

**International
Comparative
Legal Guides**



Practical cross-border insights into oil and gas regulation

**Oil & Gas Regulation
2023**

18th Edition

Contributing Editor:

Michael Burns
Ashurst LLP

ICLG.com

Expert Analysis Chapters

1

**European States Seek to Exit the Energy Charter Treaty:
What Does this Mean for Energy Investors?**

Matthew Saunders & Emma Johnson, Ashurst LLP

4

EU's Dilemma to Balance Environmental Concerns and Energy Security

James O'Donnell & Rachel Lennox-Warburton, Osterwald Rathbone & Partners

Q&A Chapters

10

Angola

Morais Leitão, Galvão Teles, Soares da Silva & Associados: Claudia Santos Cruz & Bruno Xavier de Pina

19

Austria

Schima Mayer Starlinger Attorneys at Law: Thomas Starlinger & Laurenz Götzinger

31

Brazil

Stocche Forbes Advogados: Mariana Saragoça, Bruno Gandolfo, Julia Barker & Andre Bogossian

40

Cameroon

Centurion Law Group: Achare Takor, Grace Yella & Wilson Sani

54

Canada

Blake, Cassels & Graydon LLP: Evan Herbert & Max Ettinger

69

China

Fangda Partners: Stephen Lin, Joe Zhou, Xinjie Yuan & Diane Peng

78

Equatorial Guinea

Centurion Law Group: Oneyka Cindy Ojogbo, Isabel Mangué Asangono & Pablo Obama Mitogo Akele

90

France

Jeanetet AARPI: Thierry Lauriol & Andrés Fernandez Macias

104

Ghana

Centurion Law Group: Yorm Ama Abledu & Tamaraemi Jombai

117

Greece

Bernitsas Law Firm: Yannis Seiradakis & Eleni Stazilova

130

Indonesia

SSEK Law Firm: Fitriana Mahiddin, Syahdan Z. Aziz & Fadhira Mediana

142

Iran

Asgari Law Firm: Anahita Asgari Fard

152

Italy

Nunziante Magrone: Fiorella F. Alvino & Giovanna Branca

165

Japan

Nishimura & Asahi: Adrian Joyce, Hiroyasu Konno, Alexander Woody & Scott S. K. Alper

173

Kazakhstan

Baker McKenzie: Azamat Kuatbekov & Nurgul Abdreyeva

184

Lebanon

Baroudi & Associates: Jean Baroudi & Nadine Allam

193

Malaysia

James Monteiro: James P. Monteiro & Vishal V Kumar

202

Mozambique

Morais Leitão, Galvão Teles, Soares da Silva & Associados: Claudia Santos Cruz & Paula Duarte Rocha

214

Nigeria

Dentons ACAS-Law: Chinedu Kema, Josephine Udonsak, Adeleke Alao & Jeremy Odor

229

Romania

Ijdelea & Associates: Oana-Alexandra Ijdelea & Lorena Vasvari

238

Singapore

Allen & Gledhill LLP: Kelvin Wong & Yeo Boon Kiat

245

South Africa

Cliffe Dekker Hofmeyr Inc.: Megan Rodgers & Amore Carstens

256

United Arab Emirates

Dentons: Mhairi Main Garcia

269

United Kingdom

Ashurst LLP: Michael Burns & Justyna Bremen

289

USA

SB Law, PLLC: Regina Speed-Bost

299

Venezuela

LEGA: Miguel Rivero, Carlos García & José Alberto Ramírez

Mozambique

Morais Leitão, Galvão Teles,
Soares da Silva & Associados



Claudia Santos Cruz



Paula Duarte Rocha

1 Overview of Natural Gas Sector

1.1 A brief outline of your jurisdiction’s natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (“LNG”) liquefaction and export facilities, and/or receiving and re-gasification facilities (“LNG facilities”); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.

