018 will represent the main source of electricity generation in Mozambique, and gas contribution to the energy matrix will grow from 8% to 42%.

For other downstream petroleum activities, Mozambique does not have a refinery. All fuel products, including liquefied petroleum gas (LPG) are imported by a single private entity Importadora Moçambicana de Petróleos (IMOPETRO), with the national retail oil company Petróleos de Moçambique SA (PETROMOC) holding 51% and participation by all authorized operators in proportion to their stake in the domestic market. But the government in cooperation with private sector investors and operators has made impressive, early efforts to replace liquid fuels by natural gas from national production:

² World Bank and the Government of Mozambique: The Future of National Gas in Mozambique: Towards a Natural Gas Master Plan – Feb. 22, 2013

- In April 2013 the Maputo and Marracuene Natural Gas Distribution Project (PDGM) was started by the Empresa Nacional de Hidrocarbonetos (ENH), and its 70%-partner Kogas of South Korea. In October 2014, the joint venture completed the 1st phase of a city gas distribution system and has delivered piped natural gas to consumers since June 2014, initially supplying mostly hotels, restaurants and industries. Eventually, the network will cover some 68,000 households in the capital city and nearby areas, replacing imported LPG, kerosene and diesel fuels at a lower cost. The natural gas originates from Sasol's off-shore fields, goes through the treatment plant at Temane, Inhambane province by pipeline to a pressure reduction station near Matola and from there to the PDGM city gas system of about 60 km low pressure pipe.



Source: H. Zeissig

- One of the PDGM clients is Autogas, a company that converts vehicle engines to run on compressed natural gas (CNG) gas, replacing gasoline and diesel. This application is not even well developed in most industrialized countries and has a tremendous potential to replace even more imported fuels in Mozambique in the near future.
- Phase II of the PDGM project was initiated in September 2014 and will connect additional suburbs and many more residential, commercial and industrial consumers to the city gas system.

2.2 STATUS OF THE ROVUMA BASIN LNG PROJECT

- The partners in the LNG project are
 - Anadarko Mozambique Área 1, Lda (AMA1), a wholly-owned subsidiary of Anadarko Petroleum Corporation (APC), an independent public corporation headquartered in The Woodlands, Texas, USA. AMA 1 is a commercial entity registered under the laws of Mozambique with offices in Maputo and Pemba.
 - ENI S.p.A is a multinational oil and gas company headquartered in Rome, Italy. Eni East Africa S.p.A (ENI) is an affiliate of Eni S.p.A. which is based in San Donato Milanese, Italy and has a registered branch in Mozambique with offices in Maputo and Pemba.
- In February 2014, the Final EIA Report, prepared by ERM Southern Africa (Pty) Ltd in association with *Impacto, Projectos e Estudos Ambientais Lda.*, on behalf of AMA1 and Eni has been submitted to the Ministry for the Coordination of Environmental Action (MICOA) for decision making after incorporating comments received during the public commenting period 27 August to 31 October 2013. The EIA Report was approved and published in September 2014.
- Thailand's PTT Exploration and Production acquired an 8.5% interest in the Rovuma Offshore Area 1 in 2012. Other partners of Anadarko and Eni include China's CNPC, Japan's Mitsui, Oil India Limited, Bharat Petro Resources,
- Preliminary deals have also been made with China National Offshore Oil Corp, with Thailand's PTT, Japan, Indonesia's Pertamina, the United Arab Emirates, companies in

India and other countries. Some, like Thailand's PTT, are interested in participating as investors in the project.³

- With the Rovuma Basins development plans being negotiated, a critical issue is the necessary infrastructure development to support the development of the fields, processing, distribution and export. Hence investment opportunities in logistics (construction, rail and ports), petrochemicals and on power generations are the current market trend.
- According to a report published by CIP⁴ the negotiations between the GoM, Anadarko, Eni and other participants are essentially complete. A fully developed draft has been circulating among industry representatives since early 2014. Some of the terms and conditions, however, were subject to legislative approval of exemption from existing laws and regulations. This has now been archived with the passing of the Enabling Law No 25/2014 of 23 September, authorizing the Council of Ministers to legislate on a special regime for the Rovuma LNG Projects, to be regulated via a Decree Law⁵. The companies can now finalize their financing arrangements, and it is hoped that the key elements of the project will be in place in the second half of 2015.
- The 2006 Exploration and Production Concession Contracts (EPCCs) give Empresa Nacional de Hidrocarbonetos (ENH) the right to 10-15% ownership in Rovuma LNG, and the GoM has indicated that ENH plans to assume their full share of in the offshore gas fields and the LNG facilities. It is not known yet, how the government owned company intends to obtain financing for large up-front investment, although ENH has already engaged financial experts for that effect⁶.
- Mozambique has recently set up a public company, Portos de Cabo Delgado S.A., bringing together the state rail operator, Portos e Caminhos de Ferro de Moçambique (CFM), and the national oil company to develop the strategic onshore infrastructure in the north required for LNG exports.
- The state venture is seeking partners to expand the northern ports of Pemba and Palma for the LNG industry.

3. THE LEGAL FRAMEWORK FOR THE PETROLEUM INDUSTRY

During the last few months, Mozambique has achieved the promulgation of new Petroleum and Mining Laws, Tax Laws and a Special Regime for the LNG Rovuma Projects, which allows the Government to draft a Decree Law in order to facilitate equitable agreements with the investors and operators. This is in addition to the range of existing laws and regulations, such as the Megaprojects Law, Labor Law, Exchange Control Law, Environmental Law, Civil Construction Regulations, Investment Law, and Arbitration Law. The consultants share the opinion of most analysts that the result is a complex, in some cases contradicting, legal framework that has introduced a problematic level of uncertainty for regulators, investors and operators.

However, important parts of the new regulatory and institutional framework are still pending, such as the regulations under the new Petroleum Law and the Decree Law for the LNG projects, for which a very short time limit have been mandated, as well as amendments or re-interpretation of other general laws and regulations which contradict or overlap the new

³ Reuters: Asian buyers line up for Mozambican LNG, 10/ 30 2014, <http://uk.reuters.com/assets/print?aid=UKL6N0S00LP20141030>

⁴ CIP: Unprecedented Legal Reform in the Extractive Sector: An Overview of the Five/Six Laws of 2014.

⁵ Very recently approved by the Council of Ministers, but not yet official publish in the Official Gazette.

⁶ Standard Chartered and Société Générale are two of ENH's main financial advisors for the LNG Project.

legislation.

The next section offers a summary of concepts of modern legislation in general, and particularly for oil and gas exploitation. It would be very useful to compare each of the provisions of the new laws, the drafts for their regulations and relevant aspects of other laws with the concepts as outlined in order to establish whether they comply with best international legislative principles under regulatory, financial, technical and socio-economic aspects. In view of the limited time and resources available for this preliminary study, the consultants have not attempted to perform such a comprehensive review, but are concentrating their analysis and comments pursuant to the Statement of Work (SOW) on a few principal issues concerning the latest state of Mozambique's legal regime and its impact on the Rovuma Basin LNG Project.

3.1 CONCEPTS OF MODERN PETROLEUM LEGISLATION

3.1.1 LEGISLATIVE METHODOLOGY

Pursuant to best legislative practice, the legislation for a specific economic sector of a country should consist of three components:

- (1) The law itself should be short, simple, concise and drafted to establish and provide for:
 - basic political concepts
 - institutional structure and responsibilities
 - ground rules of the legal framework
 - regulatory principles and general mandates for the sector
 - the legal basis for the licensing
 - the monitoring and enforcement system
 - dispute resolution
 - authority to issue implementing regulations
 - revocation of and/or adjustments in previous legislation

It is imperative that a modern sector remains stable through time and sustainable under prevailing circumstances as well as transparent, enforceable and enforced. Private investment is used to develop its activities under a variety of political and economic systems and mainly requires to be sure that rules do not change over time since such investments are always on a long-term basis.

Capital investment and expenditures are calculated and risks are based on the total life of the project. Under democratic constitutions, the amendment of laws is and should naturally be time-consuming and politically difficult. That is the most important aspect of the long-term “regulatory security” which all investors are seeking, but which also is the basis for good governance. Therefore, the provisions of a law should only cover aspects, which are not expected to require frequent amendments due to changes in technical and economic circumstances or for temporary political ambitions.

- (2) Procedural and technical details which are necessary to implement the law and provide objective criteria for its enforcement in order to safeguard the government's interests, but also to protect the investors and the citizen in general, should be defined by a general and various special regulations as secondary legislative instruments, including transitory regulations for the gradual implementation of a new law. Regulations can be amended or new ones can be issued by the executive branch relatively easily and quickly, as long as

they stay within the specific limits set by the law. This gives the flexibility to deal with changes in the technical and economic circumstances and other aspects which were not foreseen when the law was passed by the legislature.

Since the regulations are supposed to cover details, which should be in the law itself, it can improve the legislative process if draft regulations are prepared together with the last draft of the law and submitted with it the legislators. The draft regulations will facilitate the understanding of the law's content and, most importantly, may prevent the legislators from overloading with unnecessary provisions which are to be included in the regulations. Once the law is approved, the draft regulations can be adjusted to the final text and issued without much delay, as it otherwise typically happens.

- (3) Technical details, mainly for the protection of public health, safety and environment (HSE) should not be included in the law or regulations, but should rather be covered, wherever possible, by references to national and/or international standards, for the reasons outlined later in this report.

Another principle is that modern and efficient legal frameworks should be modular. This means that

- all matters, rights and obligations for the participants in a well defined economic activity such as the upstream petroleum sector and the respective government functions are governed by the sector specific laws and regulations;
- but matters of general importance across all or part of the economy, such as those relating to taxation, environmental protection, labor, health and security, are covered by general laws and regulations, sometimes including specific provisions for certain sectors. As a matter of fact, this modularity increases transparency and accountability, facilitates compliance, reduces administrative costs and bureaucratic discretion and ensures an equitable, stable and competitive legal and contractual framework as well as a fair and efficient fiscal system which are another crucial element of “regulatory security” to attract domestic and foreign investments.

In sectors such as mining, petroleum, electricity, transport and telecommunication, particularly if new in a country, large and long-term projects are developed, which are technically and financially complex and depend mostly on foreign investment and know-how. Governments are always competing with other countries to attract qualified investors and operators. Therefore, they need flexibility in order to define terms and conditions, which consider the particular costs, risks and profits for the public and private stakeholders in each projects or groups of projects. This balance can almost never be achieved by laws and regulations. The legislators and regulators rarely have the technical and financial knowledge to cover all aspects and potential alternatives in their drafting and deliberations. It has, therefore, become standard practice all around the world, to agree on specific terms and conditions for these types of projects in concession agreements, negotiated licenses or other contractual instruments which are negotiated with the assistance of specialized experts on both, the governments and the investors' side.

The legal framework for the respective sectors needs to provide for this flexibility, notwithstanding the privilege of the government to reserve the right of final legislative or administrative approval of each of the negotiated deals. On the other side, the investors and operators should be entitled to stability clauses in order to minimize the risk that changes in the political power structure could force revisions or even revocations of the agreed critical terms and conditions during the project's life.

3.1.2 PRIMARY CONCEPTS AND OBJECTIVES OF UPSTREAM PETROLEUM LEGISLATION

Concepts of a modern legislation for the extractive industries and, in particular, for

hydrocarbon exploration and exploitation in developing countries emphasize as primary objectives:

- to create clear and non-discretionary procedures for the amicable development of the sector and its integration into the host country's current socio-economic reality;
- to attract technically and financially qualified domestic and foreign investors and operators for the development of the resources at the least cost, with the greatest effectiveness and fairness, and the smallest impact on environmental, social and political conditions of the country;
- to generate the highest possible economic benefit for country's citizen in the form of royalties, taxes and/or other proceeds from hydrocarbon production, taking into account the necessity to stabilize revenues in response to international price volatility and to finance an adequate level of public services by both the central and the sub-national government entities;
- to define a modern institutional structure for the promotion, management and oversight of the oil and gas sector that will ensure the economical, safe, transparent and environmentally sound development of the sector;
- to protect the environment, safety, health and security of all persons and their property rights according to international standards and codes of practice, adapted to the particular circumstances of each country;
- to duly consider varying interests between the national and regional governments and existing, laws, regulations, contracts and tribal traditions;
- to establish developmental priorities based on a critical and pragmatic review of the geological, logistical, infrastructural, legal, organizational and human resources frameworks existing in the country; and
- to mandate actions to encourage, support and promote responsible exploration, exploitation and industrialization activities in order to facilitate communities' socio-economic development by integrating them into an acceptable business environment with upstream and downstream linkages.

Natural resource policy definition must be an important component of the primary and secondary legislation for the sector. A developing country with little tradition of industrial mining and oil and gas operations has to legislate a dynamic and flexible process keeping in mind the following concepts:

- Resources are finite and non-renewable;
- Wealth buried is no wealth;
- Development and exploitation of resources should be done in a sustainable fashion;
- Private investment is the engine for development;

The State limits its participation in economic development activities to act as legislator, promoter, enabler, facilitator, regulator and enforcer.

- Rules have to be simple, clear, stable, transparent, enforceable, enforced and sustainable;
- Authority comes with accountability, and rights involve obligations;
- Given that financial, human and structural resources are limited, pragmatic prioritization is of the essence;
- Unique characteristics of population behavior, geographical hurdles, lack of infrastructure and of experienced labor force will in many cases demand a trial and error mode through time;

- Policies should be transitional, subject to further improvements;
- People’s understanding of governmental policies is indispensable, and the interests of local communities should be highly considered;
- Local input and participation in policy formulation are crucial and indispensable;
- Sustainability implies a comprehensive approach to development.

3.2 CONSTITUTION OF 2004

Mozambique’s Constitution, last revised in 2004, contains several mandates for the extractive industry sector, including oil and gas exploration and exploitation. The most important provisions, directly applicable, are:

- Article 98 - State Property and Public Domain – providing that natural resources in the soil and the subsoil, in inland waters, in the territorial sea, on the continental shelf and in the exclusive economic zone shall be the property of the State. The law shall regulate the legal regime of property in the public domain, as well as its management and conservation, and shall distinguish between the public domain of the State, the public domain of local authorities and the public domain of communities, with due respect for the principles of imprescriptibility and immunity from seizure.
- According to Article 99 - Sectors of Ownership of the Means of Production - the national economy shall guarantee the coexistence of three sectors of ownership of the means of production:
 - The public sector consisting of those means of production the ownership and management of which belong to the State or other public entities;
 - The private sector consisting of those means of production the ownership and management of which belong to private individual or corporate persons;
 - The co-operative and social sector comprising, specifically, a) community means of production, held and managed by local communities; b) means of production exploited collectively by workers; c) means of production held and managed by not-for-profit corporate persons whose main objective is social solidarity of mutual nature.
- Article 102 - Natural Resources – mandates that the State shall promote knowledge, survey and valorization of natural resources, and shall determine the conditions under which they may be used and developed subject to national interests.
- Article 110 - Use and Enjoyment of Land – provides that the State shall determine the conditions under which land may be used and developed. The right to use and benefit from land shall be granted to individual or corporate persons, taking into account its social or economic purpose.
- According to Article 117 - Environment and Quality of Life - the State shall promote efforts to guarantee the ecological balance and the conservation and preservation of the environment, with a view to improving the quality of life of its citizens.
- With a view to guaranteeing the right to the environment within the framework of sustainable development, the State shall adopt policies aimed, among others, at:
 - preventing and controlling pollution and erosion;
 - integrating environmental objectives with sectorial policies;
 - guaranteeing the rational utilization of natural resources and the safeguarding of their capacity to regenerate, ecological stability and the rights of future generations;
 - promoting territorial ordinance with a view to ensuring the correct location of

activities, and balanced socio-economic development.

These constitutional mandates for control and exploitation of natural resources are very modern and much more detailed than those in most other countries. They include clear definitions of the role of the State, the specific reference of the importance of the private sector, the mandate to promote knowledge and valorization of natural resources, as well as rules about the protection of the environment and the ecological balance, rational use of natural resources and balanced socio-economic development.

In addition, the following general mandates of the Constitution are important in the context of this study:

- Article 200 – Definition - The Government of the Republic of Mozambique is the Council of Ministers.
- Article 201 - Composition - The Council of Ministers shall consist of the President of the Republic, who shall preside, the Prime Minister and the Ministers. Deputy Ministers and Secretaries of State may be summoned to take part in meetings of the Council of Ministers.
- Article 202 - Convocation and Chairmanship –
 - In discharging its functions, the Council of Ministers shall do so in accordance with the decisions of the President of the Republic and of the Parliament of the Republic.
 - The Council of Ministers shall be convened and chaired by the Prime Minister, to whom this power is delegated by the President of the Republic.
 - Government policies shall be formulated by the Council of Ministers in sessions led by the President of the Republic.
- Article 204 – Powers - in particular, the Council of Ministers shall have, among others, the power to:
 - draft bills to be submitted to the Parliament of the Republic;
 - pass decree-laws under the legislative authority of the Parliament;
 - promote and regulate economic activity and the activity of social sectors;
 - prepare the signature of international treaties and sign, ratify, adhere to and terminate international agreements, in matters that are within their governmental jurisdiction;
 - direct labor and social security policy;
 - guarantee the defense and consolidation of the public domain and property of the State;
 - encourage and support entrepreneurial activity and the exercise of private initiative, and protect the interests of consumers and of the general public.
- Article 210 - Form of Acts - Normative acts of the Council of Ministers shall take the form of decree-laws and decrees. The decree-laws and decrees shall indicate the law under the authority of which they were passed. All other Government acts shall take the form of resolutions.

3.3 SUMMARY OF MOZAMBIQUE'S OIL AND GAS LEGISLATION

Mozambique finally promulgated the new upstream Petroleum Law No. 21/2014, of 18 August, which has been discussed for several years. It revokes the Petroleum Law No. 3/2001 and any other legislation contrary to it. Unfortunately, since the new law does not specify which existing legislation is actually revoked or amended, there remains a high

degree of uncertainty about the applicable legal framework as shown in Table 1. It is strongly recommended that this situation is clarified by regulations to be issued under the new law

Table 1	
Oil & Gas Laws and Regulations in Mozambique	
Title	Comments
Petroleum Legislation	
Petroleum Law No. 21/2014 of 18 August 2014	New Petroleum Law
Resolution No 22/2009 of 8 June, approving the National Strategy for Petroleum Operations Concessions	Superseded by New Petroleum Law and tax legislation of 2014 in case of conflicts, if any.
Resolution No. 64/2009 of 2 November, that approves the Strategy for the Development of Natural Gas in Mozambique	This Strategy specifies requirements and conditions in order to exploit, transport and put in the market natural gas. Research for gas exploitation and investments are mentioned in the text.
Resolution No. 10/2009 of 4 June, approving the New Policy on Energy. Repeals Resolution No. 24/2000.	This Resolution approves the New Policy on Energy. The Policy aims at: creating the conditions to improve the access to new forms of sustainable and diversified energies, contributing to the well-being and the socio-economic development of the national populations, promoting the supply of new energies, etc.
Petroleum Law No. 3/2001	Revoked by new Petroleum Law No. 21/2014
Decree 24/2004, of 20 August 2004 Petroleum Operation Regulations	Revoked by new Petroleum Law No. 21/2014
Law No. 12/2007 of 27 June, establishes the Specific Taxation Regime applicable to Petroleum Operations Law No. 13/2007 of 27 June, establishes the regime of Fiscal and Taxation Incentives to the Mining and Petroleum Operations	Superseded by new Petroleum Law No. 21/2014 and Law No. 27/2014, of 23 September in case of conflicts, if any.
Decree 4/2008, of 9 April 2008, approving the Petroleum Production Tax (Royalty) Regulations	Superseded by new Petroleum Law and tax legislation of 2014 in case of conflicts, if any.
Decree No. 56/2010 of 22 November, approving the Environmental Regulation for Oil operations.	Establishes the requirements to be satisfied in order to perform oil operation. The Regulation in particular specifies Environment Impact Assessment procedures, protection and control measures in order to prevent environmental disasters.

Decree 63/2011, of 7 December 2011, approving the Regulation of Employment of Foreign Citizens in the Petroleum and Mining sector	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any.
Law 14/2011 of 10 August, approving Public Administration Law	referred to in the Enabling Law (text not found)
Law 15/2011 of 10 August , approving the Mega-projects Law (governs public-private partnerships (PPPs), large-scale projects and business concessions) Decree 16/2012 of 4 of July, approving the Mega-projects Law Regulations	See section 3.6.2 below
Law No. 10/2013 of 11 April, approving the Competition Law	referred to in the Enabling Law
Ministerial Diploma No. 272/2009 of 30 December that approves the Regulation on the Licensing of Petroleum Activities and Facilities	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any.
Decree No. 36/2001 of 20 November, defining de limits of Partial Protection Area along the Corridor of the Gas Pipeline	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any.
Decree No. 40/2010, of 22 September	Approving the Oil Concession Research and Production, within the area "A" to: "Sasol Petroleum Mozambique Exploration, Limited" and to the National Agency for Hydrocarbons (ENH) E.P."
Decree No. 44/2005 of 29 November, on the Distribution and Commercialization of Natural Gas (repeals Decree 46/88 of 22 September)	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any. The Regulation in particular, provides duties and obligations, defines maximum prices and concessions, and regulates licenses. Moreover, it rules on health and environmental protection. Finally, it provides applicable taxes, sanctions and penalties.
Decree No. 45/2012 of 28 December, establishing the legal regime for production, import/export, storage, transport and trade of petroleum products. Decree No. 63/2006 of 26 December, establishing legal provisions on imports, supply and trade of petroleum products. Decree No. 58/2011 of 11 November, approving the Regulation on biofuel.	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any. Covers downstream petroleum only, but delineation to upstream and midstream scope of Law 21/2014 is not clear,

Ministerial Diploma No. 31/2014 approving the Regulation for Oil Technical Operators/Technicians Licensing.	Deals with licensing procedures
Legislation Concerning the Institutional Structure	
Resolution No. 13/2010, of 11 November, approving the Statute on the Ministry for Mineral Resources. Implements: Presidential Decree No. 20/2005, of 31 March, on the Ministry of Mineral Resources. – Repeals: Ministerial Diploma No. 201/2005, of 23 August, approving the Statute of the Ministry for Mineral Resources.	Establishes functions and competencies of the above mentioned institution entitled to carry out research, control and exploitation activities of mineral resources (including charcoal and hydrocarbons). The Statute is divided as follows: General provisions (Chap. I); Composition and Functions (Chaps. II and III); Institutional Partners (Chap. IV); and Final provisions (Chap. V).
Decree No. 25/2004 of 4 of August, on the National Petroleum Institute.	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any. Creates the National Oil Institute (INP) and approves its Statute. The INP shall be in charge for the regulation and control of oil research, production and transport activities and for the proposal of development policies and environmental protection measures. The Annex, provides the INP Statute. In particular, it defines INP legal status, its functions and competences and the internal structure.
Ministerial Diploma No. 245/2005 of 7 December on the National Petroleum Institute. Implements Decree No. 25/2004 of 20 August 2004	Superseded by new Petroleum Law No. 21/2014 in case of conflicts, if any. Approves the internal structure of the National Oil Institute, set up by Decree No. 25/2004 of 20 August 2004.
Decree 39/97, of 12 November creating the National Oil Company ENH E.P.	Creates the National Oil Company has a public company fully owned by the Mozambican State.
Ministerial Diploma No. 121/2009, of 10 June	Approves ENH statutes
Ministerial Diploma No. 126/2006, of 29 June, creating the Scientific Council for Energy (CCE). Implemented by: Ministerial Diploma No. 127/2006 of 29 June, regulating the Statute of the Scientific Council for Energy (CCE).	The aim of this environmental institution, under the Ministry of Science and Technology, is to elaborate, define and implement actions in the domain of new environmental technologies, as well as to support and give advice on issues related with this sector to the competent ministerial authorities.
Ministerial Diploma No. 277/2009, of 31 December, approving the Regulation of the National Direction for New and Renewable Energies. Implements: Ministerial Diploma No. 195/2005, of 14 September, on the Ministry for Energy.	The National Direction for New and Renewable Energies (DNER) under the Ministry for Energy, responsible for: conception, promotion, assessment, implementation and monitoring of the policies related with the sustainable development of new renewable and energies. It specifies competencies and functions of the Institution (Chap. I); Structure and composition of the Institution (Chap. II); Personnel (Chap. III).
Presidential Decree n. 21/2005, of 31 March, on the Ministry for Energy. Implements: Presidential Decree No. 13/2005, of 4 February, re-organizing the National System of Ministries. Implemented by: Ministerial Diploma No. 195/2005, of 14 September, on the Ministry for Energy. -	Defines its functions and competences in the field of renewable energies and fuels.
Public Administration Law 14/2011, of 10 August	This Law and other administrative regulations govern administrative acts and provide a mechanism for appealing decisions as well as supplementary measures such as

	complaint processes, the rules of defense of the rights and interests of private parties.. Decisions that can be appealed include the grant of concession contracts and enforcement action decisions.
Decree 7/2013, 4 of April approving the Mining Geology Institute (IGM)	Creates IGM and extinguishes the Mining Fund.

3.4 THE NEW PETROLEUM LAW NO. 21/2014

Oil and gas exploration in Mozambique has been going on sporadically since 1904, but only in 2012, when significant offshore gas reserves were discovered, government and industry realized that the antiquated Petroleum Law of 2001 and a few incomplete regulations would not provide an adequate and equitable framework to promote and control further investment and operations for the rapidly expanding upstream and midstream sector and the related industrialization and infrastructure, especially for processing and export of LNG. Prime concerns were to offer a competitive environment and regulatory security to the industry and, at the same time, to secure long-term economic and social benefits for the population together with the efficient protection of health, safety and the environment.

Government plans, many private studies and media reports have analyzed the Petroleum Law No. 3/2001 and emphasized the urgency of its replacement by comprehensive, modern legislation. In 2012, the draft of a new law was published which has since been extensively discussed by local and international law firms, oil and gas companies, NGOs and other interested parties in the media, in detailed studies, local workshops and international conferences, some of which were supported by multinational and bilateral donors.⁷

Most of the analysts considered the draft as a reasonable and progressive approach, notwithstanding critical comments to specific provisions. A revised draft of the new law was published in April 2013. After further studies and public debate the new Petroleum Law No. 21/2014 was approved by the Parliament on August 18, 2014.

The consultants have analyzed the old petroleum law, the 2012 draft and the final version of the new law. The results are presented in Annex III comparing the corresponding provisions, identifying additions and deletions and adding some comments. The consultants also reviewed all available comments by others on the new law.⁸ In reference to the legislative methodology and general concepts of modern petroleum legislation, outlined in section 3.1 above, it appears that the final version of new law has deteriorated in comparison with the last drafts. The following is a summary of the key aspects, while details are shown in Annex III:

- From a legal point of view, the draft would have been a good piece of legislation, also in comparison with recent sector laws in other countries, measured by the criteria outlined in section 3.1 above.
- The draft was short and relatively simple; it contained few procedural and technical details, which indeed should be left to the regulations and the concession contracts.
- As it been seen in other jurisdictions, the Parliament and its legislative commissions made some changes and many additions to the draft, which in almost all cases are not well coordinated with the original text as drafted.
- As a consequence, there are now several overlapping, partially duplicating and, sometimes, contradicting provisions in the law as noted in Annex III.
- There appears to be potential overlaps and inconsistency with existing legislation

⁷ Some of the more comprehensive studies are: ICF International/World Bank: The Future of Natural Gas in Mozambique: 12/20/2012;

⁸ The National Law Review (<http://www.natlawreview.com>); CPI: Unprecedented Legal Reform in the Extractive Sector, 09/2014 http://www.cip.org.mz/cipdoc%5C327_Servi%C3%A7o%20de%20Partilha%20de%20Informa%C3%A7%C3%A3o_2014_9_en.pdf; Rod Chooramun: Mozambique's New Petroleum Law, 09/30/2014 <http://www.andrewskurth.com/pressroom-publications-1145.html>; Mayer, Brown, Taub & Chequer: Analysis of Mozambique's New Hydrocarbons Legal Regime, 09/19/2014 <http://www.mayerbrown.com/Analysis-of-Mozambiques-New-Hydrocarbons-Legal-Regime-09-19-2014/>; USAID SPEED: Mozambique's New Petroleum Law, 10/2014 <http://www.speed-program.com/our-work/mozambiques-coming-natural-resource-boom>.

concerning environment, construction, land use, resettlement, ports and maritime rules and other matters. Contrary to the draft, it appears that no competent lawyers, who knew the methodology of modern legislation, were consulted in the formulation of the final text.

- Most additions and changes are poorly worded and disregard basic rules of regulatory drafting by, for instance, using a variety of terms which are totally ignoring the “definitions” that were not much changed (only moved to an Annex). Important definitions like “petroleum operations” are not used in the additions, but all kinds of other, totally inconsistent terms, which sometimes make it hard to understand the meaning. This is annoying and risky when judges and arbitrators later have to interpret and apply the law.
- The most problematic fact is that many changes and additions are not really legally binding provisions, but rather declarations of political or socio-economic concepts. Some of those should have been listed in the Preamble of the law where legislators would typically express their political intentions as a basis for future interpretation of the legislative mandates. Instead, the Preamble was cut down compared with the draft.
- As marked in Annex III, there are also quite a few additions, which introduce undefined criteria for potential government intervention and repercussions, leaving unreasonable room for discretion, delays and abuse. That is not only a typical danger to the “regulatory security” and efficient administration, which high-risk investors seek, but it is also the most convenient basis for corruption. Some of these open-ended provisions can and must be filled with specific criteria in the regulations and/or by references.
- The most frequently used discretionary term is “*good petroleum industry practice*”. The law should mandate that this open-ended reference is complemented by regulations with references to specific international HSE standards.
- Scope and application of the Petroleum Law No. 21/2014:
 - It applies to “*upstream*” oil and gas installations and operations, which include reconnaissance, exploration, development, production and delivery of natural hydrocarbons to the point of sale or export.
 - It applies to certain “*midstream*” facilities and operations, especially processing plants for LNG with the related infrastructure, such as pipelines, storage and terminal facilities. Responsibility for gas distribution concessions are split between the Ministry of Energy and the Council of Ministers without a consistent framework for regulating pipelines under the direction of a single authority.
 - “*Downstream*” installations and operations for refining, other processing, transportation, storage, import, export and distribution of refined petroleum products, including LPG, are excluded from the scope of the law by Art. 2 (3).
 - There are no specific provisions for the downstream use of natural gas. Only the definition of “Petroleum” and “*Petroleum Operation*” in the Annex seem to indicate that the law applies to the use of LNG and natural gas for energy generation or industrial use. Unclear remains whether use of natural gas as fuel in households or commercial establishments (city gas) or burning of CNG in vehicles and other combustion engines is covered by this law rather than the separate downstream legislation.

Some of the highlights of the new legislation are:

- Institutional developments feature prominently:
 - Creation of the “*Alta Autoridade da Indústria Extractiva*” (High Authority for the Extractive Industry) responsible for both mining and petroleum, but its responsibilities are still to be defined by the Council of Ministers within 12 months;
 - The role of the Instituto Nacional de Petróleo (INP) as the regulator for the

petroleum sector is reconfirmed,

- The role of ENH as a commercial partner in all aspects of the sector is further extended and 25% of production in future contracts will be reserved for the domestic market. The new law reinforces this role by guaranteeing the financing of ENH.
- Increasing benefits for Mozambicans is another key theme running through the new law including:
 - strengthened requirements for local content,
 - a new requirement for association with Mozambican entities to compete in public tenders, and
 - an obligation for foreign companies to register on the Mozambique Stock Exchange.
- Art.41 requires that petroleum operators acquire goods or services above a “*set amount*” through a public tender. Until “*set amount*” is defined by regulation and the companies will be in an uncertain position regarding compliance with this requirement.
- The existing requirement to channel an undefined percentage of revenues back to local communities is maintained; while a new requirement for companies to negotiate a “*memorandum of understanding*” with local communities has been added.
- It remains unclear whether the obligation of foreign-owned companies to take in local partners only applies to the operators or also to companies engaged as sub-contractors.
- Foreign legal entities which directly or indirectly own rights under a concession contract, are required to be established, registered and administered under a “*transparent jurisdiction*” where the Government in an independent manner may verify the ownership, management, control and financial position of the company.
- Art. 50 contains a general reference to the Extractive Industry Transparency Initiative (EITI). Mozambique has been declared in compliance with the EITI, but different from other countries, it does not have a special law for the application and enforcement of the concept; a special regulation should define the details of this requirement.
- The petroleum exploration companies must publish their results, the amounts paid to the State, as well as the costs related to social and corporate responsibility, subject to supervision.
- Importantly, the new law will govern all future contracts in the petroleum sector. The terms of existing contracts, however, are retained for the full lifespan of the original agreements. Further legal developments are also anticipated, as many of the specifics will be contained in the supporting regulations.
- Key changes proposed by the new law include, for example, the introduction of a new type of concession agreement for the construction of offshore facilities.
- Direct or indirect transfers of participating interests in concession contracts, including the transfer of shares, quotas or any other types of interest, in the entity holding rights under the concession contract will now be subject to the Government’s approval, providing it with full control over assignments and thereby facilitating the respective taxation.
- At least 25% of gas produced must be used for local consumption.
- Pipelines are treated as concessions, like the exploration and production activities, which may inhibit the rapid development of transport infrastructure, as well as the efficient, fair and transparency operation.
- There are no rules for transparent rate-setting methodology of pipeline tariffs, and no

clearly defined operating rules and obligations, such as access and balancing.

- Details of the gas pricing structures remain to be defined by regulation, and it is not clear whether previously set prices are still applicable. In order to assure the long-term sustainability of the downstream distribution of city gas and automotive gas which has now been initiated, a fair pricing structure will be a key incentive for the investors, but must also be competitive in order to replace imported fuels.
- Some well-known concepts, accepted and demanded by modern and sophisticated markets, as well as considered and appreciated as conditions of good governance are missing in the law, such as:
 - the “*One Stop Window*” as a mandatory mechanism forcing the various regulatory authorities to coordinate their decision making process, to abbreviate and simplify administrative procedures and to ensure transparency and efficiency.
 - the principle of “*Administrative Silence*” which forces regulators to approve applications and make other critical decisions within a maximum time period; otherwise approval is granted automatically in order to streamline key administrative procedures for licensing, dispute settlement and other regulatory actions.
- Other important issues which have recently been discussed in Mozambique’s gas industry, are not addressed in the new legislation, such as
 - specific measures to channeling gas revenues into local development;
 - creation of a Sovereign Wealth Fund;
 - establish a National Transformation Bank owned by GoM and other countries / entities.
- Fines and other penalties:
 - Non-compliance with orders and specific administrative instructions are subject to the payment of fines, depending on the gravity of the infraction and its consequences, considering internationally accepted standards in the petroleum industry.
 - Other enforcement actions that can be taken by INP or MIREM include suspension or closure of petroleum facilities, suspension or termination of petroleum operations or activities, forfeiture of goods used in the infraction and, in the most serious cases, MIREM can rescind the concession contract.
 - The Public Administration Law No. 14/2011 of 10 August, and administrative regulations provide a mechanism for appealing decisions as well as supplementary measures such as complaint processes.
- Highly problematic is Art. 71 of the new Petroleum Law which simply revokes Law 3/2001, and “*any other legislation contrary to this Law*”. Good legislative methodology would require that specific reference to existing laws and regulations should be listed which are revoked or amended by the new legislation, rather than leaving that interpretation wide open.
- Regulations under the new law shall be issued within 60 days from its effective date instead of 180 days set in the last draft. Giving the importance of the regulations and the expected complexity of their drafting, this appears as an unrealistic deadline. As mentioned before, draft regulations should have been submitted to the legislature together with the draft law.

3.5 CONCESSION CONTRACTS

Historically, oil, gas and mining rights were awarded as unilateral government concessions to public or private exploration and exploitation operators. During the last decades, almost all countries have added the feature of concession contracts, production sharing agreements or similar consensual instruments to the legal framework for the extractive industry sectors. Under this concept, the government retains ownership of the natural resources, while the contractor provides financing and operational know-how in exchange for a defined compensation and/or success-related profit share in kind or cash. Depending on the applicable legislation, the negotiated contracts provide governments and industry with a certain flexibility to adjust the terms and conditions for each project to the prevailing geological and financial risks, special operating requirements, fiscal incentive and other aspects which attract qualified investors and operator, but also ensure adequate benefits for the host country and the local communities.

Under the Mozambican legal system, an administrative contract is defined as a contract between the public administration and a private counterparty (i.e. any Mozambican or foreign entity not belonging to the public sector), which is subject to an administrative law regime. All contracts governed by administrative law are considered to be administrative, and all contracts governed by civil law or commercial law are considered to be civil or commercial contracts, respectively.

According to Mozambican law, EPCCs and Facility Concession Contracts (FCCs) are qualified as administrative contracts for the following main reasons: (i) oil and gas resources in Mozambique are classified under the Constitution as public domain assets, and (ii) public domain assets may only be managed and explored by the State and/or granted for exploration by the State to private entities by virtue of a concession agreement, according to which the State is vested with its powers of public authority (*ius imperium*).

Mozambique's new Petroleum Law redefined and expanded the use of concession contracts, which was introduced by previous legislation. It now requires separate concession contracts for reconnaissance, exploration and production and for pipelines and other infrastructure facilities, which are not covered by an approved exploration and development plan. It remains to be seen whether the regulations under the new law will develop one or more new model contracts, which have been used the past as part of the tender procedures for exploration concessions. It is understood, that the INP is preparing a new EPCC model for the 5th Licensing Round.⁹

In this context, the GoM should review the most recent models used in other countries. Very comprehensive information is contained in a detailed, comparative 2012 study¹⁰ of the legal and contractual frameworks of the 18 member countries of the Association of African Petroleum Producers (APPA)¹¹, which represent 99% of the continent's petroleum production. The study discusses the main features of modern upstream petroleum legislation, and Annex 3 presents a model PSA contract based on the legislation in the member countries and other worldwide experiences.

3.6 LEGISLATION FOR LNG PROJECTS

The EPCCs signed by Anadarko and ENI in 2006 allow exploration, development and at least 25 years of natural gas production in the Rovuma fields. However, the original contract did not anticipate the possibility of processing the production in a local LNG plant for export. A new Concession Contract had to be negotiated for the Rovuma LNG project.

⁹ For more information and Guidelines for the 5th Licensing Round please consult www.inp.org.mz

¹⁰ Comparative study of the legal and contractual hydrocarbon regimes in the APPA Member States, FINAL REPORT, 18 July 2012

¹¹ <http://www.appa.int/index.htm>

The GoM, Anadarko, ENI, their partners, their potential sub-contractors and other interested parties have been for quite some time drafting and negotiating terms and conditions for the concession contracts, technical design, financing and many other complex issues in connection with the Rovuma LNG Projects. Apparently they were not able to agree on important components of this deal. The most important issues addressed to the Government were:

- a) Nature of the instrument to govern and regulate the LNG Project: EPCCs, FFCs and new legal regime;
- b) Land rights;
- c) Stabilization of the Fiscal Regime and powers of the GoM to unilaterally amend contracts, namely the EPCCs;
- d) International arbitration;
- e) Application of the Mega Project Law;
- f) Exchange control rules;
- g) LNG international maritime terminal and airport;
- h) Procurement issues;
- i) Customs duties and other incentives and exemptions;
- j) Labor issues;
- k) Security package.

Therefore, the GoM submitted to Parliament an Enabling Law, which authorized the issuance of a Decree Law to establish a special regime for the Rovuma LNG Projects (*Special Regime*) no later than December 31, 2014. This is an adequate and constructive approach, corresponding to modern legislative methodology as outlined above in this report. The Enabling Law No. 25/2014 of 23 September, was approved by Parliament. A few analysts have published initial evaluations of this interesting piece of legislation.¹² Without going into further details, reference is made to a detailed review published by USAID SPEED.¹³

The following are the main aspects of and some comments on this Law:

- Given the scale of the proposed project, the Special Regime is by far the most important new law and its approval was inevitable.
- The GoM is now enabled to negotiate concession contracts for the Rovuma LNG Projects to define the juridical, regulatory, contractual and fiscal regime as well the agreed incentives and safeguards for investors and operators for the duration of the project.
- The new contract will have the status of a Decree Law in order to create exemptions from existing laws and regulations and to provide the investors with the confidence that the contract cannot be easily renegotiated. The Enabling Law authorizes the Council of Ministers to approve that Decree-Law without going back to the Parliament.
- The original draft law provided that the Decree-Law could amend or supersede any existing legislation as required. However, Art. 3.3 now provides that in any matter not specifically provided for in the Decree-Law, existing legislation shall be subsidiary - i.e.

¹² CIP: Unprecedented Legal Reform in the Extractive Sector: An Overview of the Five/Six Laws of 2014. Gas Strategies: Mozambique parliament reviews special regime for LNG projects. LNG Journal: Mozambique grants 'special regime' for LNG

¹³ Carrie Davies, USAID-SPEED-Note-008/2014-Analysis-of-Special-Regime-for-LNG.

considered of lesser importance, which does not confer the same level of certainty as that provided by the draft and appears to make the status of matters not specifically regulated in the Decree Law more obscure and might create a contradictory regulatory environment.

- Fiscal terms for the Rovuma LNG Projects have not been disclosed yet. As to fiscal stability, the companies want a commitment of 30 years, but the new Law only allows to make the conditions negotiable every ten years “*without affecting the assumptions of viability and profitability*”, which is subject to interpretation and creates significant uncertainty for the investors.
- It is understood that Anadarko and ENI wanted exemptions from specific laws, including those concerning Mega Projects, Competition, Port and Maritime Terminals, Civil Construction, Fuel Prices, Unitization and Administrative Procedures. Parliament granted most of these, but it is not clear to what extent and how this is going to be regulated as is not specified what has been completely accepted and rejected by the GoM. The Law requires that all sub-contractors engaged in the gas fields or the LNG plant are national companies or have a national partner, clarifying the provisions of the Petroleum Law 21/2014 which were not clear.
- Article 3.1.i - requires that recourse to international arbitration is only available if all other options have been exhausted, which means any dispute would first have to go to the Mozambican justice system before international arbitration could be used. That is contrary to the new Petroleum Law and a very unusual restriction and a strong disincentive for many foreign investors.
- Pointing to the reality of weak government institutions and profound conflicts of interest at the highest political levels, concerns have been raised as to whether it is appropriate to grant exemptions from existing Mozambican laws and regulations for this specific project.
- It is criticized that the new legislation does not oblige the GoM to publish the main issues that will be covered by the Decree Law and the general approach that they are proposing to take, notwithstanding the fact that specific commercial and technical terms must be kept confidential in the interest of all parties in a successful negotiation.
- It has also been mentioned that undue pressure from powerful political interests as well as from Anadarko and ENI have forced this fast legislative action without public discussion on the critical issues that need to be addressed.
- The Council of Ministers has until December 31, 2014 to develop and approve the Decree-Law, seems short in view of the complexity of the matters and possible delays due to the elections.

Very recently, the last version of the Decree Law has been approved by the Council of Ministers, is now going for signature of the President of the Republic and ratification by the Parliament¹⁴. One of the most important matters under discussion in this Decree-Law was the stabilization clause. It seems that that the GoM opted for a reciprocal “*economic equilibrium*” stabilization clause, which applies if relevant changes in law occur that cause a

¹⁴ Once approved by the Council of Ministers, signed and its publication ordered by the President of the Republic of Mozambique, the Decree-law is enacted and enforceable as a legislative diploma, although it may be subject to ratification by the Parliament.

The approved Decree-laws are implicitly and definitively ratified unless, in the immediately following Parliamentary session, a minimum of 15 Parliament members requires its appreciation for ratification.

material adverse economic effect on the concessionaires or any LNG project entities. In that case the GoM will indemnify the affected entity so as to put them in the position they would have been had the change of law not occurred.

3.6.1 MEGA PROJECT LAW OF 2011

The comprehensive, modern Public Private Partnership Law / Mega Project Law (“MPL”), No. 15/2011, of 10 August, and its Regulation, Decree No. 16/2012, of 4 July, establish the rules for the process of contracting, implementing and monitoring three types of joint ventures between public and private partners:

- The basic Public-Private Partnership (PPP) is defined as an undertaking in a public domain area or in the provision of public services, except for the sectors of mineral and petroleum extraction, operate and fully or partially financed by a private partner.
- The Large-Scale/Mega Projects (LSPs/MPs) is the undertaking of an investment, authorized or contracted by the Government, valued more than MT 12.500.000.000 (approximately USD 400,000.00).
- A Business Concession (BC) corresponds to an undertaking with the object of prospecting, exploration, extraction and/or use of natural or other resources or state-owned assets, carried out under a contract or other means of creating a title to the rights granted by the government,

The Law addresses, among others, the following matters

- Efficient, qualitative and quantitative rendering of public services
- Title of Use and Enjoyment of Land (DUAT)
- The “user-pays” principle
- A detailed legal regime for public tender, while the particular rules governing the public procurement shall apply on a subsidiary basis
- In exceptional cases contracting by negotiation and direct award
- Observation of the principles of legality, finality, reasonableness, proportionality, pursuit of the public interest, transparency, publicity, equality, competition, impartiality, good faith, stability, motivation, integrity and reliability, good economic-financial management, promptness and further applicable principles of Public Law
- Conditions and calculation of financial tender guarantees
- Strategic PPP with financial guarantee by the GoM
- Awards in the form of (i) concession contract; (ii) operation contract or (iii) management contract under the modalities of Build, Operate and Transfer (BOT); Design, Build, Operate and Transfer (DBOT); Build, Own, Operate and Transfer (BOOT); Design, Build, Own, Operate and Transfer (DBOOT); Rehabilitate, Operate and Transfer (“ROT”); or Rehabilitate, Own, Operate and Transfer (ROOT)
- Final contracts subject to review and administrative ruling (“*Visto*”) by the Administrative Court and to publication of the principal contract terms in the Official Gazette, subject to confidentiality provisions
- Duration, extensions, termination, redemption for reasons of public interest, health, order and security and compensation
- Protection of public domain
- Main purpose is to develop national capacity for efficient operation and use of resources for the generation or saving of financial and foreign exchange resources

- Potential investors and concessionaires enjoy the right to free private initiative
- PPPs, MPs and BCs are subject to compliance with sector-specific legislation
- 5% to 20% of PPPs, MPs and BCs to be gradually offered at the Stock Market, preferentially to Mozambican individuals.

There is currently a discussion underway in legal circles as to whether the PPP/MP Law is applicable *mutatis mutandis* to the EPCCs and the LNG Project. In fact, considering the scope and objectives of the PPP/MP Law, some of the stakeholders of the LNG Project, including the Minister of Finance, are of the opinion that the EPCCs and the LNG Project contracts may fall within the scope of the PPP/MP Law:

- The EPCCs and respective LNG Project contracts may be qualified as a BC in accordance with before mentioned definition, and also because of the fact that the contracts approved under the MPL are of an administrative nature.
- The contracting of BC undertakings is subject to the rules and forms of contract provided in the applicable sector-specific legislation, i.e. the Petroleum Law and related legislation, as well as to the general principles applicable to public contracts.
- The new Petroleum Law and the draft for discussion of the Petroleum Law Regulations establishes the need for petroleum companies to be listed in the Mozambican Stock Market.

It is understood that the position of the Ministry of Finance is to apply some of the contents of this law to the petroleum operations and specifically to the Rovuma LNG Projects. The consultants understanding, based on a systematic interpretation of the Mozambican legal regime, is that the legislator's intention was to create a regime according to which certain projects and undertakings are to be submitted to the regime of the PPP/MP Law. This is confirmed by the drafting of the relevant legal provisions that expressly refer under the BC definition to the prospecting, exploration, extraction and/or use of natural resources, which would include the liquefaction of natural gas.

In addition, the exclusion made under Law 13/2007, of June 27, concerning the tax regime applicable to petroleum operations and the recent enactment of a special fiscal regime for petroleum operations approved by Law 27/2014, of 23 September, indicates that it would not be possible to just approve an LNG Project under a common Investment Contract according with the Law on Investment, No. 3/93, of June 24, as amended by Decree No. 43/2009.

3.6.3 Other Legislation Applicable to LNG Projects

Table 2	
Other Legislation Applicable to LNG Projects	
General Principles, Legislation, Relevant Authority	Observation/Comments
Facilities and Infrastructure	
Petroleum Facilities	
License for petroleum facilities (Installation License)	Licensing procedures
Operation license Ministerial Diploma No. 272/2009, of 30 December INP	Licensing and operational procedures

<p>License for construction and operation of storage facilities Ministerial Diploma 272/2009, dated 30 of December INP</p>	<p>The construction and operation of storage facilities only requires independent licensing with INP in the event the relevant facilities are located outside the concession area or are not included in the Development Plan.</p>
<p>Port Facilities</p>	
<p>Special Concession for construction and use of Port Facilities Law 15/2011 of 10th of August (“Mega Project Law”) And Decree 16/2012 of 4th of July MTC & INAMAR</p>	<p>Pursuant to Article 98.2 (a) of the Constitution, maritime zones are deemed part of the public domain of the State. The exploitation of maritime zones, including, but not limited to, through transport facilities such as ports, is subject to the State's authorization. At present, the law neither provides a specific framework setting out Port Concession application requirements nor rules for development, operation, maintenance, management and/or tariffs, fees or levies applicable to Port Concessionaires. Therefore, as a rule, the bases of the relevant concessions are set forth by way of contracts entered into between the State and the concessionaires, under a Decree approved by the Government which shall include, amongst others, (i) port management and maintenance regulations, (ii) traffic and navigation regulations, (iii) applicable tariffs and fees, if any, and/or (iv) applicable security and environmental protection regulations. Unless excluded under the special legal regime, the Port concession will qualify as a PPP under the Mega Projects Legislation.</p> <p>Important Note: The Government of Mozambique awarded a Concession for the Logistics and Terminal Ports for Pemba and Palma to Sociedade Portos de Cabo Delgado – PCD S.A., as per the Decree 87/2013, 31 December.</p>
<p>Special Concession for the Operation of an International Terminal of Goods Ministerial Diploma No. 11/2002, of 30 January Ministry of Finance</p>	<p>An international terminal of goods is a tax area under the supervision of the Customs Authorities, where the handling and storage operations may be entrusted to a private entity. It may be a maritime, road, aerial or a railway terminal or a multi-modal terminal.</p>
<p>Dredging Licenses Law No. 4/96, of 4 January Resolution 9/2012 of 15 of March INAMAR</p>	<p>Authorization for dredging operations shall be obtained from INAMAR. For such purpose, an application shall be submitted to INAMAR alongside with the dredging and the relevant facilities project, including technical specifications and implementation plan for the required operations. Upon approval of the project, INAMAR issues a dredging and/or construction license, which shall entitle the applicant to conduct the required dredging and/or reclamation of land operations.</p>

Airstrip/Aerodrome /Airport Facilities	
<p>Authorisation for the construction and/or operation and maintenance of an Airstrip/Aerodrome /Airport</p> <p>Law No. 21/2009, of 28 September Decree No. 73/2009, of 15 December Law 15/2011 of 10th of August General Director of IACM</p>	<p>Special authorization for the aerodrome to include State functions to be granted / secured by the Government</p>
<p>Authorization for Aeronautical Easement (“<i>Servidão Aeronáutica</i>”)</p> <p>Law No. 21/2009, of 28 September IACM</p>	<p>The use of neighboring facilities and properties is subject to special restrictions for security reasons. Please refer to our comments on section 1.4 (D) below.</p>
<p>Ground Handling Services License</p> <p>Law No. 21/2009, of 28 September IACM</p>	<p>Licensing and operational procedures</p>
<p>Authorisation for international traffic in domestic airports</p> <p>Law No. 21/2009, of 28 September IACM</p>	<p>Licensing and operational procedures</p>
Land	
<p>Land Use and Exploitation Rights (DUAT)</p> <p>Law No. 19/97, of 1 October Decree No. 66/98, of 8 December MA</p>	<p>A DUAT and a Special License for the areas classified as partial protected zones will be required.</p> <p>There has been awarded a DUAT to a Mozambican company Rovuma Basin LNG Land, Limitada (“RBLL”), held by ENH, Anadarko and Eni. Transfer of the Land is possible but a transfer does not operate automatically and is subject to certain requirements / procedures set out in the Land Law and Regulations.</p> <p>In fact, article 16 (2) of the Land Law provides that the titleholders of the DUAT are entitled to transfer the infrastructures, buildings and improvements that have been erected within the area by the DUAT by way of a Notary Public Deed, the DUAT being also transferred as a result. This transfer is subject to prior authorization from the Government, which has issued the DUAT (the Minister of Agriculture).</p>
<p>Decree No. 1/2003 amending Decree No. 66/98 regulating the Land Act</p>	<p>Regulates Land Act No. 19/97 establishing right of use and conditions for exploiting public lands. It consists of 7 Chapters and 1 technical annex specifying different land uses, listing obligations and rights of foreign or national entities, fees to be paid in order to obtain a license for land exploitation, etc. It concerns requirements to be met for obtaining the aforementioned license and regulates plans for land exploitation to be sent for approval to the competent authority. Technical Annex specifies requirements to be satisfied and limits (servitudes) of land areas.</p>
<p>Decree No. 23/2008 of 1 July approving the Regulation on Land Use Management.</p>	<p>Approves the Directive on land expropriation, as established by Regulation on Land Use Management</p>

<p>Special License (to Develop Activities in Partial Protection Zones) Law No. 19/97, of 1 October ; Decree No. 66/98, of 8 December Provincial Governor (issuance of Special License) Council of Ministers (Creation of a partial protection zone).</p>	<p>The land occupied by (i) surface facilities and above ground pipes and lines, underground and submarine cables, oil, gas and water, with a bordering strip of 50 m on each side; (ii) strip of land that borders river and lake navigable waters up to 50 m from the maximum line of such waters; and (iii) strip of coastline and surrounding islands, bays and estuaries, from the peak high tide-waters up to 100 m inland is classified as Partial Protection Zone and requires a Special License. The special protection zone is created automatically pursuant to articles 5 and 6 of the Land Regulations.</p> <p>Article 20.3 of the Petroleum Law sets forth that the land where the petroleum facilities are to be installed, as well as a strip of land surrounding the project site, shall be deemed a “partial protection area”. Therefore, a “partial protection area” may be created covering the entire Project area.</p>
<p>Creation and registration of rights of way (Servidão) Law No. 19/97, of 1 October; Decree No. 66/98, of 8 December as amended by Decree no. 1/2003, of 18 February Real Estate Registrar Offices</p>	<p>The creation of rights of way is subject to registration at the relevant Real Estate Registration Offices</p> <p>On the other hand, rights of way may also apply in connection with strips of land alongside pipelines, power lines and/or other relevant infrastructure. In this case, such rights should be created by means of the appropriate concession contracts to be entered into with the relevant authorities.</p>
<p>Resettlement</p>	
<p>Resettlement Plan and Resettlement Action Plan (RAP) Decree No. 31/2012, of 8 August (approves the Resettlement Process Resulting from Economic Activities) District Government; MP, MICOA , MPWH, MA); MSA, Local Community Leaders and Representatives</p>	<p>The Regulations on the new Resettlement Process Resulting from Economic Activities require that the Resettlement Plan be included in the EIA Process. Furthermore, approval of the Resettlement Plan is a precondition to the issuance of the Environmental Licence and, thus, of the commencement of any activities subject to the issuance of the latter.</p> <p>The process of resettlement is subject to the supervision of the Environmental Inspection, without prejudice to other inspections. The drafting of the resettlement plan must present the following elements: a) analysis of the socio-economic profile of the affected families; b) evaluation and analysis of the tangible assets; c) definition of the qualitative and quantitative degree of effect; d) definition of the compensation criteria; e) presentation of solutions and alternative techniques, economically viable, to maintain and improve the level of the affected families.</p> <p>Public participation must take place during the drafting and implementation of the resettlement plans, and must entail the following elements: i) clarification requests; ii) recommendations and suggestions; e iii) interventions in public meetings.</p>
<p>Assessment on Cultural and Archaeological Heritage and Archeology Safeguarding Operations Law No. 10/88, of 22 December (as amended by Law 13/2009, of 25 February 2009)MC</p>	<p>Archeological sites threatened with destruction due to construction works or other similar actions are subject to Archeology Safeguarding Operations for their immediate study and protection.</p> <p>An assessment on cultural and archeological aspects of the relevant land area is required to prepare any protection measures deemed appropriate.</p>
<p>Authorization to move holy or sacred sites As a result of the Resettlement Plan and Resettlement Action Plan Local Community</p>	<p>The Resettlement Plan and the Resettlement Action Plan typically include specific provisions covering the move of holy or sacred sites which shall always be subject to both the relevant community’s and local cultural and religious leaders’ prior approval.</p>
<p>Electricity</p>	

License for the establishment of electrical facilities Decree No. 48/2007, of 22 October ME	The installation of electrical facilities will involve the creation of partial protection zones. As the LNG facilities are considered to be Petroleum Facilities, the Petroleum Law provides that the land where the facilities are established is considered to be a partial protection zone. There is no need to create a partial protection zone for the electrical facilities
License for the Exploitation of electrical facilities Decree No.48/2007, of 22 October ME, Provincial Government, Local Authorities	May be required depending on the electrical facilities.
Authorization to install electric fences Decree No. 48/2007, of 22 October ME, Provincial Government	Where electric fences are planned to be installed, same must be previously approved by the Ministry of Energy.
Approval of power meters Decree No. 48/2007, of 22 October 2007 ME	Where applicable, power meters to be used must be of a type/model previously approved by the Ministry of Energy. In case a different type is to be used, it must be subject to Ministry of Energy's prior approval. This requirement also applies to private power stations or power production facilities.
Agreement for temporary supply of electricity during construction and commissioning period (to include provision of temporary transmission line up to the construction site) Decree No. 42/2005 of 29 November EDM	Rules relating to the National Electricity Grid, ILicensing and operational procedures
Industrial Licensing orange	
Industrial Permit Decree No. 39/2003, of 26 November MIC	Facilities to be used for purposes of industrial activities are subject to prior licensing by means of issuance of an industrial permit.
Construction	
Cibtractor Permit	
Temporary Contractor Permit Ministerial Diploma No. 83/2002, of 29 May; and Decree No. 38/2009, of 1 September MPOH	Granting of temporary license by the Committee in Charge of the Enrolment and Classification of Building Contractor Companies (<i>Comissão de Inscrição e Classificação de Empreiteiros</i>) May be necessary for Contractors depending on the precise construction arrangements. Only granted in exceptional circumstances to foreign contractors (i.e. with no local subsidiary or registered branch) duly licensed to carry out construction works in their country of origin, as follows:
Enrolment with MPOH of the foreign technicians employed by building construction companies (contractors and subcontractors) for public works Ministerial Diploma No. 83/2002, of 29 May and Decree No. 38/2009, of 1 September MPOH	The building Contractors have to file a list of their Technical Team (engineers and architects), to be comprised of technicians duly authorized to carry out their professional activity in Mozambique and registered with the relevant professional association (i.e., as a general rule, the Mozambican Engineering Bar) and the MPOH. In case of engineers or other technicians who are not yet registered with the MPOH and who have been obtained their degrees abroad, same may need to first have their degrees recognized by the Ministry of Education.
License for Extraction of Building Materials Law No. 20/2014, of 18 of August MIREM	May be required depending on the precise construction arrangements.