Mozambique’s significant reserves of natural gas, which are estimated to hold over 100 trillion cubic feet (expected to double following the prospection phase), places the country as one of the largest proved natural gas reserve holders in Africa.

Two onshore fields located in the south of Mozambique (in Pande and Temane) are already well established, operated by Sasol, a South African energy firm that exports natural gas via a pipeline that connects the Pande and Temane fields to South Africa after processing the gas in a central processing facility.

In past years, all attention turned to the Rovuma Basin area, close to the border of Tanzania – more specifically Areas 1 and 4, which are both offshore, where multinational oil and gas companies have been investing in prospection and, at the current stage, construction of platforms and drilling for natural gas.

The main players in Area 1 of the Rovuma Basin include Total (which acquired the American company Anadarko), Mitsui, Empresa Nacional de Hidrocarbonetos, E.P. (“ENH”, owned by the Mozambican Government), PTTEP, BPRL Ventures, ONGC Videsh and Beas. Meanwhile, Area 4 is being developed by Exxon Mobil, ENI and CNPC (through the joint venture Mozambique Rovuma Venture), as well as Galp, ENH and Kogas.

In Area 1, production is expected to start in 2023/2024, with construction of onshore LNG facilities in Afungi, in the Palma district in Cabo Delgado province, whilst in Area 4, floating LNG (Coral Sul Project) arrived in Mozambican waters in January 2022 and began with the first cargo leaving the Coral Sul liquefaction vessel in mid-November.

The construction of a gas production plant in Temane (developed by ENH and Sasol) has recently been initiated and its commercial activity is expected to begin in 2024. This project also includes a transmission line connecting Temane to Maputo.

Despite these efforts, there is still a pressing need to improve the transportation and distribution of natural gas (including natural gas storage facilities) as it is at a very early stage. New transport pipelines shall be developed, connecting the gas-rich north and south of Mozambique.

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

The development of local content policies has been on the Mozambican Government’s agenda for several years now; however, a consensus is still to be reached.

1.2 To what extent are your jurisdiction’s energy requirements met using natural gas (including LNG)?

Currently, the power demand is still under 2,000 MW and in 2042 the demand is forecast to be 6,900 MW (as indicated in the National Power System Development Master Plan).

Despite massive potential for electricity and fuel generation, the lack of socio-economic development and access to electricity and natural gas networks in Mozambique means that energy consumption remains heavily dependent on firewood and other wood fuels (such as charcoal). Hydro power accounts for 79% of the energy mix, gas represents 16%, followed by heavy fuel oil at 4% and solar at 1%.

1.3 To what extent are your jurisdiction’s natural gas requirements met through domestic natural gas production?

Mozambique currently fully meets its natural gas needs and, as such, does not import natural gas.

1.4 To what extent is your jurisdiction’s natural gas production exported (pipeline or LNG)?

Until 2022, approximately 80% of Mozambique’s natural gas was exported to South Africa (via the Temane-Pande pipeline).

With the implementation of the Coral Sul Project, for the export of LNG, Mozambique will be able to reach new countries.

2 Overview of Oil Sector

2.1 Please provide a brief outline of your jurisdiction’s oil sector.

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

Oil production was due to commence in 2015 in an oil field discovered next to the Temane natural gas field, also operated by Sasol. Production was expected to reach 15,000 barrels per day and was to be used for exports to South Africa.

2.2 To what extent are your jurisdiction's energy requirements met using oil?

Please see questions 1.2 and 2.1 above. Oil represents approximately 4% of the energy consumed in Mozambique.

2.3 To what extent are your jurisdiction's oil requirements met through domestic oil production?

Currently, there is no information indicating that Mozambique has already started producing crude oil (please see question 2.1 above).

2.4 To what extent is your jurisdiction's oil production exported?

Currently, there is no information indicating that Mozambique has already started producing crude oil (please see question 2.1 above).

3 Development of Oil and Natural Gas

3.1 Outline broadly the legal/statutory and organisational framework for the exploration and production ("development") of oil and natural gas reserves including: principal legislation; in whom the State's mineral rights to oil and natural gas are vested; Government authority or authorities responsible for the regulation of oil and natural gas development; and current major initiatives or policies of the Government (if any) in relation to oil and natural gas development.

The main legislation relating to the exploration and development of the country's oil and natural gas reserves includes, amongst others, the following key statutes:

- Constitution of the Republic of Mozambique;
- Law no. 21/2014, August 18 (Petroleum Law), as amended by Law no. 16/2022;
- Decree no. 34/2015, December 31 (Petroleum Law Regulation), as amended by Decree no. 48/2018, August 6 and Decree no. 34/2019, May 2;
- Decree no. 84/2020, September 18 (Licensing of Facilities and Petroleum Operations Regulation);
- Decree no. 56/2010, November 22 (Environmental Regulation of Petroleum Operations);
- Law no. 27/2014, September 23 (Petroleum Tax Law);
- Decree no. 32/2015, December 31 (Specific Regime of Taxation and Tax Benefits of the Petroleum Operations);
- Decree no. 63/2011, December 7 (Employment of Foreign Citizens in the Oil and Mining Sectors);
- Council of Ministers Resolution no. 39/2021, August 4 (Strategy for Concession of Areas for Petroleum Operations);
- Decree no. 31/2012, August 8 (Regulation on Resettlement Process Resulting from Economic Activities);
- Law no. 15/2011, August 10 (Public-Private Partnerships, Large Projects and Business Concessions, also known as the "Mega-Projects" Law);
- Decree no. 16/2012, June 4 (Regulation of the Mega-Projects Law); and
- Decree-law no. 2/2014, December 2 (Special Regime for the Rovuma Basin – Areas 1 and 4).

Additionally, for downstream, one should also bear in mind:

- Council of Ministers Resolution no. 63/2009, November 2 (Strategy for Development of a Natural Gas Market); and
- Decree no. 89/2019, November 18 (Regulation on Import, Sale and Distribution of Petroleum Products).

This legal framework is supplemented by concession contracts that specify rights and duties of the concessionaire and the Government.

The Constitution of Mozambique provides that all natural resources, whether located on/in land, underground, in inner waters, in territorial sea, on the continental platform or in the Mozambican exclusive economic area are the property of the State. The Ministry of Natural Resources ("MIREME") is responsible for directing and executing the governmental natural resource policies and for the supervision of the INP, created by the Council of Ministers under Decree no. 25/2004, August 20, the INP being the regulatory authority responsible for the administration and promotion of Petroleum Operations.

In Mozambican legislation, "Petroleum Operations" are defined as planning, preparing and performance of reconnaissance, appraisal, development, production, storage, transportation and the termination of such activities or the end of use of the infrastructure, including the implementation of Decommissioning Plans, as well as the sale or delivery of oil to the export point or agreed delivery point, such point being where oil is delivered for consumption or use or loaded as merchandise, including in the form of LNG.

The High Authority of the Extractive Industry ("*Alta Autoridade da Indústria Extractiva*") was established in 2014 to supervise Petroleum Operations but is not yet operational.

Also, the Mozambican Government has fulfilled its plan (established a few years ago) to create an authority that is responsible for regulating, controlling and supervising the energy sector in Mozambique, i.e., the Energy Regulatory Authority ("*Autoridade Reguladora de Energia*" – "ARENE") through the approval of Law no. 11/2017, September 8 (the "Law").

Among the several powers attributed to ARENE, it is important to highlight its active role on three important fronts, namely:

- (a) to instruct and process public tender procedures for the assignment of concessions for the production, transportation, distribution and sale of electric energy and distribution and sale of natural gas, to issue the respective opinion, as well as to request the transfer of concessions;
- (b) to instruct and process the granting of licences for the processing, distribution and marketing of liquid fuels, and to issue opinions on applications for the transfer of licences; and
- (c) to establish and approve the tariffs and prices for energy, gas and petroleum products regulated under the law and to ensure their application.