Construction Licenses	
Construction license Decree No. 2/2004, of 31 March Municipality or District Administrations, MPOH	License to be obtained per each construction work being separately performed from the Municipality or District Administrations in areas that are not within the jurisdiction of local authorities. In the case of large industrial, commercial or tourism buildings/facilities, MPOH should be heard.
License of Use Decree No. 2/2004, of 31 March Municipality or District Administrations, MPOH	<p>Granted after the completion and the inspection (<i>vistoria</i>) from the Municipality or District Administrations in areas that are not within the jurisdiction of local authorities. In the case of large industrial, commercial or tourism buildings/facilities, MPOH should be heard.</p> <p>Need to obtain separate licenses for separate facilities/buildings In case of petroleum facilities, it might be debatable whether this license applies or is replaced by the Operation License identified in 1.1(B).</p> <p>Notwithstanding, this license shall apply to non-petroleum facilities that might be required to implement the LNG Project (i.e. housing facilities, medical centres, aerodromes, etc).</p>
Transportation	
Transportation by Road	
Authorization for the Transportation of heavy equipment Decree No. 14/2008, of 25 June Decree-Law No. 1/2011, of 23 March ANE in consultation with INAV	Authorization from ANE may be required to carry cargo exceeding the allowed weight either in respect of the construction or to transport loads to the siding loading terminal for onward transport.
Authorization for the Registration (<i>Matricula</i>) of Heavy Vehicles Decree No. 14/2008, of 25 June ANE in consultation with INAV	Authorization from ANE is required for the registration of vehicles exceeding the allowed weight under Mozambican law.
Special permit for circulation (of abnormal vehicles) Decree-Law No. 1/2011, of 23 March INAV in consultation with ANE	Under the conditions specified in the regulations, the transit of vehicles with a weight or dimension exceeding the legally established limits or carrying indivisible load exceeding the limits of its box may be permitted by INAV.
License for the Private Transportation of Workers Decree No. 11/2009, of 29 May INAV	Transportation of workers from their housing facilities to the place of work is subject to the issuance of a license by INAV.
License for International Transport Decree No. 11/2009, of 29 May MTC, INAV	International transportation is subject to the issuance of a permit.
Registration of foreign vehicles Decree-Law No. 1/2011, of 23 March MTC, INAV	Foreign vehicles shall be registered upon importation or entry into Mozambican territory. Temporary registration may be available.
Registration of foreign drivers' license Decree-Law No. 1/2011, of 23 March MTC, INAV	Holders of drivers' license issued abroad may be eligible for registration of same in Mozambique. In any case, a local driver's license is required.

Authorization for opening tertiary roads ANE	If additional roads are required in order to support the siding loading terminal then authorization from ANE may be required
Maritime Transportation	
Commercial Maritime Transportation License Decree No. 35/2007, of 14 August INAMAR	Commercial Maritime Transportation Activities are defined as the transportation of cargo and/or passengers for a commercial purpose.
Registration of Private Maritime Transportation Activities Decree No. 35/2007, of 14 August INAMAR	Private Maritime Transportation Activities are defined as the transportation of cargo and/or passengers by its respective owner, in the pursuit of its activity (unrelated to the public transportation service). Unlike (A) above, private transportation services only require registration – rather than licensing – with INAMAR.
Authorization for use of foreign vessels Decree No. 35/2007, of 14 August INAMAR	Use of foreign flagged vessels is subject to INAMAR's authorization.
Appointment of a Ship Agent Decree No. 53/2006, of 26 December INAMAR	All foreign-flagged vessels calling on Mozambican ports are required to appoint a Shipping Agent, unless this requirement is waived by INAMAR.
Certification of Seafarers International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, of 1978, as amended in 1995 and of Decree No. 44/2001, of 21 December 2001, as amended by Decree No. 56/2007, of 14 August INAMAR	Seafarers onboard Mozambican or foreign flagged vessels within Mozambican waters must hold the relevant certificates of competency. For purposes of assessing compliance, INAMAR is free to inspect any vessel within Mozambican waters.
Pilotage Certificate Decree No. 45/2001, of 21 December INAMAR	Pilotage services shall only be rendered by individuals who have undergone licensing with INAMAR and hold a Certification of Competency of Port Pilots in the Republic of Mozambique.
Stowage License Decree No. 5/98, of 3 March , as amended by Ministerial Diploma No. 28/2003, of 5 March INAMAR	
Air Transportation	
Private Aerial Transportation (Definitive) License Decree No. 38/2011, of 2 September IACM	This license is required for acting as an aerial private operator, for purposes of transporting passengers and cargo for private purposes. A temporary license is available for private operators carrying out activities in the country for a maximum 30-day period.
Private Aerial Operational Authorization Decree No. 38/2011, of 2 September IACM	This license is required to carry out aerial services and is valid for one year periods, renewable.
Enrollment of Aerial Personnel w/IACM Law No. 21/2009, of 28 September IACM	Aerial personnel shall be registered with the IACM.
License for the Transport of Hazardous Material	The transportation of hazardous materials in civil aircraft is forbidden, unless a special authorization is granted by the IACM.

Law No. 21/2009, of 28 September IACM	
Airworthiness Certificate Law No. 21/2009, of 28 of September IACM	IACM shall issue an Airworthiness Certificate for each aircraft operating within Mozambican territory, unless one has been issued in a contracting State to the International Convention on Civil Aviation.
Aircraft registration Law No. 21/2009, of 28 September Decree No. 38/2011, of 2 September IACM	Aircraft operating in Mozambique are subject to registration. However, private aerial operators are allowed to use aircraft with a foreign registration number for a maximum period of 6 months, following which same must be recorded with the IACM.
Public Aerial Operator License Decree No. 39/2011, of 2 September IACM	As an alternative to (A) and (B) above, if there is a need to carry out aerial public transportation or provide aerial public services within domestic territory on an occasional or regular basis, it would be necessary to undergo licensing as a public aerial operator.
Special Permits	
Explosives	
Possession and/or use of explosive substances Law No. 6/2011, of 11 January Decree 40/2013 of 21 st of August PRM, MIC, MIREM, MICOA	Licenses for the production, storage, sale, import, export, re-export, transit and transportation of explosives are required for the exercise of these activities, as per the provisions of the Law 6/2011 and its Regulations (Decree 40/2013).
Explosives' Warehouses / Workshops Installation License Law No. 6/2011, of 11 January Legislative Diploma 1/71, of 7 January 1971 PRM, MIC, MIREM, MICOA	The storage of explosives must be done in storerooms (<i>paíóis</i>).
Authorization for installation of storeroom (Paio) Law No. 6/2011, of 11 January Decree 40/2013 of 21 of August PRM, MIC, MIREM, MICOA	The storage of explosives must be done in storerooms (<i>paíóis</i>).
Authorization for transportation of explosive substances Law No. 6/2011, of 11 January Decree 40/2013 of 21 st of August PRM	The transportation of explosives can be done by land, sea, river and air. The carrier must have transportation license and authorization to transport hazardous cargo. Explosive cargo above 200kg must request an escort at General Police Command. All expenses are borne by the cargo owner. Vehicles must be accompanied by officers of the PRM at all times during travel. Further, according to the PRM, once the vehicle(s) cross the Mozambican border, the PRM shall escort the explosive substances up to their final destination.
Authorization for importation, exportation and re-exportation of explosive substances Law No. 6/2011, of 11 of January Decree 40/2013 of 21 st of August PRM	Individual import/export/re-export licenses are mandatory for the purposes of importing/exporting or re-exporting explosives, which are issued on a case-by-case basis by the Commander-General of Police of the Republic of Mozambique - PRM. The license for import, export and re-export of explosives is valid for a period of 1 year.
Authorization for destruction or disposal of explosive substances Law No. 6/2011, of 11 of January	The license for the destruction of explosives is valid for a period of 1 year. The destruction is conducted by a commission, composed by a

Decree 40/2013 of 21 st of August PRM	delegate from the Provincial Command of PRM, a delegate from the Army and a delegate from the Fire Department.
Radioactive Substances	
Authorization/License to import, export, re-export, transport/transit and store radioactive substances Decree No. 67/2009, of 11 December Ministerial Diploma No. 181/2012, of 22 August ANEA	A comprehensive framework on radioactive substances is not yet in place in Mozambique. However, under ANEA Regulations, the import, export, transport/transit and store of radioactive substances shall be subject to ANEA's prior authorization. The terms under which ANEA's authorization is granted are yet to be determined though. As per information provided by ANEA the relevant authorization(s) shall be granted on a case-by-case basis.
Authorization for transportation of radioactive substances by sea Order No. 18 891, of 27 September 1965 (ART. 17) INAMAR	Vessels entering Mozambican ports carrying radioactive substances or for purposes of loading same shall obtain INAMAR's prior permission.
Authorization for destruction or disposal of radioactive substances Law No. 6/2011, of 11 January Decree No. 67/2009, of 11 December Ministerial Diploma No. 181/2012, of 22 August ANEA & Other competent authorities	See comments in 5.1 (F) above.
Insurance	
Authorization to take insurance cover abroad Decree-Law No. 1/2010, of 31 December ISSM	Only Mozambican insurance companies (including Mozambican branches of foreign insurance companies) are allowed to carry out the insurance business in the country. Furthermore, the Insurance Regime prohibits the execution of insurance policies covering risks located in Mozambique with insurance companies not licensed to act in the country. However, insurance contracts taken out abroad may be authorized by the ISSM, in the event local insurers refuse or are unable to subscribe the relevant policy. An application shall be filed for said purpose.
Telecommunications	
License for the provision of telecommunications services and set up of telecommunications networks Law No. 8/2004, of 21 July, Decree No. 33/2001, of 6 November (as amended by Decree No. 44/2004, of 29 September) and Ministerial Diploma No. 115/94, of 8 September ISSM	Might be required depending on the communications systems to be implemented /use both onshore and offshore.
License to use numbering resources for the provision of public use telecommunication services Decree No. 35/2003, of 24 September INCM	Might be required depending on the communications systems to be implemented /use both onshore and offshore.
License for the installation and exploitation of radio stations and radiocommunications networks Decree No. 36/2009, of 13 August and	Might be required depending on the communications systems to be implemented /use both onshore and offshore.

Ministerial Statute 115/94, of 8 September INCM	
Approval of Telecommunications and Radiocommunications Equipment Decree No. 37/2009, of 13 August INCM	Might be required depending on the communications systems to be implemented /use both onshore and offshore.
Approval of Agreements on Shared Access for Telecommunications Infrastructure and Other Network Facilities Decree No. 62/2010, of 27 December INCM	Might be required depending on the communications systems to be implemented /use both onshore and offshore.
Trademarks	
Registration of trademarks, commercial names, logos and/or insignias Decree No. 4/2006, of 12 April IPI	Registration is advisable, albeit not mandatory, so to provide protection against any third parties from recording similar industrial property rights.
Security / Firearms	
Private Security Licensing Decree No. 9/2007, of 30 April (as amended by Decree No. 69/2007, of 21 December) MI	The provision of personal and property safety services, surveillance and access control to any type of facilities, buildings or premises is restricted to companies which have undergone licensing as private security companies.
License to carry arms Decree No. 8/2007, of 30 April MI, Police	The possession, use and carry, import and export and transit of weapons and ammunitions by Mozambican or foreign citizens within the national territory is subject to the issuance of a license by the Mozambican Police.
Catering	
Catering Permit Decree No. 18/2007, of 7 August Decree No. 15/2006, of 22 June MIC, Provincial Government	In the event a catering facility shall be operated on site, a catering permit may be required. There may be additional health and safety issues to be considered.
License for Food Storage Facilities Decree No. 15/2006, of 22 June MIC, MH	
Project Companies' General Permits	
Corporate & Commercial	
Commercial Permit Decree 34/2013, of 2 August MIC	A Commercial Permit may be required in the event commercial activities shall be carried out. The Commercial Permits are issued for purposes of acting in a specific commercial category, including but not limited to the following categories: (i) trade of industrial equipment, machinery, chemical products, aircrafts and vessels, (ii) trade of construction materials, (iii) trade of fuel and derivatives, (iv) trade of metals and (v) trade of tools and hardware. Commercial permits are issued for specific classes, including (i) hardware, construction materials, (ii) industrial machinery, (iii) mineral oils, fuels and lubricator, (iv) explosives and (v) chemical products.
Tax & Customs	
Authorization for establishment of dedicated customs office for on-site	

<p>clearance of goods Decree No. 34/2009, of 6 July, and its regulations set out in Ministerial Diploma No. 16/2012, of 11 February Council of Ministers</p>	
<p>Authorization to Operate a Bonded Warehouse Ministerial Diploma No. 12/2002, of 30 January Customs General Directorate</p>	<p>Under Mozambican law, bonded warehouses consist of a building or other secured area where goods may be temporarily stored without payment of tax and customs charges, for a limited duration of time. Same may be located within customs terminals or outside these premises. These may prove necessary for purposes of importing machinery and other goods to be used in the construction of the relevant facilities.</p>
<p>Obtain a Tax Identification Number ("NUIT") Decree No. 28/2012, of 26 July Tax Authority</p>	<p>Required</p>
<p>Obtain a NUIT for the Investment Agreement Decree No. 28/2012, of 26 July Tax Authority</p>	<p>Legal entities holding petroleum rights shall obtain a NUIT per each petroleum concession agreement. May not apply depending on project structure and legal and contractual framework applicable to same.</p>
<p>Declaration of commencement of activity of the Company Law No. 34/2007, of 31 December Tax Authority</p>	<p>Required</p>
<p>External Operator Card (Import/ Export Card) Decree 34/2013, of 2 August Tax Authority</p>	<p>Required to act as importer/ exporter for commercial purposes.</p>
<p>Licensing as an Authorized Economic Operator (AEO) Ministerial Diploma No. 14/2012, of 23 November Tax Authority</p>	<p>AEOs benefit from a simplified customs clearance procedure, involving an exemption of physical and documentary controls of the customs operations or, where such controls are mandatory, priority treatment. The status of AEO is reserved to companies which have been licensed as an External Operator for at least three years. A special authorization would likely be possible for this purpose.</p>
<p>Foreign Exchange</p>	
<p>Registration of the Investment Agreement Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>Need to determine whether LNG Project would be a registered Investment Project. We understand it would not be because it is a natural resources project. Even if not covered by the Investment Law, projects undertaken under the Petroleum Law are nevertheless investments and the relevant foreign exchange registration formalities apply.</p>
<p>Authorization of Foreign Exchange Operations qualified as "Capital Operations" and registration of same Law No. 11/2009 of 11 March and Decree No. 83/2010, of 31 December BoM</p>	<p>May not be necessary if foreign exchange special rules are included in the Decree-Law. This is subject to the special foreign exchange regime that is approved for the LNG Project and the entities covered by same. Non-covered entities would always be subject to these requirements. Covered entities may have some dispensation from prior authorization in respect of specific capital operations, but not necessarily all of them. And registration requirements will most likely apply, as these are mere formalities.</p>
<p>Authorization to Open and Operate bank accounts abroad and/or Registration of</p>	<p>This is subject to the special foreign exchange regime that is approved for the LNG Project and the entities covered by same. Non-covered</p>

<p>opening of same Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>entities would always be subject to these requirements. Covered entities may have some dispensation from prior authorization in respect of offshore accounts, but not necessarily all of them, nor from reporting requirements.</p>
<p>Authorization to take out loans with non-resident entities and registration of importation of funds thereof Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>This is subject to the special foreign exchange regime that is approved for the LNG Project and the entities covered by same. Non-covered entities would always be subject to these requirements. Covered entities may have some dispensation from prior authorization in respect of offshore loans, but not from registration of imports of loan proceeds.</p>
<p>Procedure for transfer of profits and/or dividends and/or proceeds of sale of Project interest abroad Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December MF, BoM</p>	<p>This is also subject to the special foreign exchange regime approved for the LNG Project. In general, though, an application has to be filed enclosing several documents, including a tax clearance certificate issued by the tax authorities.</p>
<p>Registration of Foreign Exchange Operations qualified as "Current Transactions" Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>Current Transactions include any payments made to, or received from, abroad, which are not deemed Capital Operations, namely payments made or received in connection with foreign trade, unilateral payments and others. Same are not subject to BoM's prior authorization but only to a registration requirement. Specific licensing requirements apply based on each type of transaction, the most relevant of which are identified below.</p>
<p>Registration of payment of expatriate salaries abroad Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>Requires the presentation of the relevant employment contracts and evidence that applicable taxes have been paid.</p>
<p>Registration of Technical Assistance and other Service Agreements with non-resident foreign companies Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>May be necessary depending on the precise arrangements for construction and management. Technical Assistance and other Service Agreements with non-resident entities are not subject to prior approval but rather to registration with BOM. For said purpose, the presentation of the relevant services contract would be required in order to allow multiple payments abroad under same.</p>
<p>Authorization to pay insurance premia abroad Law No. 11/2009, of 11 March Decree No. 83/2010, of 31 December BoM</p>	<p>Requires prior evidence that the Mozambican Insurance Supervising Authority has approved the taking out of the insurance abroad.</p>
<p>Labor or</p>	
<p>Statement of Commencement of Labor Activities Law No. 23/2007, of 1 August ML</p>	<p>Required</p>

<p>Authorization for or Communication of the Hiring of Expatriate Workers Law No. 23/2007, of 1 August Decree No. 55/2008, of 30 December and Decree No.63/2011, of 7 December (insofar as applicable) MIREM , INP, ML</p>	<p>May not be necessary if foreign employee special rules are included in the Decree-Law.</p> <p>Subject to the expatriate hiring regime to be approved for the LNG Project (if any).</p>
<p>Working Visa for Expatriate Workers Law No. 5/93, of 28 December Mozambican Embassy/Consulate</p>	<p>Required</p>
<p>Residence Permits for Expatriate Workers Law No. 5/93, of 28 December Migration Services</p>	<p>Required</p>
<p>Approval of (1) Timetable / Shift Schedule (2) Nominal List of Personnel (3) Internal Regulations Law No. 23/2007, of 1 August City Labor Directorate , ML</p>	<p>Required</p>
<p>Inspection of labor activities Decree 45/2009, of 14 of August ML</p>	<p>Entities subject to the General Labor Inspectorate must communicate, prior to its commencement of activity, its name, corporate purpose, tax payer number and address of the head office, copy of publication at the Government Official Gazette of its articles of association, identity and address of its managers and directors and number of employees on duty.</p>
<p>Social Security</p>	
<p>Registration w/ Social Security System and declaration of commencement of activity Law 3/2007, of 7 of February Decree 53/2007, of 3rd of December Ministerial Diploma No. 45/90, of 9 May INSS</p>	<p>Employer and employee are required to be registered at INSS and contribute to INSS on a monthly basis.</p>
<p>Recognition of Exemption from Contributions for Expatriates Law 3/2007, of 7 of February Decree 53/2007, of 3 of December Ministerial Diploma No. 45/90, of 9 May INSS</p>	<p>Expatriates who are already enrolled with a social security system in the country of origin may be exempted from contributing in Mozambique, provided that evidence of enrollment and contribution to a third country's social security regime is submitted to INSS.</p>

3.7 PROTECTION OF HEALTH, SAFETY AND ENVIRONMENT

3.7.1 ENVIRONMENTAL PROTECTION

Mozambique's environmental legislation for the petroleum sector, and in particular for the LNG plants and infrastructure, has not recently been updated. Table 3 offers a summary of the applicable laws and regulations. On this legal basis, a comprehensive Environmental Impact Assessment (EIA) has been prepared by Environmental Resources Management (ERM) Southern Africa (Pty) Ltd in association with *Projectos e Estudos de Impacto Ambiental, Lda.* on behalf of Anadarko Moçambique Área 1, Lda (AMA1) and Eni East Africa S.p.A(eni).¹⁵ After being submitted to an extensive review process by all relevant stakeholders, the EIA has been approved by the GoM in June 2014. The document describes and analyses all potential environmental impacts and develops detailed plans for mitigation and remediation. Therefore, within the limitations of the present study, at this stage the consultants have nothing to add to the environmental protection aspects of the Rovuma Basin LNG Project.

¹⁵ ERM: Environmental Impact Assessment (EIA) Report for the LNG Project in Cabo Delgado <http://www.erm.com/en/Public-Information-Sites1/Environmental-Impact-Assessment12/Environmental-Impact-Assessment1/>

Table 3
Environmental Legislation

General Principles , Legislation, Relevant Authority	Observation/Comments
Environmental	
<p>Main Environmental Principles under the Constitution of the Republic of Mozambique Constitution of the Republic of Mozambique</p>	<p>Every citizen has the duty to: serve the community with his physical or intellectual capacities; work in accordance with his capacity, pay taxes, defend and promote the public health, defend and preserve the environment.</p> <p>State must promote and guarantee the conservation and preservation of environment, improving quality of life for the citizens. In order to guarantee the right to the environment within the framework towards a sustainable development, the State adopts policies aiming: a) To prevent and control the pollution and the erosion; b) To integrate the environmental objectives on the various sectors policies; c) To promote the integration of the environmental values on the policies and educational programs; d) To guarantee the reasonable utilization of natural resources, safeguarding its renewal capacity, the ecological balance and the rights of forthcoming generations; e) To promote the territorial ordinance in order to achieve a correct localization of the activities and a well-balanced social-economic development.</p>
<p>General Principles under the Environmental Law Environment Law no.20/97, of 7 October</p>	<p>Establishes the basic legal framework for correct use and management of environment and its components to assure a balanced development. The law foresees the creation of environmental protected zones where any activity seen as having a negative impact to the environment must be subject to special licenses.</p> <p>MICOA may undertake environmental audits.</p> <p>Everybody has the right to access information on the environmental management of the country, without prejudice to third parties protected rights. Any offended party may request the courts for the immediate suspension of environmental offending activities.</p> <p>Especially hazardous activities that cause environmental damages or disrupt economic activities constitute the agent in objective liability irrespective of guilty or compliance with legal requirements. Determination of damages is made by means of environmental experts, overseen by the government. The Government in co-ordination with the local authorities shall promote the establishment of community supervisors.</p> <p>Environmental protected zones are those areas established by the Government and aiming for protection and preservation of the environment components, as well as for improving any ecosystem having an ecologic and social economic value. Protected areas may be national, regional or international, depending on the interests being safeguarded, and may include terrestrial areas, lakes, fluvial or marine waters and other distinct natural areas.</p> <p>No rights of whatsoever nature may be acquired in protected zones. Some protection zones are created by effect of the law and other are established by Decree of the Council of Ministers or by the competent authority.</p> <p>Its is forbidden to produce or discharge in the soil, the underground, in the water or in the air toxic or polluting substances and to carry out activities that cause desertification or erosion beyond the legally established limits; erect infrastructures that in result of its dimension can have significant impact on the environment and carry out activities that affect the conservation, reproduction quality and quantity of biologic resources especially those threatened with extinction.</p> <p>Government is responsible to determine environmental standards.</p> <p>Any activity that by its nature, location or dimension, can cause significant impact on the environment must be licensed and registered. The environmental license is issued after an environmental impact assessment (EIA) study has been made. Only companies approved by the Government may conduct the EIA.</p> <p>Anyone that detects an infringement to environmental legislation (actual or potential) has the obligation to inform the police authorities or any other administrative agents. The law does not indicate nor describes the manner for such reporting.</p>

	<p>Everybody has the obligation to use the natural resources in a responsible and sustainable manner. Sustainable development is understood as the environmental management in a satisfactory manner, taking in consideration the needs of the present generation and without compromising the environmental balance and the possibility of the next generation to also satisfy its needs.</p> <p>Any environmental hazardous activity must have insurance for civil liability. Those that pollute have the obligation to repair or compensate the damage caused.</p>
<p>Decree n° 18/2004 of 2 June, Regulation on the Environmental Quality and Effluents Release Standards amended by Decree 67/2010, of 31 December</p>	<p>The Regulation aims to establish the standards for environmental quality and for effluents release in order to assure the effective control and maintenance of the admissible standards for concentration of polluting substances on the environmental components. (art. 2)</p> <p>This Regulation applies to all public or private activities that may, direct or indirectly, have influence on the environmental components.</p> <p>Competences in Respect to Control of the Environmental Quality Subject: MICOA</p>
<p>Decree 56/2010 of 22 December approving the Environmental Regulations for Petroleum Operations</p>	<p>Applicable</p>
<p>Decree 80/2010, of 31 December Creating the National Agency for Environmental Quality Control</p>	<p>As a consultant role</p>
<p>Environmental Licensing</p>	
<p>Approval of Environmental Impact Assessment (EIA)</p>	<p>The EIA Report shall include (i) an Environmental Management Programme – which shall include studies on social, economic, cultural and biophysics aspects, an environmental monitoring program and a decommissioning and closure program (where applicable), as well as (ii) a Program for Control of Emergency and Risk Situations designed for the project.</p>
<p>Environmental License Law No. 20/97, of 1 October Decree No. 45/2004, of 29 September as amended by Decree No. 42/2008, of 4 November Decree No. 56/2010, of 22 November MICOA</p>	<p>Under the law, obtaining an Environmental License is a condition precedent to the issuance of any other license or permit required for the project.</p>
<p>Waste / Hazardous Substances / Effluents</p>	
<p>Hazardous or toxic materials Waste Management Permit Decree No. 13/2006, of 15 June Municipality or District Government in areas under its jurisdiction National Director of Assessment and Environmental Impact.</p>	<p>Required</p>
<p>Special License for Extraordinary Effluent Discharges Decree No. 18/2004, of 2 June MICOA</p>	<p>In general, discharges must meet the standards set out in the Regulations on Effluent Discharges. Under certain circumstances, Extraordinary Effluent Discharges may be allowed by means of a special license granted by MICOA.</p>
<p>Authorization for Discharges in Maritime Areas Decree No. 45/2006, of 30 November</p>	<p>Required</p>

MICOA National Marine Institute (INAMAR)	
Special Authorization for Discharges in Inland Waters (Sewage Permit) Law No. 16/91, of 3 August Decree No. 43/2007, of 30 October Regional Water Authority (<i>Administração Regional de Águas – “ARA”</i>)	Applies to any activity likely to cause water contamination, in particular the discharge and/or dumping of contaminating substances.
Permit to move hazardous substances outside project site Decree No. 13/2006, of 15 June MICOA	Hazardous substances can only be moved outside the project-site by entities duly certified by MICOA.
Health and Safety	
Regulation on Hygiene and Safety on Industrial Plants Legislative Diploma 48/73, General Regulation on Hygiene and Safety on Industrial Plants, BO no. 78, 05/07/73 Council of Ministers	The objective of this Diploma is to technically prevent professional risks and to rule hygiene and safety in industrial plants (art. 1). The provisions of this Diploma shall apply to all industrial plants, being considered as latter those undertaking the activities described in the table of classification annexed to Legislative Diploma 3057, dated 12 December 1970, regardless of any limitations established in the referred table based on equipment dimension, number of employees and other production factors (art. 2). This table includes the industry of petroleum and coal by-products. Note: This Legislative Diploma has been enacted before the Mozambican Independence of 1975, but is still in place and it has not been explicitly revoked.
Principles of Technique Licensing of Industrial Plants Legislative Diploma no. 3057, Establish the Principles of Technique Licensing of Industrial Plants, BO no.110, I Serie, 12/12/70 Council of Ministers	Hazardous, Dangerous or Toxic Exhalation Containers with hazardous, dangerous or toxic substances, which by virtue of its quantity or concentration are considered as dangerous, shall be labelled, being such labels previously approved by the employer. Substances or products handled or transported within the work places and considered as hazardous to the health shall bear a label with indication of its components, recommendations for immediate first aid in case of accident, as well as the corresponding danger symbol according to the applicable international standards Note: This Legislative Diploma has been enacted before the Mozambican Independence of 1975, but is still in place and it has not been explicitly revoked.