However, the members of ARENE have not yet been appointed, and it is also awaiting the approval of its statute and the regulation of the Law (which should take place before the end of the year).

In addition to the aforementioned entities that play regulatory and supervisory roles, the State participates in Petroleum Operations through the national oil company ENH, and any investor wishing to explore Mozambican oil resources must associate with ENH. ENH participates in all phases of Petroleum Operations, from research to production refinery, transportation, storage and commercialisation of oil and gas and their derivatives, including LNG and GTL, both in and out of the country.

The Petroleum Law and its Regulations aim to ensure increased competitiveness and transparency in the sector, as well as to reinforce the role of the State, the protection of national interests and the involvement of Mozambican nationals. In equal circumstances, preference is given to Mozambican persons or to foreigners that associate with Mozambican persons in the granting of concession rights. Additionally, it is established that oil and gas companies should be listed on the Mozambican Stock Exchange (which is still at an incipient stage).

3.2 How are the State’s mineral rights to develop oil and natural gas reserves transferred to investors or companies (“participants”) (e.g., licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

Petroleum Operations are performed under concession contracts that are generally attributed by a public tender process; however, they may be attributed by simultaneous or direct negotiations in relation to areas that had already been declared available when (i) no concession was granted pursuant to a previous public tender, (ii) there is rescission, relinquishment and abandonment, or (iii) there is a need to join adjacent areas to a concession, when justified for technical and economic reasons. Concession contracts are of an administrative nature.

3.3 If different authorisations are issued in respect of different stages of development (e.g., exploration appraisal or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

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

Concession contracts are administrative contracts, subject to the authorisation of and supervision by the Administrative Court, the main clauses therein being subject to publication in the Official Gazette.

The following rights may be conferred under concession contracts:

- appraisal;
- exploration and production (i.e., the Exploration and Production Concession Contract (“EPCC”));
- pipeline construction and operation; and
- infrastructure construction and operation.

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

The MIREME has approved a template EPCC, a draft of which is published on the INP website (<http://www.inp.gov.mz/pt/Políticas-Regime-Legal/Modelo-de-Contratos-de-Pesquisa-e-Producao>). The approval of such template follows the recent enactment of the main diplomas regulating this sector (the Petroleum Law and its Regulations). The annexes of the template EPCC include the template Joint Operating Agreement (“JOA”).

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

The EPCC confers on its holder an exclusive right to perform Petroleum Operations, as well as a non-exclusive right to construct and operate production and transportation infrastructure. The exclusive exploration right under the EPCC shall not exceed eight years and is subject to area abandonment provisions. In the event of a discovery, the concession-holder may

maintain the exclusive right to complete the work initiated within a specific area, in relation to the appraisal period, to comply with his work and appraisal obligations and to determine commercial value and allow oil development and production. The concession-holder may maintain the exclusive right, under the development plan approved by the Government, to develop and produce oil and gas in the development area, subject to renewal for equal or shorter periods, as deemed most advantageous for national interest.

The Pipeline Construction and Operation Concession allows the concession-holder to construct and explore oil or gas pipelines for the transportation of crude oil and natural gas, should such operations not be covered under the EPCC agreement. Similarly, the infrastructure construction concession contract allows the concession-holder to construct and operate oil production infrastructure, such as processing and conversion facilities that are not covered by an approved appraisal and production plan.

In the case of the Pipeline Construction and Operation, such agreements must also be thorough and include the specification of the oil or gas pipeline and provisions regarding the rights of use of land.

The construction, installation, alteration, replacement, operation and demobilisation of petroleum infrastructure, including the storage and exercise of transport by circulating means, are subject to previous licensing by the INP and payment of the respective fee.

3.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of oil and natural gas reserves (whether as a matter of law or policy)?