<p>Regulation on the Environmental Quality and Effluents Release Standards Decree n° 18/2004, of 2 June, approving the Regulation on the Environmental Quality and Effluents Release Standards, as amended by Decree 67/2010, of 31 December</p>	<p>The present Regulation aims to establish the standards for environmental quality and for effluents release in order to assure the effective control and maintenance of the admissible standards for concentration of polluting substances on the environmental components. (art. 2) The Regulation applies to all public or private activities that may direct or indirectly, have influence on the environmental components. (art. 3) Competences in Respect to Control of the Environmental Quality Subject: MICOA</p>
<p>Safety Rules for Warehousing and Industrial Treatment of Crude Oils By-products and Residues Decree 36 270, Safety Rules for Warehousing and Industrial Treatment of Crude Oils By-products and Residues, BO no. 8, I Serie, 09/05/47</p>	<p>Under this document the means for the transportation and supply of crude oils (mineral unrefined petroleum, asphalt and all kinds of hydrocarbons and bitumen, whether solid or liquid, on its natural conditions or obtained from condensation or extraction of the natural gas, excluding coal or any other substance extracted from coal), by- products (petroleum derivative products) and residues may be classified as transport of liquids in bulk (cistern wagons and cistern trucks) and transport of packed goods (wagons and motor vehicles).</p> <p>The vehicles must comply with the following rules of construction: the reservoirs or cisterns shall be built in metal sheet (iron, steel, aluminum or similar) in such a way to bear the task to be performed and shall be fully tight; each vehicle reservoir or cistern shall be equipped with a respiratory valve conveniently adjusted and with a device against flames; Reservoirs shall never be completely filled wit the product. There shall be an empty space of at least 2% of the reservoir's full capacity, In cistern trucks the upper wall of the driver's booth shall be in metal and away from the reservoir or cistern wall; visit doors of the reservoirs or cisterns shall be built in a way not to produce sparks when closed. Loading and unloading operations shall whenever possible take place in closed locations in order to prevent the steam flowing or loss of liquids; Prior from loading or unloading operations the vehicle's engine shall be turned off and may only be turned on after the operation has been concluded and after confirmation that all pipes and openings have been locked. Vehicles are obliged to bear the inscription «INFLAMMABLE – DO NOT GET NEAR THE FLAME» and be equipped with at least one portable fire extinguisher in good working conditions.</p> <p>Note: This Legislative Diploma has been enacted before the Mozambican Independence of 1975, but is still in place and it has not been explicitly revoked.</p>

3.7.2 ADOPTION OF INTERNATIONAL HSE STANDARDS

As outlined in section 3.1 of this report, standards for protection of industrial safety, public health and the environment (HSE) should be a key component of the legal framework for every country's oil and gas industry. Figure 1 shows the interaction of standards with other elements of the HSE protection.

Figure 1

Source: Center for Energy Economics - University of Texas, June 2012



Nowhere in Mozambique’s old or new Petroleum Law are any references to national or international HSE standards. As noted in Annex III, frequently, however, general statements are used that operations shall be conducted according to “*good petroleum industry practice*” or similar terms in different wording. The Annex to Law 21/2014 contains the definition:

“Good petroleum industry practice - all those practices and procedures that are generally employed in the international petroleum industry and aimed at the prudent management of petroleum resources, including the conservation of pressure, ensuring the regularity of petroleum operations and observing safety aspects, environment preservation, technical and economic efficiency”

The international oil and gas industry operates all around the world with the same equipment, installations, operational methods and processing technology. The requirements and procedures for the protection of HSE are based on standards, specifications and codes of practice which are developed and constantly updated by numerous, specialized national and international industry organizations, governmental agencies in many countries and by multinational organizations. This means that individual countries do not have to create or rewrite the wide variety of technical specifications and HSE standards.

Standardization organizations distinguish between different types of instruments, such as “*standards*”, “*codes of practice*”, “*recommended practices*”, “*specifications*” and others. When referenced by a regulator, however, the subtle differences between the different types of instruments are usually not taken very seriously. The American Petroleum Institute (“*API*”) provides the following definitions for their various categories:

- Specifications facilitate communications between purchasers and manufacturers.
- Recommended practices communicate proven industry practices.
- Standards combine elements of both specifications and recommended practices.
- Codes are intended for adoption by regulatory agencies or authorities having jurisdiction.
- Bulletins and technical reports convey technical information on a specific subject.

The majority of documents of the International Standards Organization (“*ISO*”) are standards, and ISO provides the following definition:

“Document, established by consensus and approved by a recognized body that provides for common and repeated use, rules, guidelines or characteristics for activities or their

results, aimed at the achievement of the optimum degree of order in a given context.”

There are three basic methods to legally use and enforce international technical codes and standards under local laws and regulations, which are used in different forms and combinations in almost all countries:

- (a) **Transcription into national standards:** Copying, and if necessary translating, all or part of the text of a specific international code into a national standard document and issuing it according to the applicable legislation. This is, for instance, the method used in Mexico, without even mentioning the origin of the codes. It requires a tremendous amount of work and very lengthy, complicated documents which are often not even finished when the international code is already being updated.
- (b) **Incorporation into national standards or regulations:** Using all or part of the text or specifications of one or more international codes, if necessary after translation, in national standards or regulations, with or without mentioning the origin. This method is used in many countries and also results into very lengthy local standards and regulations, often poorly translated and edited.
- (c) **"Adopting" international standards by reference:** This is done by issuing short national standard documents under the applicable legislation which simply contain references to the title and/or number and originating body of the international code without copying its content. Adoption by reference of one or more international codes can also be accomplished under the same method by one or more national technical regulations.

Modern standard laws have established this as the preferred method in many countries, including the US, most European countries and, especially, in new member countries of the European Union. The adopting instrument typically includes certain "adaptations" of the international codes in order to reflect local conditions, to grant exceptions or grace periods for certain requirements. This method does not necessarily require the translation of the international code into the local language. But many countries, which adopt standards in a foreign language, later issue short versions or guidelines in the local language.

If the adopting document is worded correctly, it allows the adoption of each international code in its latest edition, so that the national standards or regulations do not have to be updated if and when the international code is later reissued in a newer version. This assures that local standards are always in accordance with the latest state of technological developments, which is of particular importance for a competitive oil and gas industry.

Many standardization organizations have established policies and special procedures for the adoption and adaptation of their intellectual products by governments and offer them for sale to the industry and consumers.

Based on experience in many countries, the consultants, as a general principle, strongly recommend the methodology of adoption by reference for the generation of national technical, safety and environmental standards for Mozambique's oil and gas industry under the new legislation. Those standards can then be referred to in the law, the regulations, concessions contracts, licenses and other regulatory instruments, which make those legal documents shorter and easier to understand.

Thousands of different standards, technical norms and codes of practice are used in the oil and gas industry for operations, installations, equipment, process technology and products. In addition to the more specific standards for the oil and gas industry, many of the general codes for design, construction and maintenance of buildings, electrical and other installations, for the protection of workers, for construction materials and the respective quality testing methods, for transport equipment, as well as other machinery and equipment are also applicable to many components and activities within the oil and gas industry.

In addition, there is a whole series of environmental standards, some specifically directed

towards the upstream oil and gas industry, offshore operations as well as midstream activities, such as LNG processing and handling.

Most of the code-making organizations are non-profit industry associations, many based in the U.S., which work with volunteer experts of their member companies and scientific institutions, such as the American National Standards Institute (ANSI), the American Society of Testing and Materials (ASTM), the American Society of Mechanical Engineers (ASME), the National Fire Protection Association (NFPA), and for drilling operations the American Petroleum Institute (API), national bodies like the Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor, the U.S. National Institute for Occupational Safety and Health (NIOSH) and the National Institute of Standards (NIST) of the U.S. Department of Commerce,.

National standardization bureaus in other industrialized countries are issuing their own standards, for instance the British Standards Institution (BSI), the Association Française de Normalisation (AFNOR), the Deutsches Institut für Normung (DIN), the Norwegian NORSOK and many others.¹⁶ Most of them are now harmonizing their national standards with those of ISO, the European Standardization Committee (CEN). It should also be noted that the East African Community, to which Mozambique belongs, has started to adopt certain common standards, but not yet for the oil and gas sector.

Important in the context of this study are the standards published by the World Bank's International Finance Corporation (IFC) that cover specific matters, such as management of environmental and social risks, labor and working conditions, resource efficiency and pollution prevention, community health, safety and security, land acquisition and resettlement, biodiversity conservation, indigenous peoples and cultural heritage¹⁷

The LNG industry around the world has an excellent safety record. Liquefaction of natural gas requires cooling until it becomes a liquid. These processes include gas conditioning before liquefaction, processing and managing the impurities and liquid hydrocarbons. The liquefaction process requires significant compression systems for refrigeration that include large centrifugal compressors typically driven by gas turbines, steam turbines or large electric motors. LNG is not stored under pressure, and it is not explosive although it contains a large amount of energy. It cannot be released rapidly enough into the open environment to cause the overpressures associated with an explosion. LNG vapors (methane) mixed with air are not explosive in an unconfined environment. A major incident resulting in a large release of LNG could result in a fire, but only if there is the right concentration of LNG vapor in the air (5% – 15%) and a source of ignition. LNG tankers are double-hulled, with void space or water ballast between the outer and inner hulls and the cargo tanks to prevent leakage or rupture in the event of an accident. The ships are also equipped with sophisticated leak detection technology, emergency shutdown systems, advanced radar and positioning systems, and numerous other technologies designed to ensure the safe and secure transport of LNG. Terminals for LNG import and export are designed with multiple layers of protection and must meet rigorous safety regulations. They are equipped with spill containment systems, fire protection systems, multiple gas, flame, smoke and low- and high-temperature detectors and alarms, automatic and manual shut-down systems, video surveillance systems, and highly trained personnel.

To be safe natural gas liquefaction facilities must comply with rigorous government regulations, industry codes and standards for its engineering, operations, maintenance and

¹⁶ For complete list : International National Institute of Standards and Technology (NIST), Directory of International and Regional Organizations Conducting Standards-Related Activities.

<http://qsi.nist.gov/global/index.cfm/L1-5/L2-44/A-144>

¹⁷ http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/publications/publications_handbook_pps

personnel training.¹⁸ HSE standards for LNG are issued by many national and international bodies. Most widely used are those of ISO¹⁹, the International Maritime Organization, the European Committee for Standardization (CEN), U.S. Federal Energy Regulatory Commission, U.S. Department of Transportation and the U.S. Coast Guard.

The entity in charge of normalization, metrology and quality control in Mozambique is the Instituto Nacional de Normalização e Qualidade (INNOQ). It was established by Decree 02/93 of the Council of Ministers, under the Ministry of Industry and Energy. INNOQ is judicially and administratively an autonomous body that has been operating under the Ministry of Industry and Trade since 2000. As a corresponding member of ISO, it acts as the recognized central body responsible for defining, implementing and coordinating all standardization and quality activities at national level.

Decree No. 71-2013 of 31 December approved the new INNOQ Statutes. It is regulated by Resolution No. 51 / 2003 of 31 December, which replaced the old Decree of 1993. The law does not include a specific reference to international standards. It states in Art. 4 that the purpose of INNOQ consists in implementing the Quality National Policy through the standardization, metrology, certification and quality management activities for the development of the national economy.

Among the attributions listed in Art. 5 is mentioned:

- a) Promote the elaboration, approval and diffusion of Mozambican rules;
- b) Ensure the realization, maintenance and development of national standards for measurement and its traceability to the International System (“SI”), by promoting the dissemination the different units of measure SI in the Mozambican territory;
- c) Promote the collection, processing and dissemination of relevant information for the development of a national system for quality management and adjust the existent regional and international regulations where the INNOQ is represented;
- d) Promote and develop training actions for normalization, metrology, certification and quality management.

This provision does not legally prevent INNOQ from adopting international standards as part of its standardization and quality control activities.

During an interview of the consultants with the Director of the INNOQ he confirmed that the institution has so far not adopted any international standards for the upstream and midstream oil and gas industry and it has not been involved in the regulatory process for the sector.

Mainly developing countries often simply use cursory references to national and/or international standards and specifications without ever legally transforming those into national law. This is not recommended in the case of Mozambique. Theses kind of general references create uncertainty and leave an unacceptable level of discretion for the private sector, on the one hand, and the government on the other. As a consequence, the industry operator may select a certain set of standards, while the regulator uses different standards. This will then often result in disputes between the parties, which will endanger and delay the operations.

The following is recommended in order to complete the regulatory framework for Mozambique’s petroleum sector in general, but in particular and urgently for the LNG project:

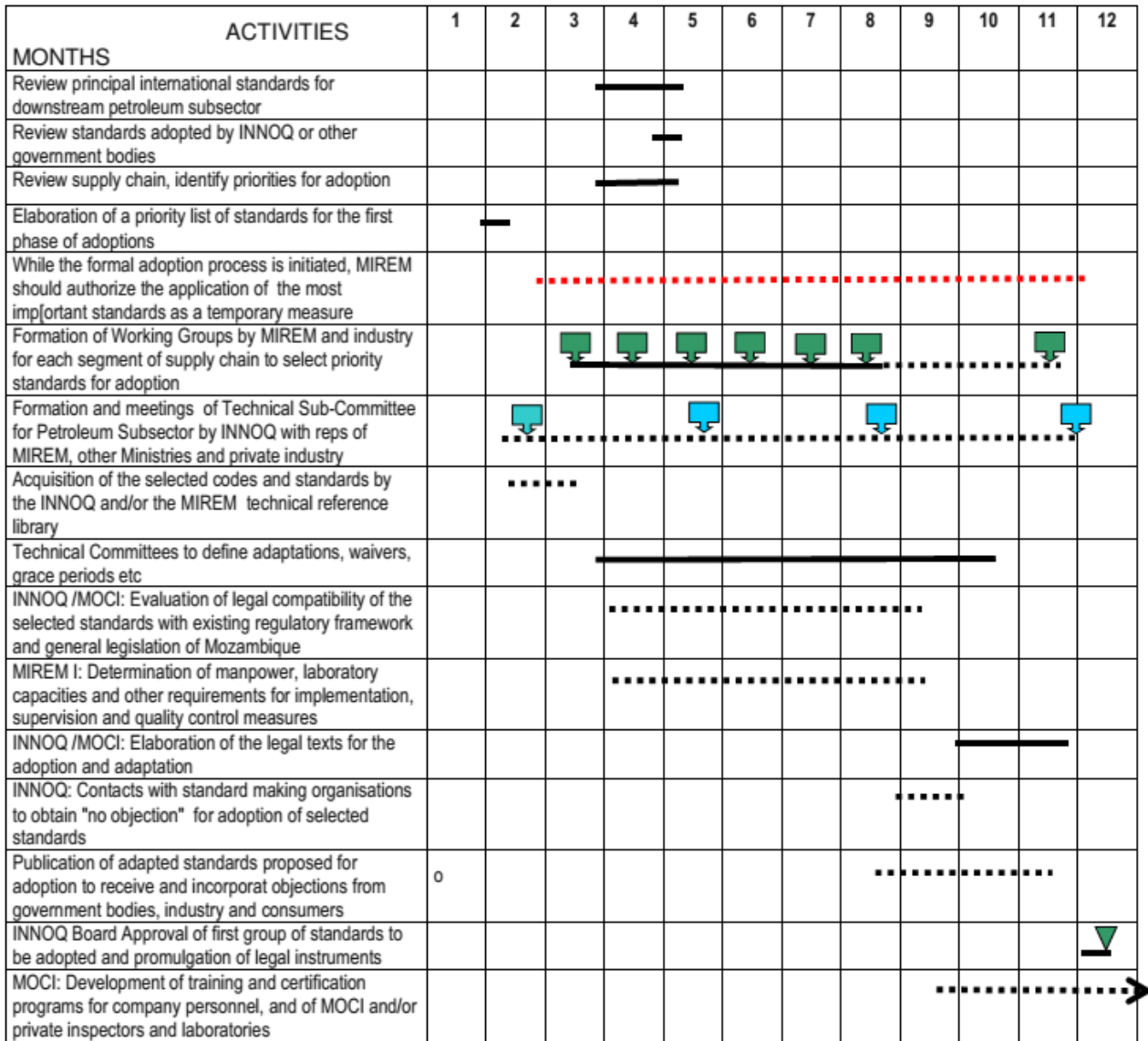
¹⁸ Good summary in: UT Center for Energy Economics :LNG Safety/Security
<http://www.lngfacts.org/about-lng/safetysecurity/>

¹⁹ ISO Natural Gas Standards [Standards in the same category \(75.060\)](#) ; [Standards from the same committee](#)

- 1) INNOQ should immediately initiate the process of selecting and adopting the most important standards for this sector. Depending on the selection criteria, the gradual adoption of several hundred different international standards will be necessary, as the sector develops, in order to provide an adequate basis for implementation of the new regulatory framework.
- 2) Those international standards which have not yet been formally adopted by INNOQ as national norms can be made applicable in Mozambique by the following means:
 - a) Certain international standards can be included by reference in the concession contracts for petroleum sector and infrastructure projects, including components of the LNG facilities. Compliance with those standards becomes mandatory for all parties to the contracts.
 - b) The government and/or the operators can include references to certain standards in tender documents, which then make the compliance mandatory with the award of the respective deal.
 - c) Government authorities can include references to specific international standards in construction, transport and other licenses in order to make them obligatory for the licensee.
 - d) A Council of Ministers Resolution could authorize the MIREM or another regulatory authority for the sector to allow the temporary application of specific international standards until they have been formally adopted by INNOQ.
- 3) Since the above mentioned Decree No. 71/2013 and its regulation do not include any rules or procedure for the selection, adoption, adaptation, approval and enforcement of international standards in the form of national standards, a special regulation under that Decree or under the Petroleum Law No. 21/2014 should fill this gap and provide a detailed legal basis and procedure for all or some of the before mentioned recommendations.

Figure 2 below shows the schematic procedure, which governments are using in countries, which have standardization legislation that complies with the guidelines of ISO.

**Figure 2
Procedure for Adoption of International Standards**



3.8 INSTITUTIONAL STRUCTURE

The consultants did not have the opportunity to meet with representatives of the regulatory authorities for the petroleum sector during the mission to Mozambique. Therefore, no qualified opinion can be expressed concerning the capabilities and capacities of the key institutions. However, all of the many observers²⁰ who have analyzed the institutional structure have come to the conclusion that none of them have adequate human and material resources to discharge their responsibilities.

Key institutions involved in regulating upstream and midstream oil and gas in Mozambique include the following:

- Ultimate regulatory authority and the power to approve the granting of concessions rest with the Council of Ministers. This is the highest government body and is composed of the president, prime minister and other government ministers.
- The Ministry of Natural Resources (MIREM) represents the GoM in the management of the Mozambican extractive industry, including issuing licenses on oil, gas and mining. It directs and executes policies relating to the exploration for and production of mineral resources, including petroleum and natural gas, in accordance with, in relation to petroleum and natural gas, the National Strategy for Petroleum Operations
- The National Petroleum Institute (INP),, the technical wing of MIREM on oil and gas is the de facto regulator. It is responsible for:
 - regulation and control of research relating to, exploration for and production and transportation of petroleum, as well as proposing policies and rules for the development of petroleum operations;
 - preservation of the public interest and the environment by establishing necessary technical, economical and environmental conditions for the conduct of petroleum operations;
 - organization, maintenance and consolidation of the information and technical data relating to the activities of the petroleum industry and of the national petroleum reserves;
 - participating in the establishment of contract areas, minimum work requirements and expenses related to the concession contracts;
 - ensuring compliance with the terms of the concession agreements and applicable law in the conduct of petroleum operations;
 - liaison with license holders or concessionaires on a daily basis;
 - ensuring that petroleum operations are conducted in accordance with laws, regulations and international best practices.
 - Enforcing other requirements of all concession contracts and licenses.
- MIREM and INP are relatively new bodies, having been established by decree in 2005 and 2004 respectively. Separately, the Ministry of Energy is responsible for the regulation of the downstream petroleum chain of supply.
- National Hydrocarbon Corporation Empresa Nacional de Hidrocarbonetos de

²⁰ Among many other publications, see Practical Law; Oil and gas regulation in Mozambique: overview http://uk.practicallaw.com/0-570-2665?q=* &qp=&qo=&qe=#a554471

Mozambique (ENH) is a public, state-owned company through which the state participates in concession agreements with national and foreign private entities. Under the Model EPCC, ENH's interest is carried until the approval of the first development plan. Currently, ENH holds interests in the offshore blocks in the Rovuma Basin with Anadarko, ENI, Petronas and Statoil of either 15 per cent or 10 per cent. ENH is also currently participating in gas distribution projects in Maputo and Inhambane, in the southern region of Mozambique.

- The new Petroleum and Mining Laws of 2014 created the Alta Autoridade da Indústria Extractiva (High Authority for the Extractive Industry) without describing details of its responsibilities, which are to be defined by the Council of Ministers within 12 months. Many countries have recently established specialized, autonomous agencies to regulate oil and gas operations and to monitor and enforce compliance which often have the advantage that they are not subject to certain bureaucratic systems in management and procurement, and that they do not fall under civil service rules which allows competitive compensation to attract qualified personnel. It is not clear yet, whether the GoM intends to create such a structure for the new Alta Autoridade.
- The state also participates in the hydrocarbon sector through two other publicly owned corporations, the Mozambique Hydrocarbon Company and the Mozambique Company for the Gas Pipeline, which are subsidiaries of ENH (80 per cent) and the state (20 per cent).
- Ministry for the Coordination of Environmental Action (MICOA)
 - is responsible for directing the implementation of environmental policy, coordinating, advising, auditing and encouraging the correct planning and use of the country's natural resources. In attaining these objectives;
 - is the competent authority for Environmental Impact Assessments (EIAs) through the National EIA Directorate (DNAIA) responsible for proposing the appropriate legislation to direct implementation and environmental management, for environmental licensing, for managing and coordinating the EIA process, monitoring of environmental impacts and the performance of audits and carrying out the strategic environmental evaluation of policies, plans and programs
 - is represented at provincial level by the Provincial Directorate for the Coordination of Environmental Affairs (DPCAA).
- Also within MICOA is the National Directorate of Planning and Spatial Development (DINAPOT), which is responsible for, among others; proposing policies, appropriate legislation, standards, regulations and guidelines for spatial development; for identifying the best locations for mega project developments; assessing local bodies in the preparation, implementation, control and management of land use and benefit; providing technical statements over spatial development management tools at national, provincial, district and municipal levels as well as over DUAT licenses in rural areas, settlements, villages and towns where special development management tools are absent. DINAPOT is also responsible for participating in the resettlement of communities as a result of development projects and natural disasters.
- Ministry of Transportation is responsible for issuing opinions regarding requests for the issuance of a license.
- Ministry of Public Works & Housing (MOPH) and its subordinate institutions is responsible for the contracting and oversight of public works.
- The Unit for the Supervision of Acquisitions (UFSA) is responsible for oversight of the Procurement Regulation and is under the supervision of the Ministry of Finance ("MoF") that has the competence to approve any public expenditure and to oversee and provide

a final opinion in all projects that might have an impact on the general budget of the State.

- Ministry of Agriculture (MINAG) is responsible for managing, planning and ensuring the implementation of policies in the fields of land management, agriculture, livestock, forestry, wildlife and agricultural water use. Its National Directorate of Land and Forestry (DNFT) has authority for ensuring the implementation of national land policy, coordinating, promoting, developing, supervising and monitoring activities related to land registration including surveying lands on a large scale and storing satellite imagery. At district level, issues related to agriculture fall under the realm of the District Services of Economic Activities as the competent authorities responsible for granting a land use and benefit rights.
- Ministry of Fishing (MdP) is responsible for protection and conservation of maritime resources and the sustainable exploration of fish resources in relation to all matters regarding fisheries in the monitoring of the Environmental Management Plans, with regards to compliance of mitigation measures for the potential impacts on fisheries.
- Ministry of Industry and Commerce (MIC) is responsible for implementation of the State's manufacturing sector policy, boosting of the external trade in coordination with further State organisms encouragement, assistance and due location of entrepreneurial activities in the scope of the processing industry of national raw materials, in particular concerning production intended to replace imports or add greater value to exportable products

According to the African Mining Vision²¹, developed by the United Nations Economic Commission for Africa with input of all countries, properly resourced state institutions are key to the development of a competitive extractive industry sector. This goes beyond promotion and regulation of industry operations, and demands the development of policies and strategies, which incorporates organic linkages between the minerals sector and the rest of the economy.

The dearth of technical and entrepreneurial skills, capable research, development and innovation institutions and those that offer training in science and technology, still hampers efforts to promote a knowledge-driven and competitive industrialized economy in Mozambique like in most African countries. There is also a lack of platforms to promote greater interaction between knowledge institutions and industry. In addition, opportunities to enhance coordination of capacity development initiatives at national, continental and global levels are not adequately explored to avoid duplication. Regional and continental frameworks to accelerate capacity development are equally inadequate.

As summarized above, many different government institutions have the responsibility for diverse functions that have a bearing on the performance of Mozambique's oil and gas sector. These functions include: mineral policy formulation, investigation of mineral potential, maintenance of geological and mining data, budgeting, granting of mineral rights, and the monitoring of operators' compliance with the applicable laws, concessions agreements and operating licenses.

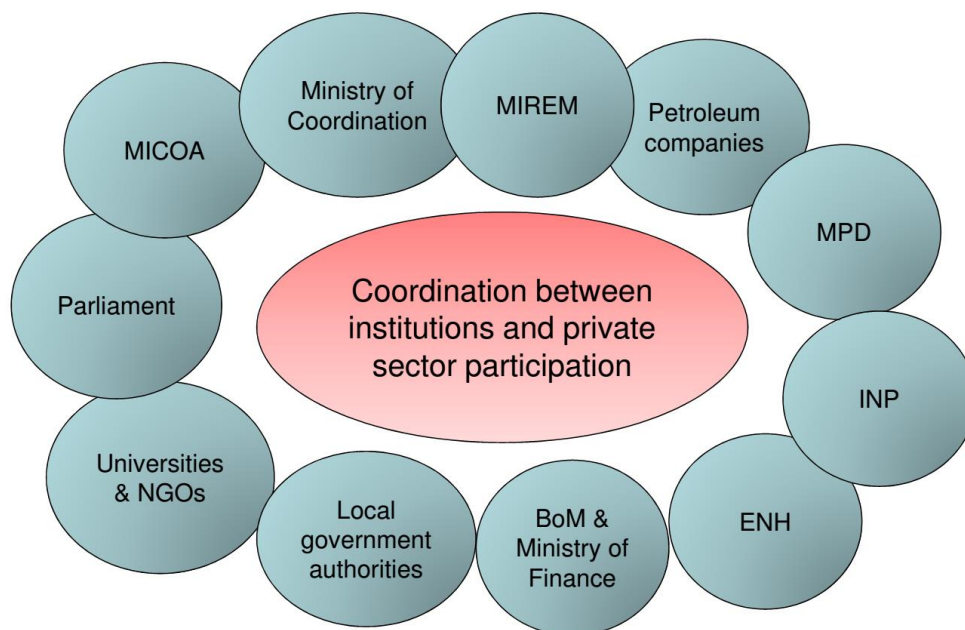
In addition to the typical measures of institutional strengthening and capacity building, the consultants agree that particular attention should be given to the following aspects:

- Inter-ministerial bodies and task forces or committees to coordinate regulatory actions;
- Create centralized authority for regulation and supervision of infrastructure projects;

²¹ AMDC: A Country Mining Vision Guidebook, based on The Africa Mining Vision (2009), The African Minerals Development Centre Business Plan (2012). <http://www.africaminingvision.org/>

- Establish development boards, project planning bodies and institutional advisory boards comprising government, industry, labor and civic society to assist government in assessing applications for exploration rights, developing new laws, regulations, enhancing economic linkages and resolving dispute.
- Capacity development for commercial courts and appellate institutions to improve efficiency and fairness in settlement of disputes and enforcement of the rule of law;
- Strengthen of trade associations, chambers of industry and other private sector bodies;
- Offer non-academic vocational training through civic society organizations, business associations, labor and trade unions;
- Improve effectiveness of regional cooperation mechanisms to accelerate human and institutional capacity development

Figure 3
Cooperation and Coordination



Each of these institutions should be subject to a diagnosis of their capacity to deliver current mandates and ability to respond to the requirements of a future industrialized economy. The ability of oversight institutions to disseminate information to the public in a non-technical manner that will facilitate citizenry oversight of the industry should be evaluated. Assessing the capacity of enforcement institutions to investigate and prosecute misconduct in the industry is essential.

In conducting all of the above, of particular relevance would be the need to examine the mechanisms for inter-institutional coordination to ensure policy coherence and realize economies of scale. Special legislation should be considered to create “single windows” and implement the principle of “administrative silence” for processing of applications and regulatory enforcement action.

4. CONCLUSIONS

4.1 REGULATORY SECURITY

As pointed out in several instances of this report, the most important aspect to be considered in the context of any extractive industry project with foreign investors is the “regulatory security” offered by the host government in order to attract risk capital for upstream exploration and long-term investment in the midstream infrastructure and downstream industry development.

The analysis by other observers and by these consultants in section 3.4 above and in Annex III shows that the complex regulatory framework created by the new Petroleum Law and related legislation do not yet offer the necessary quality of regulatory security which should and could be expected from modern legislation. They still leave a problematic level of uncertainty for regulators, investors and operators, mainly due to

- insufficient definition of the responsibilities of the principal sector regulators and no mechanism for coordination with other relevant authorities;
- no clear distinction of the State’s role as regulator and investor to avoid conflicts of interest;
- undefined criteria for potential government intervention;
- discretionary provisions leaving unreasonable room for regulatory delays, abuse and corruption;
- unusual time limits in stability clauses for fiscal benefits;
- contradictory conditions for access to international arbitration.

Among the remedies recommended by the consultants are the adoption of international HSE standards, the establishment of a “one stop window” for licensing and the implementation of the concept of administrative silence for regulatory actions.

4.2 REGULATIONS UNDER THE NEW PETROLEUM LAW

The regulations to be issued under the law offer the opportunity to clarify many of the provisions of the law and to complete the new legal framework by closing gaps and adding specific requirements in order better define the operators’ obligations and, at the same time, to limit the discretion of the regulators.

While the law requires the regulations to be issued within 60 days from its effective date, there are no legal consequences if the deadline is not met. It is, therefore, strongly recommended for the GoM to take its time and to seek expert advice in drafting the various regulations, to take into account international experiences and to seek adequate stakeholder input before approving the secondary legislation.

The GoM should try to standardize and set out in the regulations as many details of the deal as possible as this will provide higher transparency for investors and is more accountability from a democratic perspective.

As outlined above in the general methodology for modern petroleum legislation, the regulations should bridge the gap between a slim, but ambitious law, and the actual situation in a country like Mozambique where internationally tested practices appear still difficult to be applied. Therefore, a final analysis of the new upstream and midstream petroleum legislation will not be possible until all regulations have been published.