According to the Petroleum Law, the State reserves the right to participate in Petroleum Operations involving any person and may participate at any stage, according to the contractually agreed terms and conditions. Such State participation is made through ENH and any investor interested in exploring Mozambican oil resources must associate with ENH. No indication is given as to what such stake should be; however, taking into account the projects currently on course, it can vary from 5% to 20%.

3.5 How does the State derive value from oil and natural gas development (e.g., royalty, share of production, taxes)?

In addition to the bonus payments, training programmes, relinquishment fund and other financial obligations set out in the concession contracts, entities entitled to perform Petroleum Operations are subject to all of the following general taxes: income tax; value-added tax; municipal tax (when applicable); and also to the specific petroleum tax regime. The petroleum tax regime levies a Production Tax (“*Imposto sobre a produção do petróleo*”) on oil and gas produced in each concession area.

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

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

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

The tax regime also tightens the ring-fencing rules and clarifies that the IRPC of entities running Petroleum Operations under a concession contract should, as a general rule, be calculated individually for every concession area (costs and income should also be determined separately in relation to each area) and each concession contract area must have its own Tax Identification Number (“*Número Único de Identificação Tributária*” – “NUIT”).

3.6 Are there any restrictions on the export of production?

In addition to the production sharing rules set out under the petroleum tax regime, the Petroleum Law also sets out that the Government should ensure that no less than 25% of the oil and gas produced in the national territory is destined for the national market and should regulate the acquisition, price and other matters inherent to the use of the aforementioned oil and gas quota. We further note that the oil companies are obliged to give the State preference in the acquisition of oil produced in the concession area, according to special legislation, when required for reasons of national interest.

3.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

Mozambique does not have a specific foreign exchange regime for oil and gas operations, besides the special regime approved for Areas 1 and 4 in the Rovuma Basin, which only applies to these projects. In general, such operations are subject to the general foreign exchange regime and to the terms and conditions set out in the individual concession contracts. As a result, the movement of funds in and out of Mozambique is subject to exchange controls and to the registration and approvals of the Central Bank of Mozambique.

3.8 What restrictions (if any) apply to the transfer or disposal of oil and natural gas development rights or interests?

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

In order to ensure compliance with the terms and conditions of the petroleum exploration authorisations, operators must present financial guarantees in terms to be regulated.

3.9 Are participants obliged to provide any security or guarantees in relation to oil and natural gas development?

The Petroleum Law also provides that operators should provide a financial guarantee to ensure performance of the terms and conditions set out in the authorisation.

3.10 Can rights to develop oil and natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

The concession contract and the rights and duties arising thereunder cannot be freely transferred and are subject to governmental approval as set out under question 3.8 above.

3.11 In addition to those rights/authorisations required to explore for and produce oil and natural gas, what other principal Government authorisations are required to develop oil and natural gas reserves (e.g., environmental, occupational health and safety) and from whom are these authorisations to be obtained?

An environmental impact assessment (“EIA”) approved by the Ministry of Land, Environment and Rural Development (“MITADER”) must be presented with the respective development plan. Additionally, the concession right-holder must present the necessary licences for the use and enjoyment of land (secured according to the land legislation) and the authorisations for performance of Petroleum Operations on land or at sea.

International standards as well as specifically legislated technical requirements and health and safety rules for employees must also be complied with.

3.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in oil and natural gas development? If so, what are the principal features/requirements of the legislation?

The Environmental Impact Study Report comprehends the decommissioning and rehabilitation plan. A detailed Decommissioning Plan shall be prepared in consultation with the INP and submitted no less than two years prior to the date on which production operations are expected to cease, for the approval of the Minister with authority over the petroleum industry.

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

- (a) tail-end production schedules and the economic threshold for termination of operations;
- (b) alternatives for continuing Petroleum Operations;
- (c) further use or subsequent disposal of facilities;
- (d) plans for plugging and abandonment of production wells;
- (e) a schedule of decommissioning activities and description of equipment needed for the restoration of land sites and/or the seabed;
- (f) an inventory of dangerous material and chemicals existent in the facilities and plans for their removal; and
- (g) evaluation of the environmental impact of termination and abandonment activities.

Activities falling into the A Category must proceed with the following stages: (i) pre-assessment of the proposed project by the relevant environmental department and provision of a

written response (including the indication of the number of the required copies of Terms of Reference (“ToR”) and Studies on the Pre-Feasibility and Scoping Activities (“EPDA”) to be submitted); (ii) appointment of a Government-registered environmental consultant; (iii) working with the environment consultant to develop an EPDA; and (iv) working with the environment consultant to develop the ToR. Subsequently, the applicant will be required to submit the number of copies of the EPDA and ToR defined in the written response to the pre-assessment to the relevant environmental department.

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

Also, 120 days before the decommissioning activities begin, a licence must be obtained from the INP and it shall be valid for the duration of the Decommissioning Plan. The decommissioning activities are also subject to the INP’s supervision, which includes assessing whether any environmental damage has been duly repaired.

3.13 Is there any legislation or framework relating to gas storage? If so, what are the principal features/ requirements of the legislation?

Presently, the main production of natural gas comes from the onshore Pande and Temane fields, which are connected by pipeline to South Africa. Natural gas storage facilities shall be built after production of offshore natural gas commences.

In any case, the activities and facilities related to the storage and transport of petroleum products, including local production, except with regard to the attribution of rights for Petroleum Operations under the terms of the applicable legislation in the geographical areas covered by such rights, are set out under the Rules on Production, Import, Receipt, Handling, Transport, Distribution, Trade, Export and Re-export of Petroleum Products.

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

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

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

3.14 Are there any laws or regulations that deal specifically with the exploration and production of unconventional oil and gas resources? If so, what are their key features?

To date, there are no specific laws or regulations that deal with the exploration and production of unconventional oil and gas resources.

3.15 What has been the impact, if any, of the “energy transition” on the oil and gas industry in your jurisdiction, and are there any policies or laws/ regulations that require the oil and gas industry to decarbonise? Are there any policies or laws/regulations relating to the development of low-carbon hydrogen and its use in conjunction with or in place of natural gas, or the development of carbon capture and storage?

The Mozambican energy sector is dominated by hydroelectrical power as the main source, with the Cahora Bassa Dam producing the majority of the electricity consumed in the country (more than 90%). This means that Mozambique is, in a way, ahead of the energy transition as it already relies on various renewable energy sources to produce the electricity that it needs (taking into account that the national electricity grid covers just over 35% of the country). While coal is extracted in Mozambique, it is not used to produce power. Other than the Cahora Bassa Dam, Mozambique has at least eight large independent power producers (“IPPs”) that run on hydropower and gas (Pequenos Libombos, Aggreko, Central Térmica Ressano Garcia, Gigawatt, Kuvaninga and the floating ship in Naala), with a total of 665 MW of installed capacity. Also, the number of photovoltaic power plants has been increasing, namely through Mocuba Solar Power Plant (40 MW), Neon Metoro Solar Power Plant (30 MW) and the Mphanda Nkuwa Hydropower Plant (1,300 MW), among others. In the near future, the gas from the Rovuma Basin will be added to the energy sources in the country. The Government is already investing in the diversification of energy sources available in Mozambique, and a major factor taken into account is definitely economic viability. However, there is no legislation regarding the decarbonisation of oil and gas.

4 Import / Export of Natural Gas (including LNG)

4.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

No specific regulatory limitations or rules apply. The national legislation and internationally accepted rules and principles governing the transport, storage and use of hazardous material must be complied with.

5 Import / Export of Oil

5.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of oil and oil products.

The export (i.e., cross-border sale) or delivery of petroleum and petroleum products is subject to licensing.