4.3 THE DECREE LAW FOR THE ROVUMA BASIN LNG PROJECT

Other than in case of the regulations under the new Petroleum law, time is of the essence for the approval of the Decree Law on the special regime for the Rovuma LNG Projects, because the authorization under the Enabling Law 26/2014 expires on December 31, 2014.

In principle, the concept of the Enabling Law is pragmatic and constructive by allowing the participants to negotiate special terms and conditions for this extraordinary project. While writing this report, final negotiation between the GoM, Anadarko, ENI and their partners were under way and expected to be concluded before the year end. Partial, informal drafts have been circulating among public and private stakeholders, but any opinion expressed at this stage would be speculative. It is understood that the GoM as well as the investors and operators are fully aware of the critical importance of this project for the industry, the country and the region, and most observers expect that the negotiations will be concluded successfully and the resulting Decree Law will be approved by the Parliament.

As with the new Petroleum Law in general, a final assessment of the regulatory and contractual framework for the Rovuma Basin LNG Project will only be possible after the regulations are issued and Decree Law and the approved concession contracts are published.

4.4 INSTITUTIONAL CAPACITY BUILDING

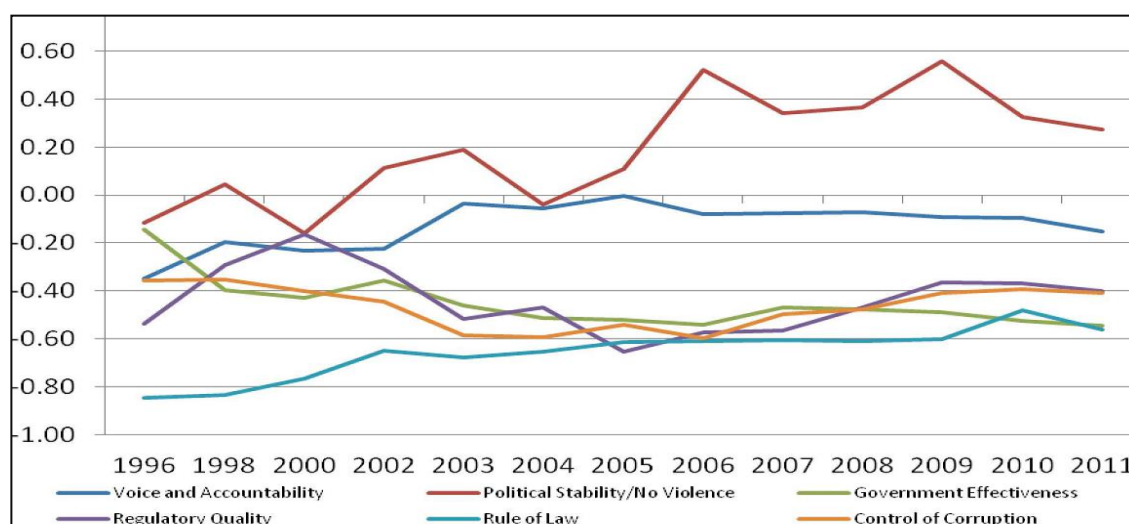
Global experience shows that few countries have managed to transform rapid finite wealth into growth and development. Good economic and social performance is highly related to a country's institutional capacities. The stronger the institutional capacities, the higher the likelihood that captured revenue is transformed in investment, job creation and economic diversification and - consequently - limiting the impact of the resource curse. Strong, accountable and efficient institutions have the capacity not only to define objectives and priorities, but also to implement social policy frameworks, stimulating controlled economic growth through private and public sector investments and enforce the rule of law, especially for the protection of health, safety and environment. Conversely, countries with weak institutional capacities experience poor economic growth, poverty persistency, loss of competitiveness in particular in the non-extractive tradable, accelerated inflation, explosive corruption and often political instability.

The Worldwide Governance Indicators, a World Bank publication²² for Mozambique, Figure 4 below, evolves from -0.14 in 1996 to -0.55 in 2011, a deterioration of some 40% percent in addition to being already low. This indicator shows that increased budget expenditure realized along the period caused absorption capacity in fact to decrease, turning the government less effective. Therefore the issue in Mozambique is not to expand budget expenditure, but to increase absorption capacity and government effectiveness, which has to include building institutional capacities together with modernization and simplification of systems.

Given the multidisciplinary nature of the regulatory process, close coordination among different government entities is necessary to avoid regulatory gaps. Building and enhancing the technical capacity of the government agencies entrusted with sector regulation, monitoring and enforcement are necessary for the effective and transparent implementation of government policies, laws and regulations. To this end, on-the-job training programs have been successfully used.

²² <http://info.worldbank.org/governance/wgi/index.aspx#home>

Figure 4 Worldwide Governance Indicators - Mozambique



A problem common to government entities in many developing countries is how to retain qualified civil servants, given the limitations imposed by public compensation and human resource management policies. To overcome these limitations, as mentioned before, some countries have created autonomous regulatory agencies and NOCs, modeled after the private sector, with different pay scales and human resources policies. Others provide special incentives to highly qualified civil servants. The difficulty many government entities face in retaining qualified staff underscores the importance of continuous training and capacity building as a tool for mitigating the effect of high turnover.

There multiple donor programs available at this time in Mozambique for institutional capacity development. Also, the legislation and the concession contracts contain provisions concerning obligations to train locally recruited personnel, knowledge transfer and, in some cases, secondment of government officials. Some countries have adopted special regulations in support of the development of local industries and services, including the transfer of technology. The government and local companies may need many local engineers, geologists and other professional. However, the new petroleum legislation and concession contract also contain strict requirements for local employment and content. Using these resources it will be of critical importance to not only promote academic education but broad based vocational training for technicians and qualified workers, such as welders, pipe fitters, electricians, mechanics, laboratory staff etc.

As important as the completion of an adequate legal framework for Mozambique petroleum sector, in general, and for the Rovuma Basin LNG Project, in particular, are for the country's progress, human resource development and institutional capacity building should always be the top priority, because the most perfect legislation remains useless if the government institutions are unable to implement and the people do not have the skills to take advantage of the new employment opportunities.

ANNEX I

People met during field trip (meetings and workshop)

- Jose Caldeira: Sal & Caldeira
- Alexander Huurdeman: World Bank (MAGTAP)
- Alex Segura-Ubiergo: IMF
- Christopher Dell: Bechtel
- Alfredo Siteo: INNOQ
- Malaika Ribeiro: PWC Legal
- Celio Jose Matola: Scaac,Lda
- Nadia Ragu Carvalho: RCCons
- Jose Fernandes: Intracomoz
- Mario Sevene: Interntek
- Absalao Mussuei: AEEUM
- Angelina Vaz: KPMG
- Cecilia Silva Rodriguez: Galp Energia
- Fatima Mimbire: CIP
- Anabela Cordeiro: Rani Group
- Tim Born: USAID
- Nelson Guilaze: USAID
- Rafael Lindy: ISRI
- Susan Jay: USAID
- Jeannette Keyzer: CEO
- Leandro Moll: Brazilian Embassy
- Olivandra Bacar: Scan
- Mario Macame: LBC
- Ancha de Sousa: Ministry of Justice
- Igor Matavel: E.S Lda
- Francisco Meireles: Portuguese Embassy
- Dosemico Flavio Pilugello: Leonardo Business Cons.
- Felizberto Mulhovo: Dutch Embassy
- Leopoldo de Amaral: Sal & Caldeira
- Amrin Mamas: Sal & Caldeira
- Elizabethte Filipe: U.S Embassy
- Rui Gonzalez: CEM
- J. Garvey: ICVL
- Flora Manjiclo: CIYAO
- Milton Bande: ENA
- Hercilia Hamela: Canadian Embassy
- Jonathan Kooker: DAI
- Rui Veigas: SMM Moçambique
- Nelson Chichava: SMM Moçambique
- Gregio Marcelino: FME
- Jose Jaime Fejo: Boovcotera

ANNEX II

ANALYSIS OF PETROLEUM LAW NO. 21/2014, DATED 18th AUGUST

To be regulated **Clarification needed** **LNG related** **standards** **important provisions** **Additions to previous drafts**

Petroleum Law No. 21/2014 of 18th August 2014	Comments	Draft of New Petroleum Law 04/2012
PREAMBLE		PREAMBLE
In light of the need to adapt the legal framework for petroleum activities to the present economic order of the country and the developments registered in the petroleum sector , with a view to ensure the competitiveness and transparency and safeguard the national interests, under the provisions of paragraph no. 1 of article 170 together with article 98, both from the Constitution, the Assembly of the Republic determines the following:	The Preamble is much shorter, but should have included some of the political and socio-economic aspects which were added to the text of the law.	The Petroleum Law (Law 3/2001, of 21 February), in effect for ten years, is one of the fundamental bases for the current development of Petroleum Operations in Mozambique. Though up-to-date with the stage of development of the world petroleum industry, reality has shown the need for enriching it order to better meet the industry's needs and accommodate the experience gained during its time in effect.
		The principle of State domain over the natural resources located in the soil, the subsoil and on the continental shelf, as well as in other areas in which the country holds rights under international law, remains inherent to, and expressly provided for by, this Law.
	References to private investment and competitiveness are deleted	Hence, aware of transformations that the industry has undergone and the recent discoveries made in the Rovuma and Mozambique sedimentary basins, it is urgent to update and improve the procedures, as well as the role of the State in accordance with the country's current economic order, thereby enabling private initiative to invest in the sector, through a legal framework that both ensures greater competitiveness in the petroleum sector and guarantees the protection of the rights and assets of participants in Petroleum Operations.
		In these terms, pursuant to the provisions of Article 179, paragraph 2 of the Constitution of the Republic, the Assembly of the Republic determines:

		CHAPTER I GENERAL PROVISIONS
Article 1 Definitions		Article 1 (Definitions)
Terms and expressions in this law shall have the meaning indicated in annex A.		For the purposes of this Law, the following terms and expressions shall have the meaning indicated below, unless the context in which used requires a different understanding:
Article 2 Object		Article 3 (Purpose)
This Law establishes the rules for the granting of rights to carry out petroleum operations in the Republic of Mozambique and beyond its borders insofar as it is in accordance with international laws.		This Law establishes the regime for the granting of rights for the conduct of petroleum operations in the Republic of Mozambique and beyond its borders to the extent in accordance with international law.
Article 3 Scope		Article 2 (Scope of application)
1. This Law applies to petroleum operations and to any infrastructure, belonging to or held by the holder of rights or third parties , used in connection with oil operations, subject to Mozambican law, 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, unless otherwise established by Law.	Check whether defined terms are capitalized in Portuguese text	This Law applies to petroleum operations, including any infrastructure belonging to or held by a holder of rights, or third parties , used in connection with petroleum operations, and foreign flagged movable infrastructure which is located in Mozambique, with the purpose of conducting or assisting with petroleum operations in a concession contract area, except if otherwise established in Law.
2. This Law also applies to the use or consumption of petroleum, when such use is necessary or forms an integral part of the operations of production or transportation of petroleum under this Law.		1. This Law applies to the use or consumption of petroleum when the said use is necessary, or forms an integral part of, operations involving the production or transportation of petroleum in terms of this Law.
3. It is excluded from the scope of this Law, petroleum refining and its industrial use, distribution and commercialization of petroleum products.	Downstream clearly excluded	2. The refining of petroleum, its industrial use [and] the distribution and sale of petroleum products are excluded from the scope of this Law.
Article 4 The role of the State		Article 4 (Role of the State)
1. The State controls the prospection, exploration, production, transport, commercialization, refining and transformation of liquid and gas hydrocarbons and their derivatives including petro-chemical and Liquid Natural Gas (LNG) and Gas for Liquids (GFL) activities.		1. The State, its institutions and other public law entities have a determining role in promoting the realization of the existing potential so as to provide access to the benefits of petroleum production and contribute to the social and economic development of the country.

2. The State may also, either directly or indirectly, engage in complementary or accessory activities related to the activities mentioned in the previous paragraph.	Good flexibility	2. Through its actions, the State shall stimulate investment in petroleum operations.
3. The State and its institutions and other public entities have a decisive role in the promotion of evaluating the existing petroleum potential so as to provide access to the benefits of petroleum production and contribute to the economic and social development of the country.	Good additions to previous drafts	
4. The Government discloses the potentialities of the existing natural resources through previous consultation and negotiation with investors and local communities, as well as promoting the involvement of national entrepreneurship in petroleum enterprises.		
5. The State ensures that part of the national petroleum resources is destined to the promotion of national development.		
6. The Government guarantees the financing of the Empresa Nacional de Hidrocarbonetos, Empresa Publica (ENH, E.P.), its exclusive representative for the investment in the improvement and stabilization of its participation in the gas and oil business.		
Article 5 Evaluation and promotion for access to petroleum resources		
1. The State and its institutions and other public entities have a decisive role in the promotion of the evaluation of the existing mining potential so as to allow access to the benefits of petroleum production and contribute to the economic and social development of the country.	Repeats Art. 4 (3), and should not refer to “mining”	
2. The Government, through its action, promotes the investment in petroleum operations.		
Article 6 Defence of national interests		
Unnecessary addition, already covered in Art.17 (2)		
While granting the rights for the performance of petroleum activities, under the scope of the present law, the State always ensures the respect for national interests with regard to defence, work, navigation, research and conservation of marine eco systems and other natural resources, existing economic activities, food and nutrition safety of the communities and the environment in general.		
Article 7 Fair compensation		
1. The State guarantees fair compensation, to be paid by the concessionaire of the rights	How does this relate to Art. 54??	Concessionaire should be

of exploration of oil and gas , to the parties or communities that have, in any capacity, rights of use of the land as well as territorial waters.	defined. Should not be " oil and gas ", but "petroleum"	
2. When the available concession area comprises, fully or partially, areas occupied by families or communities that imply resettlement, the concessionaire must compensate those parties in a fair and transparent way in a manner and form to be ruled by the Council of Ministers.		
3. Fair compensation must be set out in a memorandum of understanding between the Government, the concessionaire and the community.		
4. The memorandum of understanding mentioned in the previous paragraph constitutes a requirement for the granting of the right of exploration of oil and gas .	"exploration" only? Should be "petroleum operations" oil and gas is not a defined term	
Article 8 Contents of fair compensation	How does this relate to Art. 54??	
1. Fair compensation as mentioned in the previous article includes:	by the concessionaire or by Government at concessionaire's cost??	
a) Resettling in dignified housing, by the concessionaire , in better conditions than previously held;		
b) Payment of the value of any betterments in the terms of the Lands' Law and other applicable legislation;		
c) Support in the development of activities that the life and food and nutrition safety of those affected is dependent on;		
d) Preservation of the historic, cultural and symbolic heritage of families and communities in terms to be agreed by the parties.		
2. Resettlement may only occur when exploration confirms the availability of petroleum resources object of the license for the commencement of production, in accordance with the principles defined by the Council of Ministers .	Should be defined by regulation	
Article 9 Distinction between rights		

The right of exploration of oil and gas is distinct from the right of use and exploitation of land or other pre- existent rights, in the terms of the law.		
Article 10 No overlapping of rights		
1. The granting of the right of exploration of oil and gas does not imply the granting of the right of use and exploitation of land or other pre-existent rights, which belongs to the State.		
2. The Government must decree the termination of the right of exploration of oil and gas and of the oil operations , for license expiry, extinguishment of resources or the law violation .	Poor wording, and these issues are covered in other articles of the law	
3. Once the right of exploration of oil and gas is terminated, the persons with the pre-existent rights, or their heirs, have a pre-emption right in any rights waived in favor of the State.	Only exploration ?	
Article 11 Involvement of communities	Poorly worded	
1. The communities must be given prior notice of the beginning of exploration activities, as well as of the need of temporary re-settlement for that purpose.	"Communities" should be defined. "exploration" only?	
2. The communities must be previously consulted for the obtaining of authorization for the beginning of petroleum activity .	Should be " petroleum operations "	
3. The Government shall create mechanisms for involvement and ensure the organization and participation of the communities in the areas where petroleum enterprises are set up.	" petroleum enterprises " should be "petroleum operations"	
Article 12 Work force in the petroleum exploration activity	Poorly worded	
1. The oil and gas exploration companies shall ensure a harmonious environment in work relations .	"oil and gas exploration companies" not a defined term, does it include all suppliers? "harmonious environment in work relations" Not sufficiently defined, should be in the Preamble	
2. The " petroleum exploration companies " must ensure the employment and the technical-professional training of Mozambican nationals, as well as their participation in the management and in the petroleum operations.	"petroleum exploration companies" another undefined term. Unclear wording of this paragraph	

3. The petroleum exploration companies shall take the required measures to ensure the safety and hygiene of their workers in accordance with the Mozambican law and good international practices.	Not using defined term	
4. The recruitment of staff for the petroleum exploration companies shall be published in the major circulation newspapers of the country, or through radio, television and internet, stating the nearest delivery point, stating as well, the required conditions, and the publications of the results.	"publications of the results" with names & salaries?	
Article 13 Promotion of national entrepreneurship	Poorly worded	
1. The Government must create mechanisms and outline the conditions for the involvement of the national entrepreneurship in the oil and gas enterprises.	"oil and gas enterprises" another undefined term	
2. The oil and gas companies must be registered in the Mozambique's Stock Exchange in accordance with the applicable Mozambican legislation.		
CHAPTER II RIGHTS, DUTIES AND GUARANTEES		
Article 14 General rights of the right holders	Poorly worded and unnecessary, already covered in other provisions	
The petroleum operations right holders have, among others, the following rights:	"petroleum operations right holders" that is a defined term !	
a) to consult the relevant authorities for the available geological information of the concession contract;		
b) to obtain the collaboration of the administrative authorities for performance of field work and for the setting up of rights of way, according to the law;	"administrative authorities" not a defined term	
c) to build and install the infrastructure and the necessary facilities for the execution of petroleum operations;	c) and d) are saying the same thing, but are superfluous, because this is already covered in other provisions and the concession contracts	
d) to use, in the pertinent legal and regulatory conditions, the defined areas for the setting up of the petroleum facilities, buildings and equipment;		
e) to perform the necessary geological activities for the execution of the approved plans, without any limitations other than those arising from the concession contract, or by dispatch	Unnecessary, already covered in other provisions	

of the supervising entity of the petroleum sector;		
f) to extract, export and benefit from the petroleum resources object of the concession contract according to the law.		
Article 15 General obligations of the right holders	Poorly worded and unnecessary, already covered in other provisions	
The petroleum operations right holders have, among other, the following obligations:		
a) not to start the petroleum operations without the relevant concession contract;		
b) to ensure the employment and technical training to national citizens, preferably to those who live in the concession area;		
c) to apply the most appropriate methods for the achievement of the highest revenue, compatible with the economic conditions of the market, including environmental protection and the rational use of petroleum resources;	"appropriate methods" what does that mean?	
d) to register all activities, including any investigations made;	"any investigations" what does that mean?	
e) to allow the control and supervision of its activity by the competent authorities, including access to technical, economic and financial nature data related to the petroleum operations;		
f) to progressively release the initial area allocated to the granting of petroleum operations, in the terms and conditions of the present Law and respective regulation;		
g) to fulfil the work plans in accordance with each stage of the approved petroleum operations, always complying with the legal and regulatory applicable rules and the best methodology for the performance of petroleum operations;		
h) to meet the deadlines for the execution of the petroleum operations and the approved production programme, maintaining the exploration in activity, except in the case of authorized or imposed interruption, or when determined by force majeure;		
i) to comply with the environmental impact study;		
j) to promote the protection of nature and the environment in accordance with the environmental impact study, approved by the competent authorities;		
k) to promote the public safety, health, hygiene and sanitation in accordance with the		

national and international regulations applicable in the Republic of Mozambique;		
l) to inform on the occurrence of petroleum operations with regard to the use soil and the characteristics of the environment;		
m) to repair, in the terms of the law, any damage caused to third parties by the exercise of petroleum operations.		
Article 16 Guarantees of the right holders	Poorly worded and unnecessary, already covered in other provisions	
The petroleum operations right holders have the following legal guarantees:		
a) to transfer the rights and obligations resulting under the concession contracts, after obtaining the necessary authorization;		
b) to obtain support for the performance of petroleum operations and the respect for its inherent rights;		
c) be entitled to freely dispose and commercialize the oil and gas according to the rules and procedures of the present Law and complementary legislation on the matter;		
d) to resort to international arbitration for the resolution of disputes when all alternative resolutions means are extinguished.		
Article 17 Conditions for carrying out petroleum operations		Article 5 (Conditions for the exercise of Petroleum Operations)
1. The petroleum operations shall be carried out via a concession contract following a public tender, simultaneous negotiation or direct negotiation.	Gives flexibility for negotiation according to quality of project	1. Petroleum exploration, development, production and transportation activities shall be carried out under a concession contract that results from a public tender.
2. The granting of rights for carrying out petroleum operations under the terms of the present Law shall always abide by national interests with regard to defense, navigation, exploration and conservation of marine resources, existing economic activities and the environment in general.		2. The granting of rights for the activities referred to in the preceding paragraph shall always respect national interests in respect of defense, navigation, exploration and the conservation of marine resources, existing economic activities and the environment in general.
		3. The right to conduct Petroleum Operations shall be granted only to legal entities with proven competence and technical and financial capacity for conducting Petroleum Operations, under a

		concession contract.
CHAPTER III OWNERSHIP AND CONTROL OF PETROLEUM RESOURCES		CHAPTER II OWNERSHIP AND CONTROL OF PETROLEUM RESOURCES
Article 18 Ownership of petroleum resources		Article 6 (Ownership of petroleum resources)
All petroleum resources located in the soil, subsoil, inland waters, territorial sea, continental shelf and in the exclusive economic zone, are the property of the State.		All petroleum resources existing as natural resources in the soil and the subsoil, in interior waters and in the territorial sea, on the continental shelf and in the exclusive economic zone are the property of the State
Article 19 Administration of petroleum operations		Article 7 (Administration of Petroleum Operations)
1. The Government shall implement policies that ensure the execution of petroleum operations including the implementation of the necessary regulations for its application.	The law always refers to "Government" , rarely to specific Minister or entity which leaves good flexibility	1. The Government shall implement policies which ensure the conduct of petroleum operations, including the formulation of proposals for necessary legislation.
2. The Government shall ensure that a percentage of the revenue generated in the petroleum production is channeled to the development of the communities in the areas where the petroleum operations are being conducted.	Good flexibility	2. The Government shall ensure that a percentage of the income generated from petroleum operations is channeled towards the development of communities in the areas in which petroleum operations are conducted.
3. The percentage referred in the previous paragraph is fixed by the State Budget with reference to the expected revenues of the petroleum operations .	Total revenues of the State, or the operator or for specific projects and areas??	3. The percentage referred to in the previous paragraph shall be determined in the Budget Law, in accordance with the income foreseen related to petroleum operations .
Article 20 State Participation		Article 8 (Participation of the State)
1. The State reserves the right to participate in petroleum operations in which any legal entity is involved.	Nice flexibility. "legal entity" is not defined, only "persons"	1. The State reserves the right to participate in petroleum operations in which any legal person is involved.
4. The participation of the State may occur during any phase of the petroleum operations in accordance with the terms and conditions to be established by contract.	Nice flexibility	2. The participation of the State may occur during any phase of petroleum operations or during the construction and operation of an oil or a gas pipeline system in accordance with terms and conditions to be established by contract.
5. The State shall progressively promote the increase of its participation in the oil and gas		

enterprises.		
Article 21 Public Tender	Unnecessary addition, already covered in Art. 17 (1) as one of 3 alternative procedures	
1. The Government shall launch a public tender for the activities of exploration, production and exploration of oil and gas.	"activities of exploration, production and exploration of oil and gas" defined as "petroleum operations"	
2. The public tender procedures are defined by regulation, without prejudice to the application of the general legislation on the matter.		
Article 22 Instituto Nacional de Petroleos (National Petroleum Institute)	Poorly worded	
1. The Instituto Nacional de Petroleos (INP), a public legal entity, with legal, autonomous, administrative, financial and assets personality, is supervised by the Ministry responsible for petroleum activities.	"petroleum activities." Not a defined term	
2. The Instituto Nacional de Petroleos is the regulatory entity responsible for the administration and promotion of petroleum activities, under the tutelage of the Ministry responsible for the petroleum activities, responsible for the guidelines for public and private sectors' participation in the prospecting and exploration of petroleum products and their derivatives.	Partial repetition of para. 1. A "regulatory entity" normally has more responsibility than only "guidelines". Should be "petroleum and its derivatives"	
3. The responsibilities, organization and operation of the Instituto Nacional de Petroleos are defined by the Government and adjusted to the present Law.	What does that mean.	
Article 23 Alta Autoridade da Industria Extractiva (High Authority for the Extraction Industry)		
The Alta Autoridade da Industria Extractiva operates in the controlling of petroleum activities.	What's the difference between "controlling" and "regulatory" in Art. 22 (2)??	
Article 24 Empresa Nacional de Hidrocarbonetos (National Petroleum Company)		
1. Empresa Nacional de Hidrocarbonetos (ENH, E.P.) is the national entity responsible for the prospecting, exploration, production and commercialization of petroleum products and represents the State in petroleum operations.	Should be defined in the Annex, not here	

<p>2. It is ENH, E.P.'s responsibility to participate in all petroleum operations and the respective stages of the activities, from prospecting, exploration, production, refining, transport, storing and commercialization oil and gas and their derivatives, including LNG and GTL inside the country or abroad.</p>	<p>"oil and gas" should be "petroleum" "derivatives" should be "petroleum products", but they are not covered by this Law (Art.3 (3))</p>	
<p>3. It is also ENH, E.P.'s responsibility to manage the oil and gas quotas destined for the development of the national market and the country's industrialization.</p>	<p>Should refer to the new Art. 33</p>	
<p>4. Any investor interested in the exploration of petroleum resources in Mozambique shall enter into a partnership with ENH, E.P., the exclusive State representative.</p>	<p>Poor wording, there are other legal forms of participation</p>	
<p>Article 25 Taxes</p>		
<p>1. The petroleum operations right holders are subject to the payment, besides specific taxes, of the following:</p>		
<p>a) Income Tax;</p>		
<p>b) Value Added Tax;</p>		
<p>c) Municipal Tax when applicable;</p>		
<p>d) Other taxes established by law.</p>		
<p>2. The specific rules regarding taxation of petroleum operations is established by law.</p>		
<p>CHAPTER IV PETROLEUM OPERATIONS</p>		<p>CHAPTER III PETROLEUM OPERATIONS</p>
<p>Article 26 Subjects</p>	<p>Was much better worded in previous drafts</p>	<p>Article 9 (Subjects)</p>
<p>1. Mozambican or foreign legal entities that are registered in Mozambique, and who demonstrate that they have the technical capability and adequate financial resources for the effective conduction of petroleum operations may be holders of the right to carry out petroleum operations.</p>	<p>There is no definition of legal entities, only of "Mozambican person" "National collective person" and "National single person". Previous drafts had better wording: "Mozambican legal persons and foreign legal persons".</p>	<p>Mozambican legal persons and foreign legal persons registered in Mozambique that demonstrate that they have the technical competence and adequate financial resources for the effective conduct of petroleum operations may be holders of the right to conduct petroleum operations.</p>
<p>2. Foreign legal entities which directly or indirectly hold or control legal entities that own</p>	<p>"Foreign legal entities" not</p>	<p>All circumstances being equal, Mozambican legal</p>

rights under a concession contract, shall be established, registered and administered under a transparent jurisdiction.	defined This provision should just refer to the applicable corporate laws	persons shall have a preferential right to the granting of concession contracts.
3. The applicants for rights regarding petroleum operations, in the form of commercial company, shall, together with the application, deposit a document showing evidence of the incorporation of the company, including the identification of the shareholders and the value of their participations.	Poorly worded	Foreign legal persons who associate with Mozambican legal persons shall also enjoy the right referred to in the preceding paragraph.
4. Mozambican legal entities as well as foreign legal entities that associate with Mozambican legal entities shall have a pre-emption right in the granting of concession contracts.	Poorly worded and no definitions	
Article 27 Government powers		Article 10 (Authority)
The Government shall approve the petroleum operations regulation which must include, amongst others, the following:	l should be "issue"	The Government has the authority to:
a) the forms of granting of rights, terms and conditions of the concession contract;		a) regulate the forms which concession contracts may take, and rules for tenders for the granting of rights for petroleum operations;
b) petroleum operations practices, including the management of the resources, safety, health and environmental protection;	Not using defined term	b) approve the conclusion of exploration and production concession contracts and oil pipeline, gas pipeline and infrastructure concession contracts;
c) submission of plans, reports, data, samples, information and accounts, by the right holder, in the terms of the respective contracts or concession contracts;		c) approve development plans or plans for oil pipeline or gas pipeline systems and infrastructure, and any material amendments thereto prepared by holders of petroleum exploration and production rights and of oil or gas pipeline and infrastructure rights;
d) access rules and use of infrastructure by third parties;		d) approve unitization agreements and any material amendments submitted by holders of exploration and production rights;
e) tender procedure for the acquisition of material, goods and services;		e) define powers regarding the conclusion of other contracts subject to this Law;
f) regulation on abandonment of areas under the concession contracts;		f) define powers regarding the authorization of the transfer of rights and supervening amendments of concession contracts;
g) the terms and conditions of the State participation in any concession contract.		g) approve regulations or issue decisions in respect of concession contracts or petroleum operations, so

The Government shall also:		as to delimit the scope of application of this Law;
a) regulate the types of concession contracts and the tender rules for the granting of rights regarding petroleum operations;	Already covered in Art. 21 (2)	h) approve rules for access to oil or gas pipeline systems, and to infrastructure, and the methodology for the setting of tariffs for third party access;
b) approve the execution of exploration and production concession contracts, oil pipeline or gas pipeline systems and infrastructure concession contracts ;	Contracts between government and companies need special approval by whom??	i) draw up an inventory of income resulting from petroleum operations, and publish this, periodically;
c) approve development plans, oil pipeline or gas pipeline system and infrastructure plans, and any material amendments thereto prepared by the holders of petroleum exploration and production rights, and oil pipeline or gas pipeline system and infrastructure right;		j) define the forms in which guarantees must be provided by holders of rights to undertake petroleum operations;
d) approve unitization agreements and any material amendments submitted by the exploration and production right holders;		k) exercise such other authority as is attributed to it by this Law and other applicable legislation.
e) define the authorities with regard to the execution of other contracts subject to this Law;		
f) define the authorities with regard to the authorization of the transfer of rights and supervening changes to the concession contract;		
g) approve regulations or issue decisions in relation to concession contracts or oil operations in order to implement this Law;		
h) supervise all infrastructure and premises where petroleum operations are held;	Already covered by other provisions	
i) approve the access rules for oil pipelines or gas pipelines systems and infrastructure, and the methodology for setting tariffs for third party access;	Already covered by amended Art. 51 now referring to "right of use of infrastructure", not "third party access"	
j) approve the methodology for pricing;	Already covered in Art.33	
k) inventory petroleum operations revenues and publish them periodically;	What does that mean?	
l) define the types of guarantees to be provided by petroleum operations right holders ;	Already covered in new Art.46	

m) grant an extension of time of the concession contract, in the terms and conditions to be agreed with the right holders;	Unnecessary, will be covered by the concession contracts	
n) approve the conveyance of property of the infrastructure or the respective right of use;		
o) approve petroleum operations regulation and exercise any other authority granted by this Law and other applicable legislation.		
Article 28 Types of contracts		Article 11 (Types of Contracts)
1. The conduct of petroleum operations is subject to the prior execution of a concession contract or other form of contract in accordance with this Law, which grants rights of:	No exceptions, no one-sided licenses!	The conduct of petroleum operations is subject to the prior execution of a concession contract or other form of contract in accordance with this Law, granting rights:
a) reconnaissance;		a) of reconnaissance;
b) exploration and production;		b) of exploration and production;
c) construction and operation of oil pipeline or gas pipelines systems;		c) to construct and operate oil pipeline or gas pipeline systems
d) construction and operation of infrastructure.		d) to construct and operate infrastructure.
2. Without prejudice to the confidentiality of the commercial, strategic and competitive information of petroleum operations, the concession contract is subject to the supervision and approval by the competent legal authority, as well as to the publication of the main clauses of the concession contract.	Publication partially covered in Art. 50	
Article 29 Reconnaissance concession contract		Article 12 (Reconnaissance Concession Contracts)
1. A reconnaissance concession contract grants the non-exclusive right to carry out preliminary exploration work and assessment operations in the concession contract area, through airborne, terrestrial and other surveys, including geophysical, geo-chemical, paleontological, geological and topographical studies.		1. A reconnaissance concession contract grants the non-exclusive right to conduct preliminary exploration and assessment work in the area subject to the concession contract through aero spatial, terrestrial and other surveys including geophysical, geo-chemical, paleontological, geological and topographical studies.
3. A reconnaissance concession contract is executed for a maximum period of two years, non-renewable, and permits the drilling of wells to a depth of 100 meters below the surface or the bottom of the sea.		2. A reconnaissance concession contract is concluded for a maximum period of two years and permits drilling to a depth of 100 meters below the surface or the sea floor.
Article 30 Exploration and production concession contract		Article 13 (Exploration and Production Concession Contracts)

<p>1. An exploration and production concession contract grants an exclusive right to carry out petroleum exploration and production, as well as a non-exclusive right to construct and operate oil pipelines or gas pipelines systems for transportation of crude oil or natural gas or infrastructure for 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.</p>		<p>1. An exploration and production concession contract grants an exclusive right to conduct petroleum exploration and production as well as the non-exclusive right to construct and operate Oil Pipeline or Gas Pipeline Systems for the purposes of transporting Crude Oil or Natural Gas and infrastructure for the liquefaction of natural gas produced from the concession contract area, except where access to an existing Oil Pipeline or Gas Pipeline System is available on acceptable commercial terms.</p>
<p>2. The contracts entered into between legal entities with the purpose to submit a request for rights or for carrying out petroleum operations are subject to the approval of the Government.</p>	<p>Legal entities not defined</p>	<p>2. Joint venture agreements concluded by legal persons with a view to the submission of an application for rights to conduct Petroleum Operations shall be submitted to the Minister who oversees the petroleum area.</p>
<p>3. The exclusive right to petroleum exploration, under an exploration and production concession contract, will not exceed 8 years and shall be subject to the provisions regarding abandonment of areas.</p>	<p>Pervious drafts: 10 years</p>	<p>3. The exclusive right to conduct petroleum exploration shall not exceed ten years and shall be subject to the provisions in respect of abandonment of areas contained in the concession contract.</p>
<p>4. In the event of a discovery, the holder of an exploration and production right may maintain the exclusive right to complete the operations initiated within a specified area, in relation to the exploration period, for completion of the work schedule and commercial value assessment or determination and to allow the petroleum development and production.</p>	<p>Poor wording compared with previous drafts</p>	<p>4. In the event of a discovery, the holder of an exploration and production right may maintain the exclusive right to complete the operations initiated within a specified area, for a period not exceeding two years, in respect of the exploration period, so as to comply with work program and to assess or determine the commercial value, and to enable the development and production of petroleum.</p>
<p>5. The holder of an exploration and production right may maintain, in accordance with the development plan approved by the Government, the exclusive right to develop and produce oil and gas in the development production area, subject to renewal for equal or shorter periods, as it is more beneficial for the national interest.</p>	<p>"oil and gas" should be "petroleum" This open time limit is a very unusual and dangerous provision. Previous drafts said: "for a period not to exceed thirty years dating from the date of approval of the first development plan."</p>	<p>5. The holder of an exploration and production right may, in accordance with the development plan approved by the Government, maintain the exclusive right to develop and produce petroleum in the development and production area for a period not to exceed thirty years dating from the date of approval of the first development plan.</p>

Article 31 Oil pipeline or Gas pipeline system concession contract		Article 14 (Oil Pipeline or Gas Pipeline Concession Contract)
1. An oil pipeline or a gas pipeline system concession contract grants the right to construct and operate oil pipeline or gas pipeline systems for the purpose of transporting crude oil or natural gas, in those cases that such operations are not covered by an exploration and production concession contract.	Good provision	1. An Oil Pipeline or a Gas Pipeline concession contract grants the right to construct and operate Oil Pipeline or Gas Pipeline Systems for the purpose of transporting Crude Oil or Natural Gas in the cases in which such operations are not covered by an exploration and production concession contract.
2. An oil pipeline or a gas pipeline system concession contract shall be accompanied by the relevant development plan, which is an integral part of the concession contract.		2. An Oil Pipeline or Gas Pipeline concession contract shall be accompanied by the related development plan which is an integral part thereof.
Article 32 Concession and infrastructure contract		Article 15 (Infrastructure Concession Contract)
The concession contract for the construction and operation of petroleum infrastructure grants 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.	For LNG plants which are not foreseen in the original exploration/production concession contracts	1. A concession contract for the construction and operation of petroleum infrastructure confers a right to construct and operate infrastructure for petroleum operations, such as processing and conversion, which are not covered by an exploration and production development plan, or oil or gas pipeline system development plan.
		2. A petroleum infrastructure concession contract shall be accompanied by the respective development plan, which is an integral part thereof.
Article 33 Infrastructure construction	Unnecessary, already covered by other provisions	
The construction and operation of an oil pipeline and gas pipeline system, as well as the concession and operation of infrastructure, are enabled through a concession contract following a public tender.		
Article 34 Gas liquefaction	What is the purpose and content of this? It is already more specifically covered in other provisions.	
The Government may authorize the concessionaires who have discovered oil and gas deposits not associated to the development of projects for the conception, construction, installation, ownership, financing, operation, maintenance, well usage, facilities and related equipment, whether onshore or offshore, for the production, processing, liquefaction, delivery and sale of gas in the national market and for export.		

Article 35 Oil and gas for internal consumption	How does this relate to the general requirement of Art.49??	
1. The Government shall guarantee that a quota of no less than 25% of the oil and gas produced in national territory is dedicated to the national market.		
2. The Government rules the acquisition, price definition and other matters related to the use of the oil and gas quota mentioned in the previous paragraph.		
Article 36 Marketing and commercialisation		
1. The Govern shall guarantee that Empresa Nacional de Hidrocarbonetos, E.P., , the State's representative in the oil and gas, business takes the lead in the marketing and commercialization of the referred products.	Already covered in Art. 24, and should clearly exclude downstream petroleum operations.	
2. The Government shall promote the mass use of gas for the development of the national market and the country's industrialisation.		
Article 37 Capitalization of revenue	This should be in the Preamble. Art. 25 and 50 provide for certain details	
It is for the Assembly of the Republic to define the sustainable and transparent management of revenue from the country's petroleum resources, taking into account the satisfaction of the present needs and that of the future generations.		
Article 38 Unitization of petroleum deposits		Article 16 (Unitization of petroleum deposits)
1. A petroleum deposit which is located partly in a contract area and partly in another contract area shall be developed and operated jointly or in a coordinated manner pursuant to a unitization agreement, which is subject to approval by the Government.		A petroleum deposit which is partly located in one contract area and partly in another contract area shall be jointly developed and operated pursuant to a unitization agreement, which shall be subject to approval by the Government.
2. If there are sufficient indicators that one or more of the petroleum deposits comprehended by the commercial development of a find extends to neighboring areas of exploration and production, the right holders must, within six months, after declaration of commerciality, reach an agreement on the most rational unified development and production of the mentioned oil and gas deposits.	And if not, what happens in 6 months??? Should be detailed in the regulations and/or contracts	
Article 39 Flaring of petroleum		Article 17 (Flaring of Natural Gas)

1. The flaring of petroleum shall only be permitted on terms to be defined by the Government provided that it is demonstrated that all alternative methods for the disposal of the petroleum are unsafe or not acceptable for the environment.		1. The flaring of natural gas shall only be permitted on terms to be defined by the Government and only if it is demonstrated that all the alternative methods for the disposal of the natural gas are unsafe or unacceptable for the environment.
2. The flaring of petroleum performed for the purpose of testing, infrastructure verification or for safety or emergency reasons, is subject to authorization by the Government.	Should say "except for emergency reasons"	2. Authorization shall be required when the natural gas is flared for the purpose of testing or verification of infrastructure, on terms to be regulated.
Article 40 Obligations reading conduction of petroleum operations	"regarding"??	Article 18 (Obligations of holders of Reconnaissance, Exploration and Production, Construction and Operation of Infrastructure or Oil Pipeline or Gas Pipeline System Rights)
The holder of a reconnaissance, exploration and production, infrastructure construction and operation and oil pipeline or gas pipeline system right are obliged, to the extent applicable and with the required changes, to:		The holders of reconnaissance, exploration and production, construction and operation of infrastructure or oil pipeline or gas pipeline system rights are obliged, to the extent applicable to them, and with the necessary adaptations, to:
a) Carry out petroleum operations in accordance with the terms of this Law, the Regulations for Petroleum Operations, as well as other applicable legislation and good oil industry practices;	Not using defined term	a) conduct petroleum operations in accordance with the terms of this Law, the Regulations for Petroleum Operations as well as other applicable legislation and good oilfield practices;
b) report to the Government any discovery in the concession contract area within twenty-four (24) hours;		b) report any discovery within the Concession contract Area to the Government, within twenty four hours;
c) in the event of a commercial discovery, prepare and submit to the Government the development plan for the petroleum deposit, in accordance with the Regulations for Petroleum Operations;		c) in the event of a commercial discovery, prepare and submit to the Government, in accordance with the Regulations for Petroleum Operations, a development plan for the Petroleum Deposit;
d) create a fund for the closure and decommissioning of the infrastructure;	(New) What does this mean?	d) prepare and submit the development plan as well as any subsequent material amendment thereto, for prior approval;
e) submit to the Government a decommissioning plan in advance of the end of the production period, termination of the use of infrastructure or of the concession contract;	2-year time limit dropped from previous drafts	e) submit a decommissioning plan to the Government, not later than two years before the planned termination of production or of the use of infrastructure;
f) indemnify the injured parties for any losses or damages resulting from petroleum		f) compensate injured parties for any losses or

operations as provided by law;		damages resulting from Petroleum Operations as provided by law;
g) publish all tenders relating to the acquisition of products, materials and services, in the media channels with greater circulation in the country and on the web page of the right holder;	Covered in Art. 41	g) give preference to the purchase of products, materials and services available in Mozambique that are of internationally comparable quality, whenever they are available within the time required and in sufficient quantities and are offered at competitive prices in terms of delivery;
h) when the national interest so requires, give preference to the Government in the acquisition of petroleum produced in the concession contract area, in accordance with specific legislation.	Needs a special law, not just a regulation as in previous drafts?	h) publish all tenders for the acquisition of products, materials and services, in the most widely circulating media in the Country;
		i) when the national interest so requires, give preference to the Government for the acquisition of petroleum produced in the concession contract Area, on terms to be regulated.
Article 41 Acquisition of goods and services		
1. The acquisition of goods or services by the petroleum operations right holders, above a set amount, must be made through public tender and this must be published in the means of communication of greater incidence to the larger publication newspapers of the country and on the internet page of the respective right holders.	Amount to be set by regulation	
2. Single or collective foreign entities that provide services to the petroleum operations must associate to single or collective Mozambican entities.	Means what: joint venture, minority participation, sub-contractor?	
3. In the evaluation of tender, the quality of the services, the price, delivery date and offered guarantees must be taken into account.	Should be in the regulations	
4. The petroleum operations right holders must give preference to local products and services when comparable, in terms of quality, to the international materials and services that are available in time and in the quantities required and when the price, including taxes, is not over by ten percent to the price of the available imported goods.	New	
Article 42 Resettlement		
1. The onshore petroleum enterprise investor shall guarantee the cost of resettlement of the populations after previous consultation of the same.	Undefined term	

2. In the consultation process shall participate, besides the representatives of the said entities, the local State organs and community authorities.		
3. Those included in resettlement shall be guaranteed dignified and better living conditions to those they possess in the area where they live via fair compensation.	What does that mean, leave too much discretion	
Article 43 Overlapping and incompatibility of rights		
1. The granting of rights relating to the exercise of petroleum operations is incompatible with the prior or post granting of rights for the exercise of the activities respecting to other natural resources or uses for the same area.	Poor wording	
2. Should incompatibility occur in the exercise of rights referred in the previous paragraph, the Government shall decide which rights shall prevail and in which conditions, without prejudice of the compensations due to the holders.		
3. The granting of rights relating to petroleum operations shall only be made with the safeguarding of the national interests with regard to defense, safety, environment, navigation, investigation, management and preservation of the natural resources, particularly aquatic, biologic living and non-living, and the competent entities in the sector shall be heard, in the terms of the specific legislation applicable.	Already covered in new Art. 6 and 17 in different wordings	
CHAPTER V DIRECT INVESTMENT		
Article 44 Forms of investment		
1. Direct investment, both national and from abroad may, solely or jointly, be made in the following manners if quantifiable in pecuniary terms:	Very poor wordin, leaves too much government discretion, should be moved to detailed regulation	
a) value paid in money freely convertible by total or partial acquisition of shares in a company set up in Mozambique or the authorization for petroleum activity, in the cases of partial or total transfer, so long as the value is paid in a bank registered in Mozambique or in an external authorized account in the terms of the foreign exchange law;		
b) equipment and respective accessories, materials and other imported goods;		
c) in the case of national direct investments, infrastructure, facilities and transfer of rights related to the use of land, concessions, licenses and other economic, commercial or technologic nature rights;		
d) transfer, in specific cases and in the terms agreed on, and sanctioned by the relevant entities of the rights of use of patented technology and registered trademarks, in terms to be regulated;		

e) value spent in geologic studies or other activities in the scope to the obligations under the present Law.		
2. The value of direct investment covers the, duly accounted and confirmed by audit company of recognized independence, expenses incurred in operations of prospecting and exploration, treatment, development, processing and other petroleum operations related to the exploration, petroleum production.		
3. The State's investment is covered through the valuation of the existing resources and other ways to be defined by the Government.	Does that mean that ENH investment will not be capitalized but calculated as percentage value of the reserves	
Article 45 Guarantees		
1. 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 is guaranteed.		
2. Expropriation may only occur exceptionally and substantiated, with regard to public interest and is subject to the payment of fair compensation.		
3. Determining the value of compensation mentioned in no. 2 above shall be reached within 90 days or another term agreed on, by mutual agreement and by a recognized independent and competent commission.	Should go to arbitration, as typical in those cases	
4. The payment of compensation referred in the previous paragraphs is made within 190 days, or another term agreed on, counted from the date of the decision or presentation of the report.		
5. The assessment period for the purpose of making a decision on the evaluation made and presented to the competent State body must not exceed 90 days counted from the date of reception of the evaluation process.	???	
Article 46 Performance guarantee provision		
In order to ensure compliance with the terms and conditions of the petroleum exploration authorisations, the operators must present financial guarantee in terms to be regulated.	"petroleum exploration authorisations" undefined and unclear term	
Article 47 Reserved petroleum areas	Should refer to existing	

For public interest reasons, the Government may preserve the land for petroleum exploration requests, specifying the incompatible types of activities.	environmental legislation	
Article 48 Local development	Already covered in Art. 19 (2), (3) in different wording	
A percentage of the revenue generated by the petroleum activity is allocated in the State Budget to the development of the communities of the areas where the respective petroleum enterprises are located.		
Article 49 Development of industrial activity		
1. The petroleum resources must be used, whenever required, as raw material for the processing industry.	What means "whenever required", and how relates this to the obligation in Art. 35?	
2. The State may request the petroleum product at negotiable prices for use in local industry, whenever the country's commercial interests demand it.		
3. The industrial processing of raw materials from the petroleum exploration is regulated by specific legislation.	For oil & gas, this is already covered by Art. 3 (3)	3.
Article 50 Extractive transparency initiative	Good new provision, but should be detailed in regulations	
The petroleum exploration companies must publish their results, the amounts paid to the State, as well as the costs related to social and corporative responsibility, subject to supervision.		
Article 51 Right of use of infrastructure	Wording of previous drafts was more typical. Should be limited to petroleum infrastructure as per definitions.	Article 19 (Third Party Access to Oil or Gas Pipelines and to Infrastructure)
1. The owner of an infrastructure and the holder of the right of use of an infrastructure under the present Law must give third parties the right of use of the infrastructure related to the petroleum operations, without discrimination and in reasonable commercial terms if:		1. The holders of rights in terms of this Law have an obligation to grant third parties access to infrastructure related to Petroleum Operations, without discrimination and on acceptable commercial terms, provided that:
a) there is available capacity in the infrastructure;		there is capacity available in the oil or gas pipeline, or infrastructure;
b) there are no insurmountable technical problems which may prevent the use of the infrastructure to satisfy the request by third parties.		there are no insurmountable technical problems that preclude the use of the infrastructure's capacity to satisfy third party requirements.
2. If the available capacity of the infrastructure is insufficient to accommodate third parties' requests, the owner of the infrastructure must increase the capacity so as to, in		2. If the available capacity of the oil or gas pipeline, or infrastructure, is insufficient to accommodate third

commercially reasonable terms, third parties' requests may be satisfied, if:		party requirements, the holders of rights shall be obliged to increase capacity in order that the third party requests can be satisfied on commercially acceptable terms, provided that:
a) the third parties demonstrate the need for an increase in capacity, sustained by an adequate reservation certificate, in accordance the good practices in the petroleum industry;	What does that mean?	such expansion shall not have an adverse impact on the technical integrity or the safe operation of the oil or gas pipeline, or infrastructure;
		third parties have guaranteed funds which are sufficient to cover the costs of the requested increase in capacity.
b) such an increase does not create an adverse effect over the technical integrity or the safe operation of the infrastructure;		3. Any dispute concerning commercially acceptable terms for the uncommitted capacity of the oil or gas pipeline, or infrastructure, or for a proposed increase of capacity shall be submitted for consideration by the competent judicial entity, or to arbitration, as provided by Law or the concession contract.
c) the third parties have secured sufficient funds to sustain the costs of the increase in capacity.		
3. Any dispute between the owner of the infrastructure or the holder of the right of use of the infrastructure and any third parties is settled by agreement and, failing which, by an independent entity in terms to be regulated.	Previous drafts much better: "....shall be submitted for consideration by the competent judicial entity, or to arbitration, as provided by Law or the concession contract."	
Article 52 Data ownership		Article 20 (Ownership of Data)
1. All data obtained under any contract or concession contract set out in the present Law is property of the State.		1. All data obtained pursuant to any contract provided for under this Law is the property of the State.
2. The terms and conditions of the exercise of the rights over the data are fixed by regulation and in the respective contract or concession contract.	Nice flexibility	2. The terms and conditions for the exercise of rights in respect of data shall be established by regulation and in the respective concession contract.
Article 53 Transfer of rights		Article 21 (Transfer)
1. Any direct transfer of rights and obligations granted under the concession contract, to an affiliate or to a third party shall be made in accordance with Mozambican law and is	Should "total or partial" transfer	1. The total or partial transfer of rights and obligations conferred in terms of a concession contract, to an affiliate or to third parties, shall take place in

subject to the Government's approval.		accordance with national laws, and be subject to Government approval.
2. The present provision shall also apply to other direct or indirect transfers of interests in the concession contracts, including the transfer of shares, quotas or other forms of participation of the right holders under the concession contract.	Poor wording compared with previous drafts	2. This provision is also applicable to other direct and indirect transfers of participation interests in concession contracts, including the transfer of shares, quotas or other forms of shareholdings which determine the control in the entity holding rights in terms of a concession contract.
CHAPTER VI LAND AND THE ENVIRONMENT		CHAPTER IV LAND AND THE ENVIRONMENT
Article 54 Use and benefit of land and right of way		Article 22 (Use and Benefit of Land and Rights of Way)
1. Land use and land benefit for the purpose of conducting petroleum operations is regulated by the land legislation.		1. Land use and benefit for the purpose of conducting petroleum operations is regulated by the legislation on land use and benefit, without prejudice to the provisions of the paragraphs that follow.
2. For the purpose of conducting petroleum operations, the duration of the right of use and benefit of the land shall be the compatible with the established by the respective concession contract.		2. For the purpose of conducting Petroleum Operations, the duration of the right of use and benefit of land shall be compatible with that established in the respective concession contract.
3. A 50-meter strip of land surrounding petroleum infrastructure is considered to be a zone of partial protection.		3. Areas falling within the fifty-meter strip surrounding petroleum infrastructure shall be deemed partial protection zones. The area designated as a petroleum infrastructure security zone shall be defined in terms to be regulated.
4. The area corresponding to the security zone for petroleum infrastructure will be defined in accordance with terms to be regulated.		4. A holder of a right to conduct Petroleum Operations that causes damage to crops, soils, structures, equipment, natural resources, or requires the relocation of the users or legal occupants of the land of the respective concession contract area, has an obligation to compensate the holders of title to the aforementioned assets and the persons relocated.
5. The holder of a right to conduct petroleum operations who causes damage to crops, soil, buildings, equipment or betterments, has the obligation to compensate the holders of title to the referred assets, in accordance with the applicable legislation.	Should refer to the new Art. 7 and 8.	5. Subject to the payment of the compensation due, the holder of a right to conduct Petroleum Operations may demand the creation of rights of way, in accordance with the legislation in force, in order to have access to the locations where

		Petroleum Operations are conducted.
6. If the petroleum operations cause environmental damages or pollution, the petroleum operations right holder shall compensate the affected parties for the damages caused, regardless of fault.	This is a very bad new provision, probably unconstitutional. Also, contradicts new Art. 56	
7. Without prejudice to the payment of the compensations that are due, the holder of the right to conduct petroleum operations may require the creation of rights of way, in accordance with the legislation in force, in order to have access to the locations where petroleum operations are conducted.		
Article 55 Environmental inspection		
The Government ensures the rigorous observation of the protection and rehabilitation environmental norms, in the terms of the law and the conventions and good international practices.	Should be "Good petroleum industry practice" as per definition. But is already covered in Art. 63 and 66.	
Article 56 Damage responsibility		
The petroleum operators shall be liable for damage to infrastructures, to environment, territorial waters and public health when handling, transporting, prospecting and exploring oil and gas.	Poor wording, disregarding definitions, but correct in leaving the question of fault open.	
Article 57 Protection of natural resources		
1. The Government shall establish a protection plan of natural resources, particularly with regard to piracy control, hydrocarbons spillages and protection of the exclusive economic zone.	Useless provision should refer to existing legislation only.	
2. The investor shall guarantee the co-existence with marine fauna and other ecosystems, especially in conservation and fishing development activity areas.	What does that mean? Is already covered in Art. 56, Art. 66 and other provisions	
Article 58 Full and partial protection areas	Useless provision should refer to existing legislation only.	
The operation of petroleum activities in areas of full and partial protection obeys the provisions of applicable legislation.		
CHAPTER VII EXPLOSIVES AND RADIOACTIVE MATERIALS	This new Chapter is superfluous and poorly worded. Art. 59 (1) is sufficient if it would also refer to	
Article 59 Use of explosives		

1. The use of explosive substances in the petroleum activity is subject to Mozambican law.	regulations and good oilfield practices	
2. The petroleum exploration plan shall include the adoption of techniques and safety measures on planning, execution and supervision on the use of explosives which shall be submitted for approval by the relevant entities.	Should be covered by reference to regulation and good oilfield practices	
Article 60 Permissible explosives in petroleum activities		
The explosive substances permitted in petroleum activities are exclusively those legally listed under the legislation existing in Mozambique.	Already covered by Art. 59 (1)	
Article 61 Acquisition, transport and use of explosives		
The acquisition, transport, handling, storing and use of explosive products, gunpowder and initiation devices shall be performed by personnel and entities duly licensed with specific authorisation.	Should be covered by reference to regulation and good oilfield practices	
Article 62 Radioactive materials	Same comments as to Art. 59	
1. Besides what is stated in no. 2 of article 57 of the present Law, the use and exploitation of petroleum resources shall, likewise, be exercised in conformity with the current rules on protection to the exposure of ionizing radiations.		
2. Prospecting and exploration and other petroleum operations, with regard to people, assets and environment exposure to ionizing radiations is subject to previous authorization by the Autoridade Reguladora da Energia Atomica (Atomic Energy Regulatory Authority).		
Article 63 Inspection and supervision	This change is poorly worded. The previous drafts said: "1.The Government may inspect any infrastructure or sites where Petroleum Operations are being conducted.	Article 24 (Inspection)
1. The petroleum exploration activity is subject to inspection and supervision aiming at guaranteeing the rational and sustainable use and exploitation of petroleum resources.	2. The terms and conditions pursuant to which the inspection referred to in the preceding paragraphs is carried out shall be established by regulation.	The Government may inspect any infrastructure or sites where Petroleum Operations are being conducted.
2. It is the responsibility of the General Inspection of the Ministry that supervises the petroleum resources area's responsibility to control the observance of the present Law and other legal provisions that regulate the petroleum activity and the technical safety of petroleum activities.		1. The terms and conditions pursuant to which the inspection referred to in the preceding paragraphs is carried out shall be established by regulation.
3. The Government may also name a competent entity or a commission set up for the		

purpose, in terms to be regulated.		
Article 64 Access to maritime jurisdiction areas		Article 23 (Access to Zones subject to Maritime Jurisdiction)
Access to places or infrastructures for petroleum operations located in inland waters, territorial sea, continental platform and exclusive economic zone and other maritime jurisdiction areas is defined in the terms of the applicable legislation.		Access to Petroleum Operation sites or infrastructure located in interior waters, the territorial sea, on the continental shelf, and in the exclusive economic zone and in other zones subject to maritime jurisdiction shall be defined in terms of applicable legislation.
Article 65 Inspection	Duplication of Art.63	
1. The infrastructure and places where petroleum operations are being performed are subject to inspection and auditing.		
2. The inspection and auditing shall be made by a commission set up by the Government or by an independent entity which it shall appoint.		
Article 66 Environmental protection and safety		Article 25 (Environmental Protection and Safety)
1. Beside performing the petroleum operations in accordance with good practices for the petroleum industry, the holders of prospecting, exploration and production, construction, installing an operation of infrastructure and systems of oil or gas pipelines, shall perform the petroleum operations in accordance with the environmental legislation and other legislation applicable for purpose of:	Should also refer to the concession contracts as previous drafts	1. In addition to carrying out Petroleum Operations in accordance with good oilfield practices, the holder of reconnaissance, exploration and production, infrastructure and Oil Pipeline and Gas Pipeline System rights shall conduct Petroleum Operations in accordance with environmental and other applicable legislation as well as the respective concession contracts, in order to:
a) ensuring there is no ecologic damage or destruction caused by the petroleum operations and that when inevitable, the measures for the protection of the environment are in accordance with internationally accepted standards, and shall for this purpose perform and submit to the responsible entities for approval, the studies related to environmental impact, including measures to mitigate the referred impact;		ensure that there is no ecological damage or destruction caused by petroleum operations, but where unavoidable, they are in accordance with internationally acceptable standards. For this purpose, the holder of a right shall prepare and submit to the competent entity, for approval, environmental impact studies, including environmental impact mitigation measures;
b) controlling the flow and avoiding spillage or loss of petroleum;		control the flow and prevent the escape or loss of petroleum;
c) avoiding damage to the petroleum deposit;		avoid damaging the petroleum deposit;

d) avoiding the destruction of groundwater soils, rivers, lakes, flora, fauna, crops, buildings or other infrastructures or other assets;		avoid destruction to land, the water table, trees, crops, buildings or other infrastructure and assets;
e) clearing the areas post spillages or discharges, termination of the use of infrastructures or termination of the petroleum operations and to comply with the requirements for the restoration of the environment;		clean up the sites after escapes or discharges, cessation of use and infrastructure or termination of Petroleum Operations and comply with the environmental restoration requirements;
f) guaranteeing the safety of the personnel planning and conducting petroleum operations;		ensure the safety of personnel in the planning and conduct of petroleum operations, and take preventive measures if their physical safety would be at risk;
g) reporting to the Government of the number and amount of accidental operational discharges or spillages, spillages and waste and losses resulting from the petroleum operations.		report to the competent entity regarding the number of operational and accidental discharges, spills and waste and losses resulting from petroleum operations.
2. The holder of rights under the present Law shall act in the conduction of the petroleum operations in a safe and efficient manner with the aim of ensuring that the polluted waters and the 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.		2. A holder of a right under this Law shall act in a secure and effective manner when conducting Petroleum Operations in order to ensure the disposal of polluted water and waste oil in accordance with approved methods, as well as the safe plugging and decommissioning of all holes and wells before these are abandoned.
CHAPTER VIII FINAL DISPOSTIONS		CHAPTER V TRANSITORY AND FINAL PROVISIONS
Article 67 Violations		
1. Among other dispositions, it constitutes violation of the present Law and is subject to sanctions, the following:		
a) the exercise of petroleum operations without the respective contract or required approvals;		
b) withholding of information obtained in the exercising of petroleum operations or undue disclosure of the information;		
c) non-compliance with all guarantees required by law;		
d) failure to comply with specific administrative orders and instructions from the Government;		
e) failure to comply with the regulatory norms in force with regard to the activity as well as	Should be in the regulations	

the good practices for the petroleum industry.	Not using defined term	
2. Without prejudice of civil or criminal procedures and other measures foreseen in special legislation which may be called upon, the violation of the dispositions of the present Law and the contract obligations are liable to the application of sanctions which may go from mere warning, fines, laboring suspension and revoking of the concession contract, in terms to be regulated.		
Article 68 Contracts under execution		
1. The rights acquired under the contracts and the concession contracts under execution, entered into under Law 3/2001, of 21 February, relating to petroleum operations, continue to be valid.	Previous drafts had a better provision:” Existing contracts concluded in terms of Law 3/2011 of 21 February relating to the exploration and production of petroleum and Oil Pipeline and Gas Pipeline Systems remain valid, and shall be governed by this Law, in all respects that do not contradict the contractual clauses.”	
2. Upon termination of the contracts foreseen in the previous paragraph, the new contracts and concessions are executed under the terms of the present Law.	Legally unnecessary provision	
Article 69 Resolution of disputes		Article 27 (Resolution of Disputes)
3. Any disputes arising from the contracts and concession contracts shall be resolved preferably by negotiation.	Previous drafts had a better provision:” Disputes arising from the interpretation and application of this Law, the Regulations on Petroleum Operations and the terms and conditions of contracts shall be resolved, preferably, by negotiation.	1.
4. If the dispute cannot be resolved by agreement, the question may be submitted to arbitration or to the competent judicial authority, in the terms and conditions established by the concession contract or, in the absence of an arbitration clause in the concession contract, to the competent judicial authorities.		2. If the dispute cannot be resolved by agreement, the question may be submitted to arbitration or to the competent judicial authorities.