Only entities licensed to distribute petroleum products may provide bunker services for the re-exportation of those products, provided that such activities are carried out together with

sales in the national market. Entities not based in the country that seek to carry out bunker activities from Mozambique for the international shipping of products that are located in the country or purchased in a foreign currency exclusively for that purpose, and activities for transporting those products to and from neighbouring countries, must do so through the licensed entities. Concerning the import of refined oil and liquefied petroleum gas, IMOPETRO (at least 51% held by the State company PETROMOC, S.A., and by the authorised distributors in proportion to their market stake) has exclusivity on the import and sale of such products to retailers in Mozambique.

6 Transportation

6.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

As referred to above, an EPCC may attribute the non-exclusive right to construct and operate production and transportation infrastructure to transport the crude oil and natural gas produced in the concession area, unless such pipelines already exist and are available on commercially acceptable terms. When such rights are not granted under an EPCC, they may be attributed under a Pipeline Concession Contract.

The holders of pipeline rights – whether under the EPCC or the Pipeline Concession Contract – are obliged to transport third-party oil on a non-discriminatory and commercially acceptable basis, provided that (i) there is available pipeline capacity, and (ii) there are no unsurpassable technical issues that would exclude the pipeline from satisfying such third-party requests. The holders of pipeline rights may be obliged to increase the pipeline capacity to allow the above as long as (i) such increase does not cause an adverse effect on the pipeline's technical integrity or safety, and (ii) third parties have sufficient funds to bear the cost of the increase in pipeline capacity.

6.2 What governmental authorisations (including any applicable environmental authorisations) are required to construct and operate oil and natural gas transportation pipelines and associated infrastructure?

Upstream pipeline construction rights may be attributed under an EPCC or under a Pipeline Concession Contract, and in either case an EIA approved by the MITADER must be presented with the respective development plan. Additionally, the concession right-holder must present the necessary licences for the use and enjoyment of land (secured according to the land legislation), besides the licences to be issued by the INP as per question 3.3 above and the authorisations for performance of Petroleum Operations on land or at sea.

6.3 In general, how does an entity obtain the necessary land (or other) rights to construct oil and natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

According to the Mozambique legal regime, land is owned by the State and cannot be sold, disposed of or pledged. However, a lesser right can be granted that permits the use and enjoyment of land (*“Direito de Uso e Aproveitamento de Terra”* – “DUAT”). The grant of a concession entitles the holder to apply for a licence for

the use and enjoyment of land under the general land legislation (Law no. 19/97, October 1) and to require that rights of way be granted. Fair indemnification will need to be paid to any holders of DUAT and the resettlement of the population must be ensured.

6.4 How is access to oil and natural gas transportation pipelines and associated infrastructure organised?

Please see question 6.6 below.

6.5 To what degree are oil and natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

Currently, no oil pipelines exist. The current natural gas transportation and distribution network consists of the Mozambique-South Africa pipeline and a recent distribution network limited to certain districts of the capital city, Maputo. As referred to above, a new pipeline is expected to be developed connecting Temane to Maputo.

6.6 Outline any third-party access regime/rights in respect of oil and natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport oil or natural gas compel or require the operator/owner of an oil or natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

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

- (a) there is available space at the petroleum facility in question; and
- (b) there are no insurmountable technical problems that impede the use of the petroleum facility to meet requirements of third parties.

If the available capacity of the petroleum facility in question, or the dimensions or route of pipelines, are insufficient to meet the requirements of third parties, the licence-holder shall be obliged to make a modification to the facility so that, on commercially acceptable terms, third-party requests can be met, provided that:

- (a) such modification does not have an adverse effect on the technical integrity or the safe operation of the petroleum facility; and
- (b) third parties have sufficient funds to support the costs of the required modification.

The Minister responsible for the energy sector may waive compliance with the obligation provided above, on behalf of the holder of the licence for distribution, a landing terminal, storage or oil pipelines, as applicable, if reasonable efforts have been made to meet the requirements of third parties and to prove that it is not possible to receive, send, handle, store, mix or manage the third-party petroleum products or carry out the requested modification of the petroleum facility.