<p>5. Arbitration between the State of Mozambique and foreign investors shall be conducted in accordance with:</p>		<p>3. Arbitration between the Mozambican State and foreign investors shall be conducted in accordance with:</p>
<p>a) the law that governs arbitration, conciliation and mediation as alternative methods of conflict resolution.</p>	<p>Very good</p>	<p>the law which governs arbitration, conciliation and mediation as alternative dispute resolution methods;</p>
<p>b) the rules of the International Centre for the Settlement of Disputes between States and Nationals of other States (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;</p>		<p>the rules of the International Centre for the Settlement of Disputes between States and Nationals of other States (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;</p>
<p>c) the rules set out in the ICSID's Additional Facility adopted on 27 September 1978 by the Administrative Council of the International Centre for Settlement of Investment Disputes 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;</p>		<p>the rules set out in the ICSID Additional Facility adopted on 27 September 1978 by the Administrative Council of the International Centre for Settlement of Investment Disputes 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; or</p>
<p>d) the rules of such other international instances of recognized standing as agreed by the parties in the concession contracts referred to in this Law, provided that the parties have expressly defined in the contract the conditions for implementation including the method for the designation of the arbitrators and the time limit within which the decision must be made.</p>		<p>the rules of such other international jurisdictions of recognized standing as agreed by the parties to the concession contracts referred to in this Law, provided that the parties have expressly defined in the contract the conditions for implementation, including the method for the designation of arbitrators and the time limits for the taking of decisions.</p>
<p>Article 70 Regulations for petroleum operations</p>		<p>Article 28 (Regulations on Petroleum Operations)</p>
<p>6. 1. The Government is responsible for regulating all matters in the present Law within 60 days.</p>	<p>Changed from 180 days, seems much too short.</p>	<p>1. The Government shall approve, under this Law, Regulations on Petroleum Operations, which shall include, among other matters, the following:</p>
		<p>modalities for the granting of rights, terms and conditions of concession contracts;</p>
		<p>petroleum operation practices including resource management, safety, health and environmental</p>

		protection;
		the submission of plans, reports, data, samples, information and accounts by holders of rights as provided for in the different concession contracts;
		third party access to, and use of, oil and gas pipelines and infrastructure.
		2. The Regulations on Petroleum Operations shall be approved within a period of one hundred and eighty days from the entry into force of this Law.
Article 71 Revocation		Article 29 (Repeal)
Law 3/2001, of February 21 and any other legislation contrary to this Law are revoked.		Law 3/2001 of 21 February, and any other legislation contrary to this Law, is repealed.
Article 72 Entry in force		Article 30 (Entry into Force)
This Law enters into force 30 days after its publication.		This law enters into force thirty days after its publication in the Official Gazette.
		Approved by the Assembly of the Republic.
		The President of the Assembly of the Republic, <i>Verónica Nataniel Macamo Ndlovu</i> .
Annex DEFINITIONS		
a) "Associated natural gas" - natural gas dissolved in crude oil or found in gaseous form at the top of oil deposits which, in the production process, is separated and becomes gas in normal atmospheric conditions. "Communities" Should be defined		Associated Natural Gas - natural gas dissolved in crude oil, or found in a gaseous form, in the upper part of a petroleum deposit, which, when separated during the production process, becomes gaseous under normal atmospheric conditions;
b) "Concession contract area" - area within which the holder of an exploration and production right is authorized to explore for, develop and produce petroleum.		
c) "Concession contract" - administrative contract under which the State confers to a private or public party the right to conduct petroleum operations. "Concessionaire" should be defined.		Concession contract – administrative contract whereby the State confers, on a public or private person, the right to undertake petroleum operations;
d) "Crude oil" - crude mineral oil, asphalt, ozocerite and all kinds of hydrocarbons and		Crude oil - crude mineral oil, asphalt, ozokerite and all

bitumen, in its natural solid or liquid form, or obtained from natural gas by condensation or extraction, excluding coal or any substance that may be extracted from coal.		kinds of hydrocarbons and bitumens, whether in solid or in liquid form, in their natural state or obtained from natural gas by condensation or extraction, not including coal or any substance that may be extracted from coal;
e) "Decommissioning plan" - document setting out the options for closure of the petroleum operation, re-usage and removal and collection of the infrastructures which also includes the activities schedule and estimated costs.		
f) "Decommissioning" - the activities of planning, preparation and implementation of petroleum operations termination activities, including ceasing the use of infrastructure and removal and disposal of all installations.		Decommissioning – planning, preparation and implementation of activities for the closure of petroleum operations including the termination of use of infrastructure and the removal and disposal of all Facilities;
g) "Development and production area" - a part of the area which, following a commercial discovery has been delineated accordingly to the terms of the exploration and production concession contract.		Development and Production Area - that part of the area which, following a commercial discovery, is delineated according to the terms of the exploration and production concession contract;
h) "Development plan" - a document containing the options for the development of a petroleum deposit, the schedule of activities and the forecast for the costs of development of the production capacity of the petroleum discovered in a concession contract area, prepared in conformity with this Law, the Regulations for Petroleum Operations and the exploration and production concession contract.		Development plan – document containing options for the development of a petroleum deposit, a schedule of activities, and an estimate of costs for the development of capacity to produce petroleum discovered in a concession contract area, drafted in accordance with this Law, the Regulations on Petroleum Operations and the concession contract for exploration and production;
i) "Development" - the activities of planning, preparation, construction, installation and operation of one or more items of infrastructure for the production of petroleum, including the opening of production wells for the conduction of petroleum operations.		Development - the activities of planning, preparation, building, installation and operation of one or more facilities for the production of petroleum, including the opening of wells intended for production, for the conduct of petroleum operations;
j) "Discovery" - the first petroleum encountered in a petroleum reservoir by drilling, which is recoverable at the surface by conventional petroleum industry methods.		Discovery - the first petroleum encountered in a petroleum reserve by means of drilling, which is recoverable at the surface by conventional petroleum industry methods;
k) "Exploration" - activities undertaken with a view to finding petroleum, and other petroleum operations and use of infrastructure insofar as the use is intended to discover petroleum and evaluate the discovery, including drilling.		Exploration – activities undertaken with a view to the discovery of petroleum, as well as other petroleum operations, and the use of infrastructure, to the extent to

		which the said use is intended for the discovery of petroleum and the assessment of the discovery, including drilling;
l) "Good petroleum industry practice" - all those practices and procedures that are generally employed in the international petroleum industry and aimed at the prudent management of petroleum resources, including the conservation of pressure, ensuring the regularity of petroleum operations and observing safety aspects, environment preservation, technical and economic efficiency.	This term is frequently used in the text with different wording. The law should mandate that this open-ended definition is complemented by regulations with references to specific international HSE standards.	Good oilfield practices - all those practices and procedures that are generally accepted in the international petroleum industry, are aimed at the prudent management of petroleum resources, including pressure conservation, ensuring the regularity of petroleum operations and comply with security requirements, environmental preservation and technical and economic efficiency;
m) "Infrastructure" - facilities, including platforms, natural gas liquefaction facilities or ships other equipment for the conduction of petroleum operations, excluding support vessels that transport bulk petroleum. Unless otherwise defined, infrastructure also includes cables or oil pipelines and gas pipelines.		Infrastructure – installations, including platforms, installations for the liquefaction of natural gas, or vessels and other equipment intended for the conduct of petroleum operations, excluding support vessels which transport petroleum in bulk. Unless otherwise defined, infrastructure also includes cables, or oil and gas pipelines;
n) "Infrastructure development plan" - a document containing the schedule of activities and the estimated costs for the construction, deployment and operation of infrastructures when such activities and estimated costs are not covered by a Development Plan.	Applies to LNG plants	Infrastructure development plan – document containing a schedule of activities and an estimate of costs for the construction, implantation and operation of infrastructure;
o) "Mozambican person" - any legal entity incorporated and registered pursuant to the Mozambican legislation with its headquarters in the country and having at least fifty one percent of its share capital held by national citizens or controlled by Mozambican citizens, or Mozambican public or private companies or institutions.	The correct term is "legal person" as in previous drafts	Mozambican person - any legal person incorporated and registered pursuant to Mozambican legislation, with its headquarters in Mozambique and in which at least 51% of the share capital belongs to, or is controlled by national citizens or by Mozambican public or private companies or institutions;
p) "National collective person" - is the one registered in Mozambique and has its head office and effective management in national territory and the capital of which is predominantly national.	How does this relate to the definition of "Mozambican person"? Is "predominantly" also 51% ?	
q) "National single person" - single person of Mozambican nationality.	The correct term is "natural person"	
r) "Natural gas" - all hydrocarbons, which are in a gaseous state under normal		Natural Gas - all hydrocarbons which are in a gaseous

atmospheric conditions, including wet gas, dry gas and residue gas remaining after the extraction of liquid hydrocarbons, as well as non-conventional gas, including methane gas associated to coal and gas from bituminous shale.		state under normal atmospheric conditions, including wet gas, dry gas and residue gas remaining after the extraction of liquid Petroleum, as well as non-conventional gas, including coal-associated methane gas and bituminous shale gas;
s) "Oil pipeline or gas pipeline development plan" - a document containing the schedule of activities and the forecast for the costs of construction, establishment and operation of an oil pipeline or gas pipeline system.		Oil Pipeline or Gas Pipeline Development Plan - document containing a schedule of activities and a projection of costs for the construction, implantation and operation of an oil pipeline or gas pipeline;
t) "Oil pipeline or gas pipeline system" – oil pipeline(s) or gas pipeline(s) including valve stations, compression or pumping stations and any aggregated infrastructure, constructed for petroleum transport, excluding collection and flow pipelines or pipelines for distribution of crude oil, natural gas or petroleum products.	Unclear: does “excluding” refer to pipelines for distribution??	Oil Pipeline or Gas Pipeline System - oil pipeline(s) or gas pipeline(s), including valve stations, compression or pumping stations and any associated infrastructure, built for the transportation of petroleum, excluding sampling or flow lines, or pipelines for the distribution of crude oil, natural gas or petroleum products;
u) "Petroleum" - crude oil, natural gas or other natural concentrations of hydrocarbons, in the physical state in which they are found underground, produced or capable of being produced from crude oil, natural gas, bitumen and asphalts.		Petroleum - crude oil, natural gas or other natural concentrations of hydrocarbons in the physical state in which they are found in the subsoil, produced or capable of being produced from crude oil, natural gas, bitumen or asphalt;
v) "Petroleum deposit" - an accumulation of petroleum in a geologic unit limited by characteristic, structural or stratified rocks, with contact surfaces between petroleum and water at its formation, or a combination of these in such a way that all petroleum is in communication under pressure through the liquid or gas; or part of a geologic unit such as shale or coal with petroleum which may have been mapped for the purpose of exploration and production of petroleum.	Very unusual and complicated definition. Previous drafts said: “a rocky, permeable, porous or fractured formation in the subsoil, which contains, within a limited space, a natural accumulation of petroleum”.	Petroleum Deposit –
w) "Petroleum operations" - operations related to the planning, preparation and implementation of the activities of reconnaissance, exploration, development, production, treatment, storage, petroleum transportation, cessation of such activities or termination of the use of infrastructure, including the implementation of a decommissioning plan, sale or delivery of petroleum to the point of supply or loading as a commodity, in the form of liquefied natural gas or delivered for energy generation or industrial use.	This seems to indicate that the industrial use of natural gas is covered by this law. Unclear main whether other use as household fuel or CNG for transportation is also included.	Petroleum operations –operations related to the planning, preparation and implementation of activities of reconnaissance, exploration, development, production, treatment, storage, petroleum transport, the cessation of such activities or the termination of the use of infrastructure, including the implementation of the decommissioning plan, sale or delivery of petroleum to its point of delivery or loading as merchandise, in the form of liquefied natural gas, or delivered for the

		generation of power or industrial use;
x) "Petroleum products" - are the derivatives and residues of petroleum refining or processing such as: propane, butane and their mixtures, also known as liquefied petroleum gases (LPG), motor gasoline, aviation gasoline (avgas), naphtha, paraffin, aviation oil, diesel, fuel oils, lubricating oils and greases, solvents, bitumen products and any other similar products with other designations and origins which may be used in the same way, including synthesized products and also compressed natural gas (CNG) and other gas fuels exclusively used as fuel with the exclusion of pure biofuels.	Good new definition	
y) "Production" - activities to extract petroleum from underground petroleum deposits, including drilling for petroleum production, injection for recovery improvement, treatment including liquefaction, storage and preparation for the loading and transport of petroleum.	Not applying to LNG plants outside Production Area	Production – activities of extraction of petroleum from Petroleum Deposits in the subsoil, including drilling for petroleum production; injection for the improvement of recovery; treatment, including liquefaction; storage and preparation for the loading and transportation of Petroleum;
z) "Reconnaissance" - geo-scientific and geotechnical activities allowing the preliminary evaluation of the hydrocarbon potential in an area, including acquisition and interpretation of potential data, surface geology, geochemical data, seismic data and limited depth drillings.		Reconnaissance – geo-scientific and geotechnical activities which permit the preliminary assessment of the potential of hydrocarbons in an area, including the acquisition and interpretation of potential data, surface geology, geochemical data, seismic data and drilling to limited depths;
aa) "Transportation" - activities related to the transport of crude oil or natural gas through an oil pipeline or gas pipeline system, in bulk by ships or vehicles from the production infrastructure in an oil or natural gas field to the point of exportation or delivery to the buyer.	Applies to LNG plants	Transportation – activities related to the transportation of Crude Oil or Natural Gas through an Oil Pipeline or Gas Pipeline System, in bulk, by vessels or vehicles, from production infrastructure, in a Petroleum or Natural Gas field, until the point or export or delivery to the purchaser.
bb) "Transparent jurisdiction" - is understood as jurisdictions whereby the Government, in an independent manner, may verify the ownership, management and control, fiscal situation of a foreign legal person who wishes to participate or participates in petroleum operations.	New definition, but is nowhere used in the text of the law!	
		Concession contract area - area within which the holder of an exploration and production right is authorized to explore for, to develop and to produce petroleum;
		Block - part of a sedimentary basin, formed by a vertical prism of undetermined depth with a polygonal surface

		defined by the geographical co-ordinates of its vertices, in which petroleum operations are conducted;
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Analysis of Legal Framework in Mozambique in the Context of the LNG Projects



Presented by Dr. Hilmar Zeissig & Taciana Lopes

November 13th 2014

Objectives of the study

- Assist in the interpretation of Mozambique's current legal framework in the context of LNG projects
- Provide a basis for informed discussion and negotiation between stakeholders and the public in general
- Contribute to the creation of a modern and competitive regulatory oil & gas regime for Mozambique that is consistent with international best practices

Core Tasks

- Perform analysis of the current legal situation of the LNG projects: and how all the relevant laws and contracts interact
- Make recommendations for Oil & Gas Regulation and the LNG industry, namely for international health, safety and environmental standards to be referenced in regulations and contracts

Dr. Hilmar Zeissig

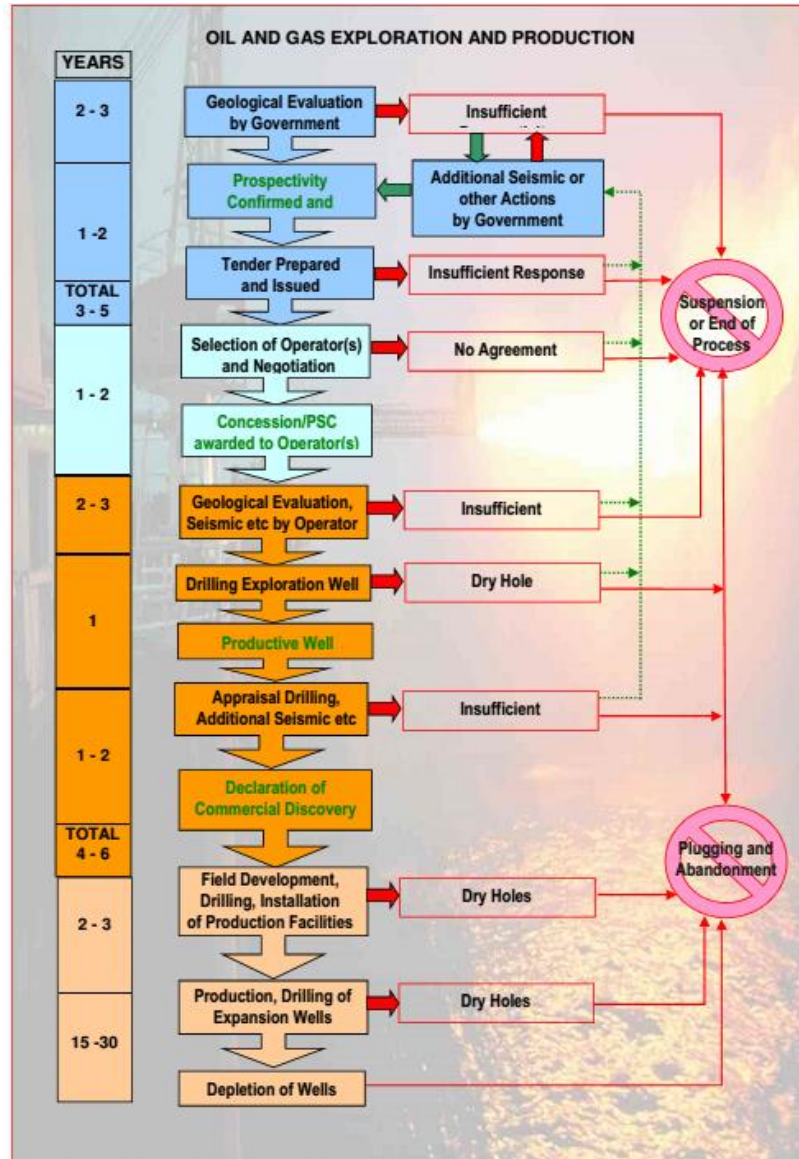
- 1970-1973: Lawyer & Chief Negotiator for DEMINEX German State Oil & Gas Co.
- 1973-1995: CEO of oil & gas exploration and production companies in Peru, Egypt and USA – onshore & offshore.
- Since 1982: President of Houston International Business Corp. - Lead Consultant for petroleum and mining sector reform, drafting laws, safety and environmental regulations, training of regulatory officials in 45 countries (including Burundi, Kenya, Madagascar, Malawi, Tanzania, Uganda).
- Most recent upstream petroleum regulatory projects: Afghanistan, Cameroon, Central African Rep, Equatorial Guinea, Gabon, Honduras, Jordan, Chad, Republic of Congo.

Taciana Peão Lopes

- Mozambican Lawyer with 16 years of experience in Public and Administrative Law.
- 2002-2004: Researcher at the Center for Juridical and Judiciary Training in Mozambique (Ministry of Justice)
- 2004-2011: Lawyer and Partner at Monteiro, Graça e Associados and Couto, Graça e Associados.
- 2011-2012: Head of the Energy, Natural Resources and Infrastructure Department at Couto, Graça & Associados, representing some of the major oil&gas players in Mozambique (Sasol, ENH, ENI, Mitsui).
- 2014: World Bank Consultant for Instituto Geológico Mineiro (Mirem).

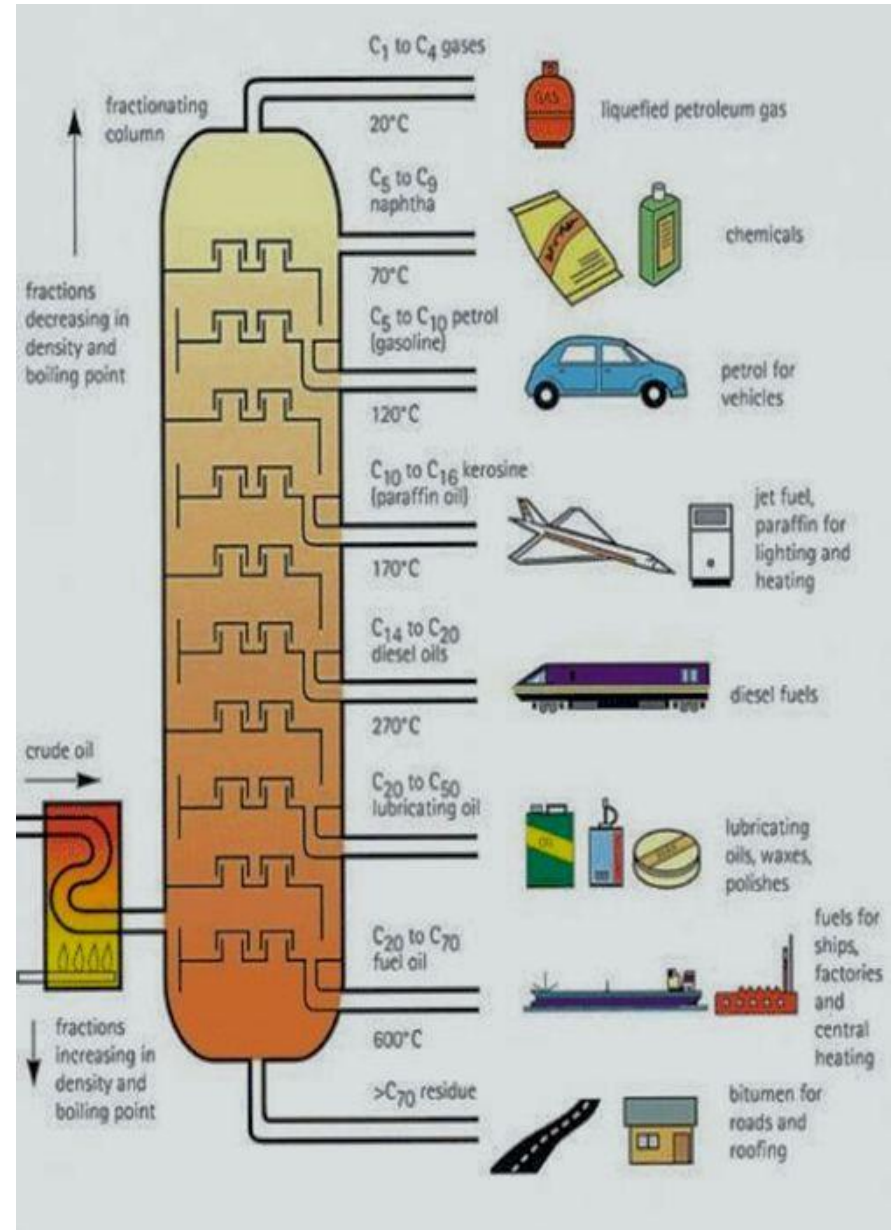
Implementation of the LNG Project: a complex process



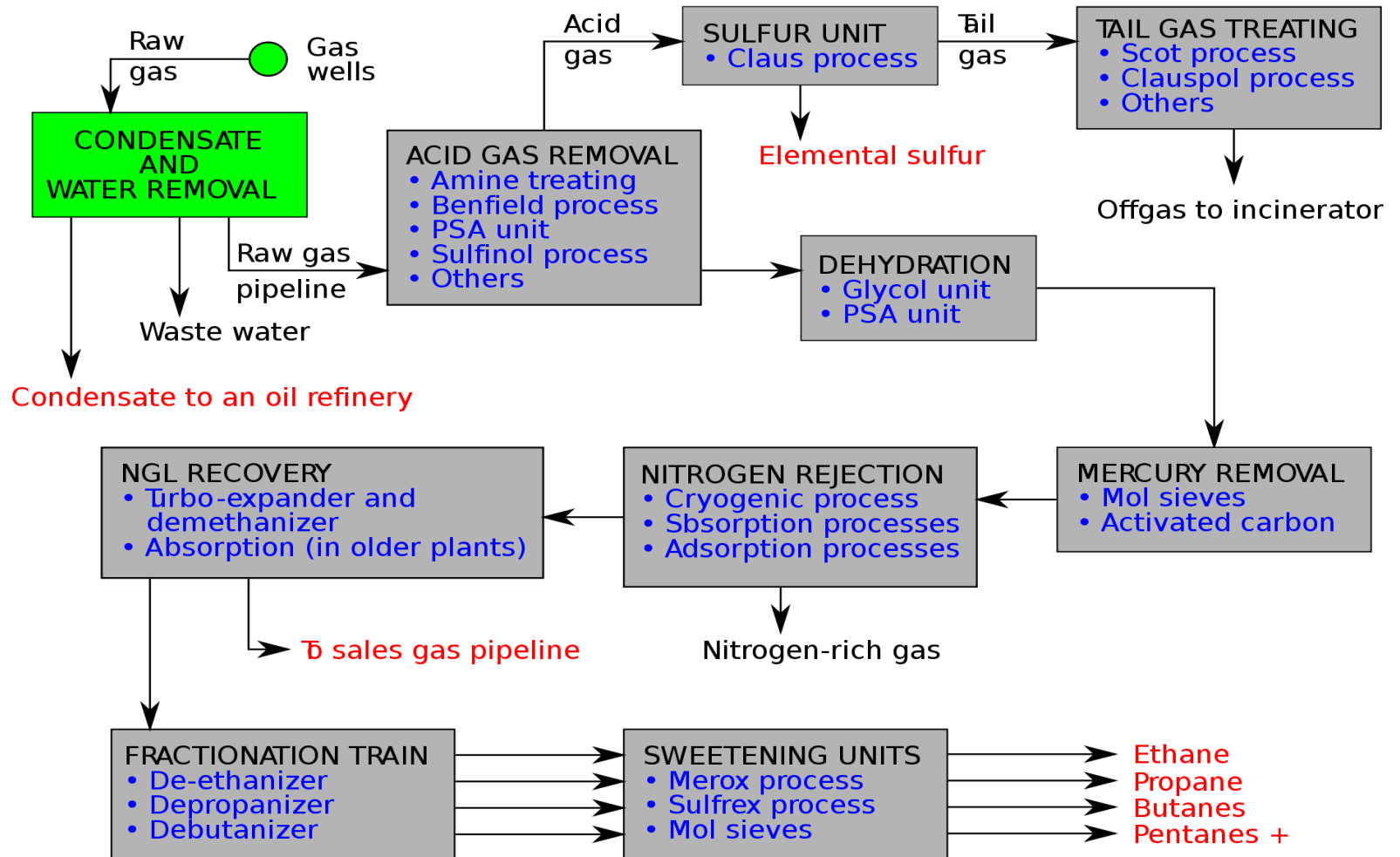


Petroleum Products Refining and Typical Use

- There are other products and byproducts from refining.
- **Natural gas**
 - No refining
 - Distributed by urban pipeline or as compressed natural gas (CNG).



Natural Gas Processing

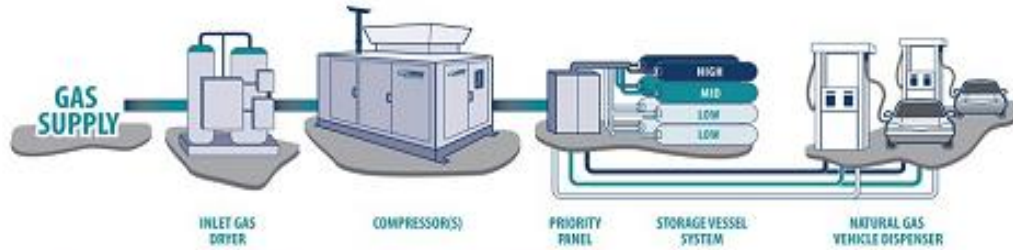


LNG Liquefaction Plant



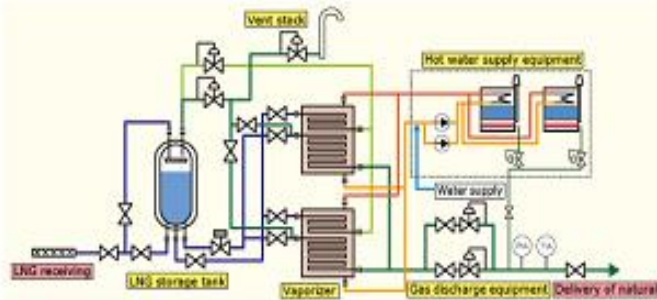
Natural Gas for Transportation

CNG Station



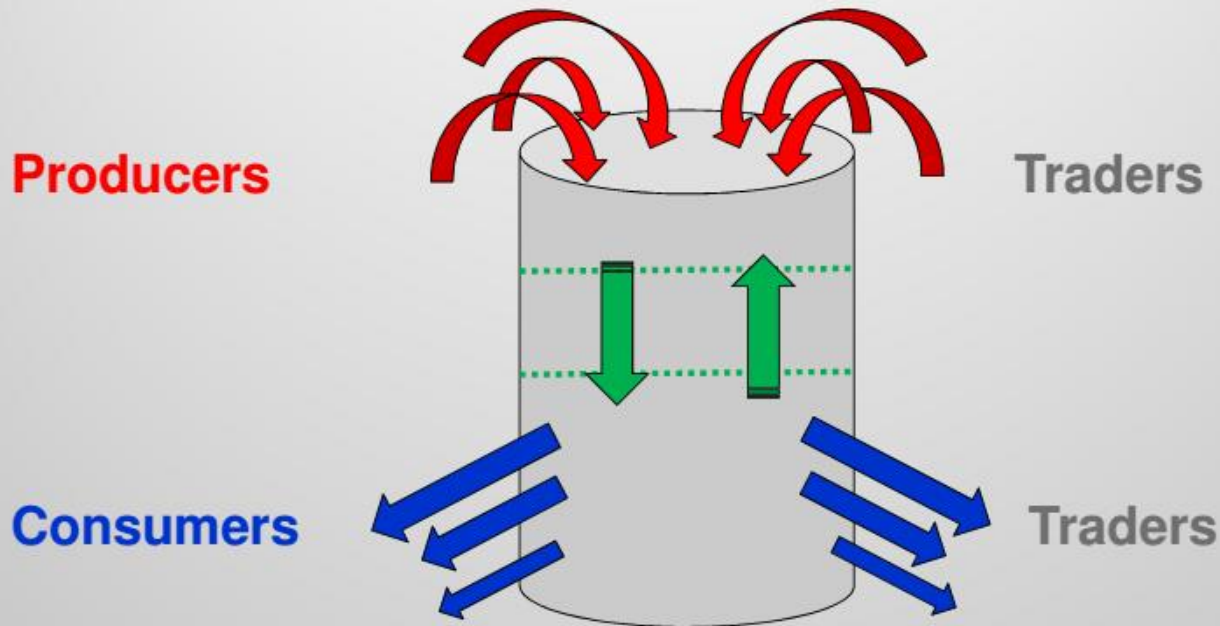
- USA: 602 public access CNG filling stations and 633 private access stations.
- CNG and LNG public access stations expanding rapidly.
- By 2015 federal and many state agencies shall purchase NGVs.
- In 2014 railroad CSX will be testing trains running on LNG or diesel.
- CNG delivered by pipeline, LNG by tanker trucks.
- Modern NGVs can run on CNG/LPG or gasoline.
- Higher upfront cost of Natural Gas Vehicles (NGV).
- 1 gal CNG is \$2.00 cheaper than diesel, LNG is \$1.00 cheaper.
- Tax incentive and rebates for NGV in many states.

LNG Station



World Petroleum Market

No individual government or company can control the market



The exciting times that we are living ...

From the discoveries in the Rovuma Basin to the establishment of a legal framework for LNG in Mozambique



BOLETIM DA REPÚBLICA

PUBLICAÇÃO OFICIAL DA REPÚBLICA DE MOÇAMBIQUE

Major issues under discussion

- Initial discussions: the review of the Petroleum Law and the choice of the legal instrument to regulate LNG activities
- The administrative nature of concession agreements in respect to the natural resources and impacts from the investors perspective
- Limits imposed to the State: principles of legality, transparency, justice, good faith, equal treatment ...

Legislative framework vs. Contractual regime

Flexibility

The negotiation of a contract allows the government to adapt its requirements and its rights to suit the particular features of each project, and the characteristics of each party

Certainty

Flexibility can result in more uncertainty for investors when starting the negotiation process

Complexity

If important provisions are contained in a contract, instead of legislation, any variations in the deal may cause complexity for regulators as they monitor the implementation of each project

Costs

Legislation can be time-consuming to draft and to change, a more complete legal framework can significantly reduce the time and cost involved in negotiating each contract

Transparency

Legislation is a far more transparent and democratic way to regulate extractive projects, so long as the commercial aspects of the deal are kept between the Government and the Concessionaire

Methodology of Modern Petroleum Legislation

1) The law itself should be short, simple, concise and define political concepts, institutional structure, ground rules and general mandates, the monitoring and enforcement system, dispute resolution, authority to issue implementing regulations and revocation of previous legislation.

2) Administrative procedures to implement the law and provide objective criteria for its enforcement in order to safeguard the government's interests, but also to protect the investors and the citizen in general, should be defined by a general and various special regulations, including transitory regulation of a new law.

Draft regulations should be prepared together with the last draft of the law and submitted with it the legislators.

3) Technical details, mainly for the protection of public health, safety and environment (HSE) should not be included in the law or regulations, but be covered, wherever possible, by references to national and/or international standards.

Modular Legal Framework

- All rights and obligations for the participants in a well-defined economic activity and the respective government functions are governed by the sector specific laws and regulations.
- Matters of general importance across all or part of the economy, such as those relating to taxation, environmental protection, labour, health and security, are covered by general laws and regulations, sometimes including specific provisions for certain sectors.
- This modularity increases transparency and accountability, facilitates compliance, reduces administrative costs, bureaucratic discretion and ensures “regulatory security” to attract domestic and foreign investments.

Principles of Upstream Oil & Gas Legislation

- Provide the government with flexibility to structure competitive deals attracting technically and financially qualified domestic and foreign investors for the benefit of the country; keeping in mind that:
 - natural resources are finite and non-renewable.
 - government's financial, human and structural resources are limited
 - private investment is the engine for development ;
 - local input and participation in policy formulation are crucial and indispensable;
 - sustainability requires efficient protection of health, safety and environment;
 - authority comes with accountability, and rights involve obligations.
 - people's understanding of governmental policies is indispensable, and
 - the interests of tribal and other local communities should be adequately considered.
- Rules must be clear and non-discretionary to ensure efficient enforcement and avoid corruption.

Mozambique's Constitution of 1990/2004



- Constitutional mandates for control and exploitation of natural resources are very modern and more detailed than in most other countries.
- They include clear definitions of
 - the role of the State,
 - specific reference of the importance of the private sector,
 - promotion of knowledge and valorization of natural resources,
 - protection of the environment and the ecological balance,
 - rational use of natural resources and
 - balanced socio-economic development.

The New Petroleum Law No. 21/2014

- Under aspects of legislative methodology the new law has deteriorated in compared with the last drafts which were short and well worded.
- Additions are not well drafted, sometimes overlapping, duplicating and even in contradiction with the original text, disregard basic rules of regulatory drafting by ignoring definitions etc.
- Many changes are not legally binding provisions, but rather declarations of political or socio-economic concepts.
- They introduce undefined criteria for potential government intervention and repercussions, leaving unreasonable room for discretion, delays, abuse and corruption.
- Important are references to LNG which are rarely found in these general petroleum laws.

Scope and Application of the Petroleum Law

- Applies to “UPSTREAM” oil & gas, exploration, production and delivery to the point of sale or export.
- Applies to “MIDSTREAM”, especially processing plants for LNG with the related infrastructure, such as pipelines, storage and terminal facilities.
- Does not apply to “DOWNSTREAM” refining, other processing, transportation, storage, import, export and distribution of refined petroleum products, including LPG (Art. 3 (3)).
- Seems to apply to use of natural gas and LNG for energy generation or industrial use acc.to definition of “*Petroleum Operations*”.
- No provisions for “DOWNSTREAM” use of:
 - natural gas as fuel in households or commercial establishments (city gas);
 - burning of CNG and LNG in vehicles.

ENABLING LAW (“EL”)

PURPOSE

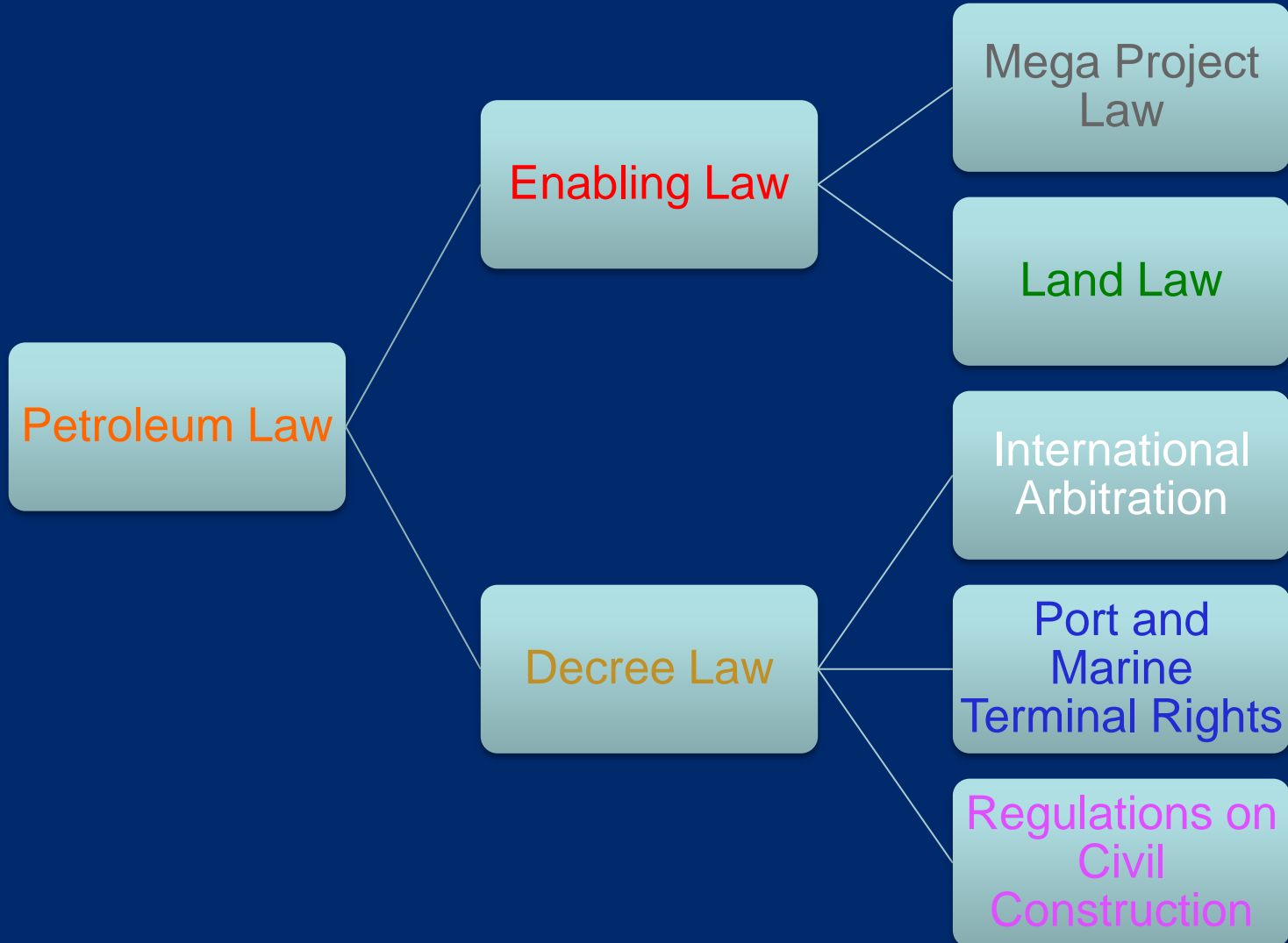
- To enable the development of the design, construction, installation, ownership, financing, operation, maintenance and use of wells, facilities and appurtenant equipment, whether onshore or offshore, to extract, process, liquefy, deliver and sell natural gas from deposits in Areas 1 and 4 of the Rovuma Basin
- To authorize the Government to approve a Decree Law establishing a special legal and contractual regime for the LNG Rovuma Basin Project

SCOPE: the creation of Special Regimes

- Land rights
- Stabilization of the Fiscal Regime and Powers of the Government to unilaterally amend contracts, namely the EPCCs
- International Arbitration
- Application of the Mega Project Law
- Exchange Control rules
- LNG international maritime terminal and airport
- Procurement issues
- Customs and other incentives and exemptions
- Labor issues
- Security package
- Competition

THE IMPACT OF THE NEW LEGISLATION ON PREVIOUS LAWS

- The scope of the legislative powers granted pursuant to the EL shall not be understood as giving powers to derogate other Laws in force in the Republic of Mozambique
- Mozambican legislation shall be subsidiary to the special legal regime to be established by the Decree Law
- Potential overlaps and inconsistency with existing legislation concerning environment, construction, land use, resettlement, maritime and other matters. Contrary to sound legislative practice, Art. 71 simply revokes Law 3/2001 and “any other legislation contrary to this Law” without any specification



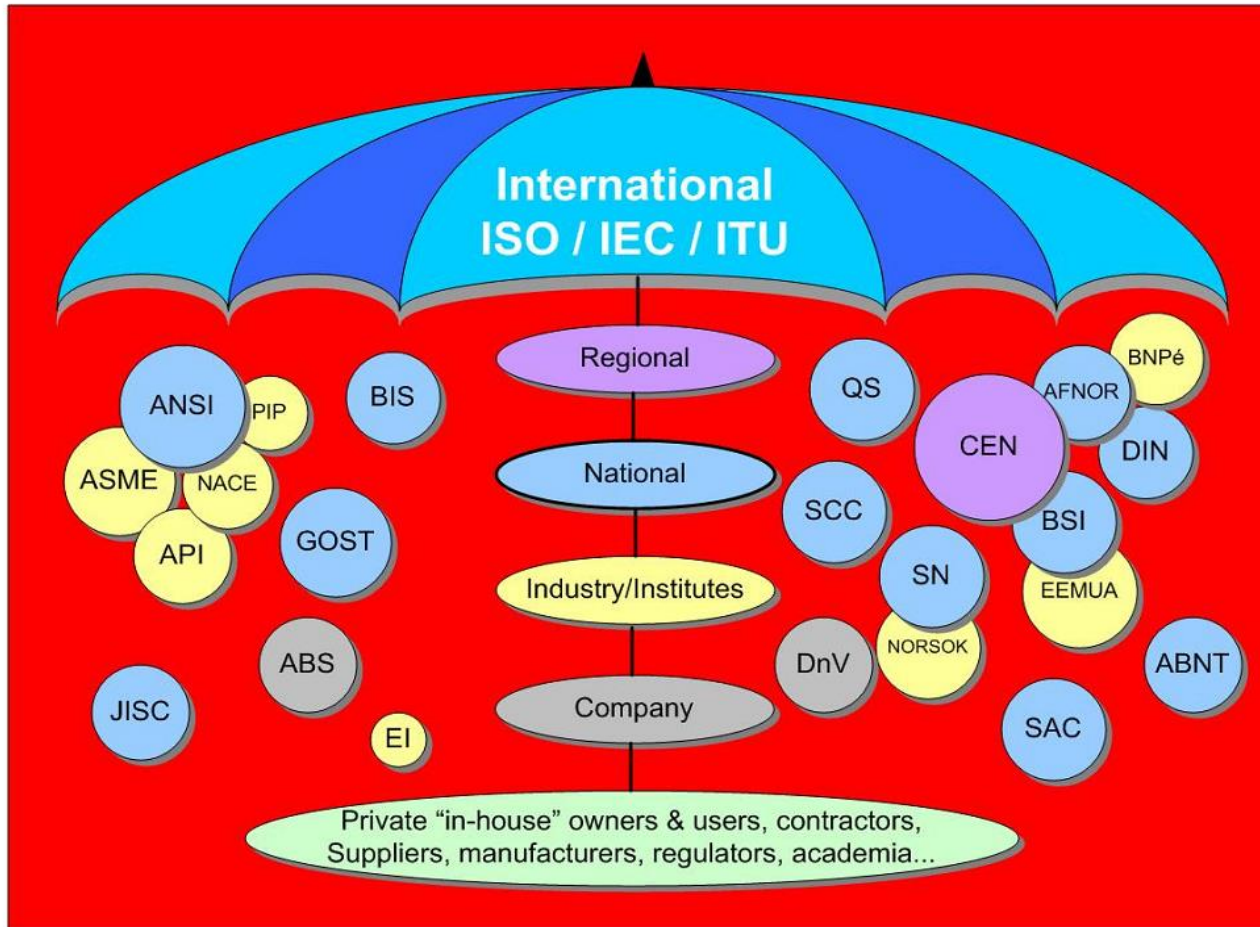
International Health, Safety and Environmental Standards

- Oil and gas industry operates all around the world with the same equipment, installations, operational methods and processing technology.
- Requirements for the protection of HSE are based on international standards (IS).
- By ISO rules, standards are voluntary until made compulsory by Regulation.



Global Standardization System

International Standardization Organization (ISO)
 International Electrotechnical Commission (IEC)
 International Telecommunication Union (ITU)



HSE Standards in Mozambique's Oil & Gas Sector

- No references to HSE standards in petroleum legislation and concession contracts.
- Documents only general statements like *“operations shall be conducted according to good petroleum industry practice”*.
- Since 1993 Mozambique has the National Institute of Normalization and Quality (INNOQ) under the Ministry of Industry and Trade as an autonomous body and a corresponding member of ISO.
- Acc. to Decreto No. 71/2013, INNOQ is in charge of “normalization”, but no specific reference is made to IS.

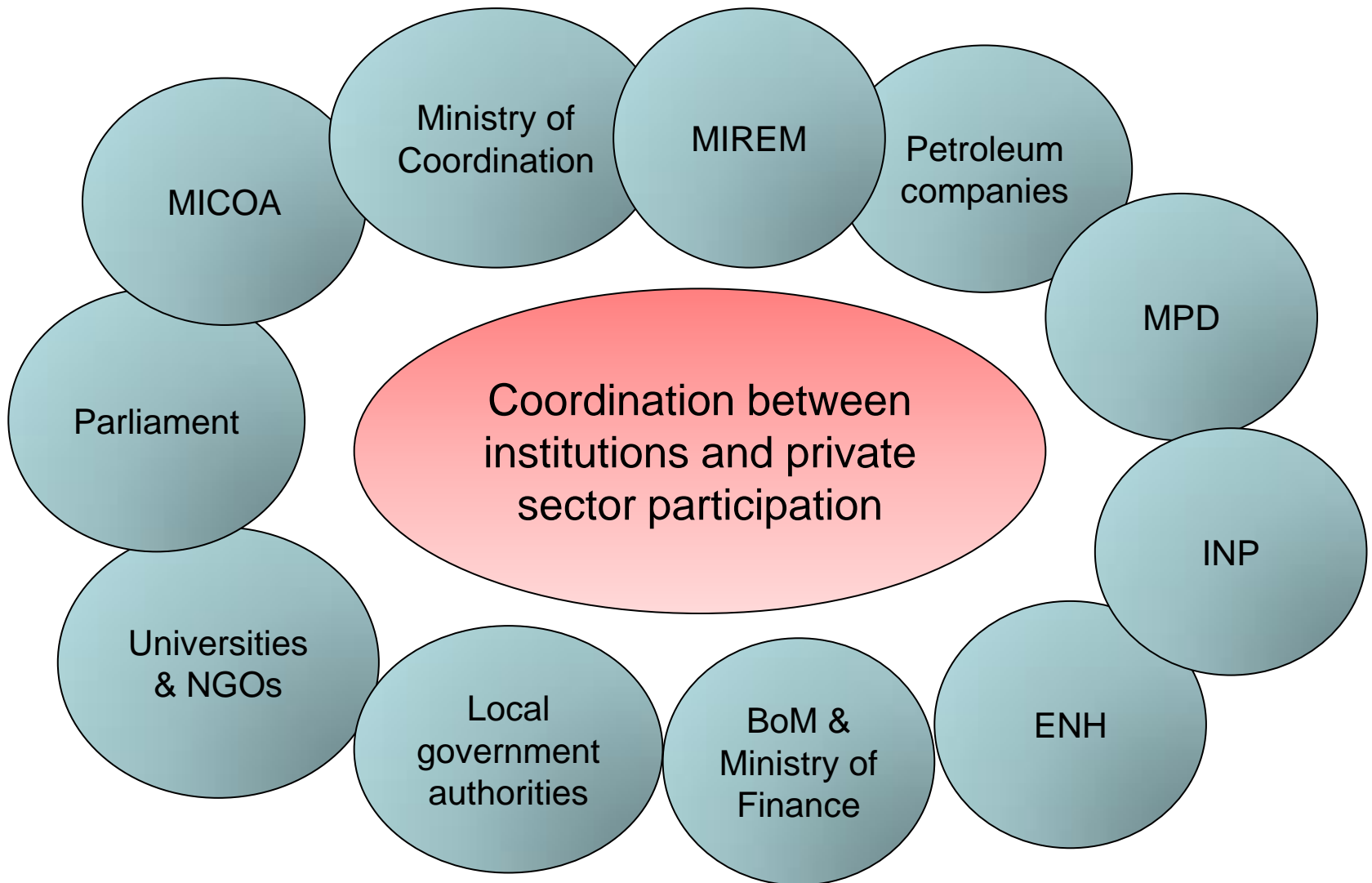
Methods of Adoption or Agreed Application of IS

- INNOQ adopts the most important IS for the O&G sector as national standards.
- Until formally adopted, IS can be made applicable in Mozambique by specific reference:
 - in regulations under the new Petroleum Law and others;
 - In concession agreements, making them mandatory for operators and regulators;
 - In tender documents making them mandatory upon contract awards;
 - as conditions of construction, transport, environmental and other licenses.
- The application of IS is crucial to complete the regulatory framework for the sector in general, but particularly urgent for the LNG project.

Institutional Coordination

- Multiple laws applicable to the petroleum sector create separate, sometimes overlapping institutional responsibilities for negotiations, licensing, enforcement etc.
- Present legislation does not provide for “**single window**” nor for “**administrative silence**”.
- No other mechanism for inter-institutional coordination to ensure policy coherence , administrative efficiency of services and economies of scale.
- Some informal Steering Committees have been established, but typically for policy matters and without private sector participation.

Coordination & Cooperation



Regulatory Security

- **“Regulatory Security”** is an important incentive for high-risk investors and operators.
- Recent sector legislation has created a complex, regulatory framework and a problematic level of uncertainty for regulators, investors and operators, among others, due to
 - undefined criteria for potential government intervention;
 - discretionary provisions leaving unreasonable room for delays, abuse and corruption;
 - unusual time limits in stability clauses for fiscal benefits;
 - contradictory conditions for access to international arbitration.

Pending Regulations under the New Petroleum Law

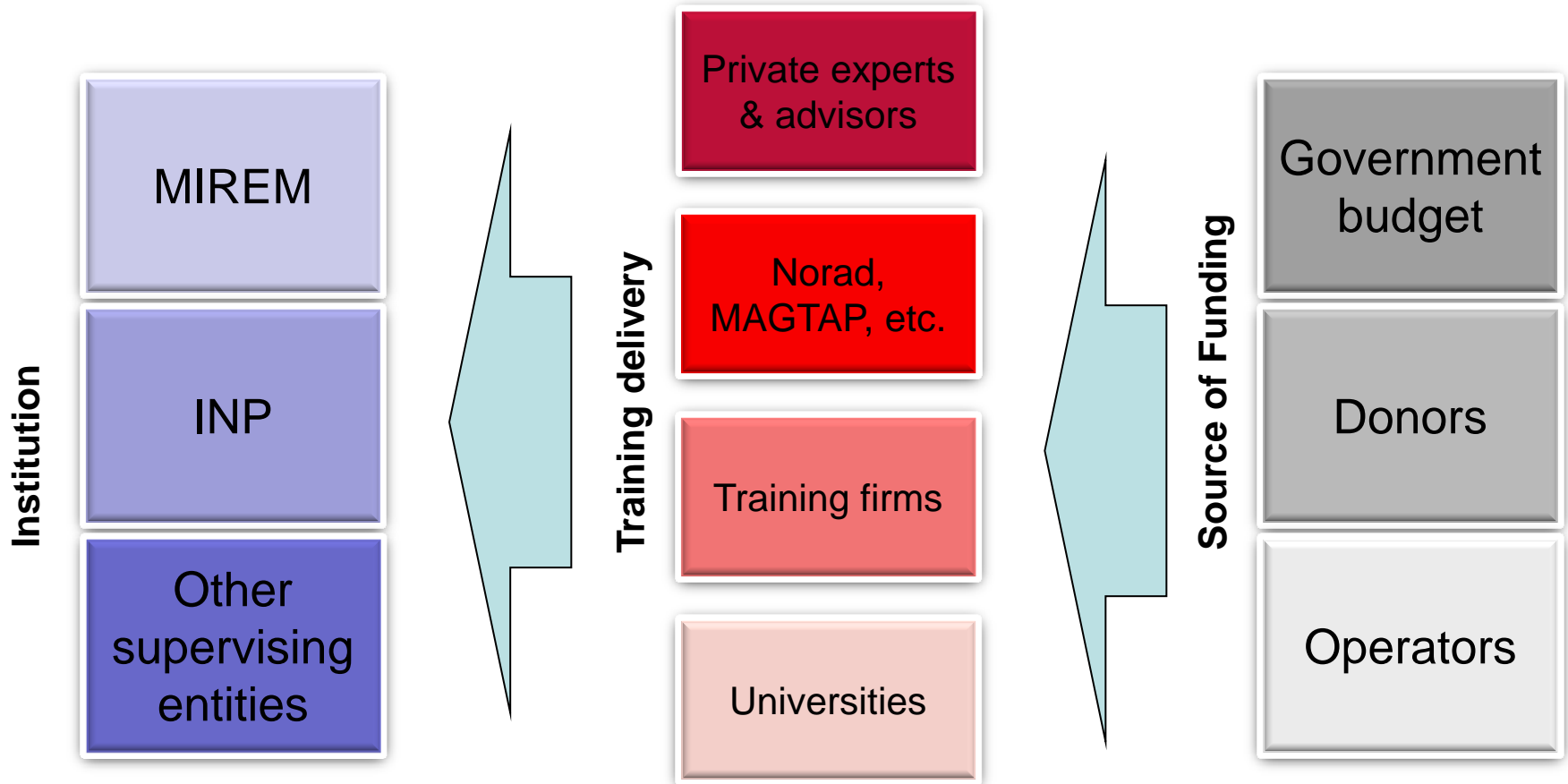
- Most of the problems with the new legislation can be resolved through carefully drafted, comprehensive regulations based on international experience.
- Different from the Decree/Law, the deadline for regulations has no legal consequences. **Government should take sufficient time for their drafting.**
- The Decree/Law and the final agreements with Anadarko/ENI will establish important precedence which should be considered in the regulations for future industrial and infrastructure projects.

Additional Issues to be Covered by Regulations

- Local Content
- Nationality of subcontractors
- Transparency and other EITI requirements
- Telecommunication
- Insurance & Reinsurance
- Land & resettlement
- Workers' protection & other labor issues
- Expatriate quotas & work permits
- Security & emergency planning
- Foreign exchange & other financial matters
- Application of accepted international accounting standards
- Import/export, customs procedures & exonerations
- Port administration & other maritime matters

Institutional Capacity Building

Even the best laws and regulations can be ineffective if the people responsible for their application and enforcement do not have the adequate capacity level



Muito Obrigado!

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