The holders of licences or operators of the petroleum facilities must act with transparency in the negotiation of access to their facilities, and they may not impose discriminatory conditions.

The holders of licences for distribution, loading terminals, storage or oil pipelines must make available, in non-discriminatory terms, the relevant records on the petroleum facility in question, to third parties who request it, in order to facilitate the negotiation of acceptable commercial terms.

If, within a period of six months after the notification of the request for access to the petroleum facility or to increase its respective capacity, the parties have not reached an agreement on the commercial or operational terms that ensure the access sought, the matter, depending on the terms of the contract, may be submitted for resolution:

- (a) to an independent commission;
- (b) to arbitration proceedings; or
- (c) to the competent judicial authorities.

It is up to the Minister responsible for the energy sector to establish the methodology for third-party access to petroleum facilities.

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

6.7 Are parties free to agree the terms upon which oil or natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

Tariffs for third-party access to pipelines are not regulated and should be established on commercially reasonable terms and on a non-discriminatory basis, according to the standards that apply in the petroleum industry, and negotiations should be conducted in good faith.

If, six months after submitting the respective request, the parties have not reached an agreement on the commercial or operational terms for access, the matter may be submitted to resolution by an independent committee, arbitration or the competent courts of law.

7 Gas Transmission / Distribution

7.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

As mentioned above, the transport and distribution of natural gas is at a very early stage, with the transport network consisting of the Mozambique-Zimbabwe pipeline linking the coastal city of Beira to Zimbabwe's capital Harare, operated in Mozambique by the Companhia do Pipeline Moçambique Zimbabwe and active for more than 30 years, as well as the Mozambique-South Africa pipeline from Pande and Temane to Secunda and the distribution network operated by a public private partnership between State-owned ENH and Korean Kogas restricted only to certain districts of the capital city, Maputo. New transport pipelines shall be developed, connecting the gas-rich north and south of Mozambique. Similarly, natural gas storage facilities shall be built only after production of offshore natural gas commences.

Decree no. 44/2005, November 29, establishes the Regulation for Distribution and Commercialisation of Natural Gas, pursuant to which these rights are attributed by means of concession agreements resulting from a public tender process. The attribution of rights through direct negotiations is only envisaged when the public tender process has no bidders or in areas

that have not been designated as concession areas for a distribution network or independent local networks by the MIREME. The concessionaire must be a commercial company, necessarily held by the successful tenderer(s), with the registered office and administration in Mozambique.

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

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

7.2 What governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?

The concessionaire must obtain a licence for use of the land necessary for the construction, installation and exploration of the concession infrastructure and pay the related taxes and compensations.

Construction may only commence after the necessary environmental licence has been obtained from the Ministry of the Environment, as well as the approval of all studies, and the MIREME must approve detailed engineering projects relating to the distribution network. Furthermore, the construction of natural gas infrastructure must necessarily involve a licensed assembly and installation company.

7.3 How is access to the natural gas distribution network organised?

The MIREME establishes the rules of negotiated access to the distribution network and the concessionaires should negotiate access rights with transparency, being barred from imposing any discriminatory conditions. The concessionaire should publish its main commercial terms of use within the two years following the end of its exclusivity, should such exclusivity have been initially granted.

7.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?

One of the general duties of the concessionaire is to supply natural gas in the best manner to serve consumer needs and interests and to contribute to the country's economic and social development. For such purpose, the concessionaire must, in the terms set out in the concession contract, supply all consumers who are in a condition to pay for such supply and comply with any other conditions necessary for such purpose.

7.5 What fees are charged for accessing the distribution network, and are these fees regulated?

As mentioned in question 7.3 above, the MIREME establishes the rules for negotiated access to the distribution network and the concessionaires should negotiate access rights with transparency, being barred from imposing any discriminatory conditions. We further note that the MIREME regulates a maximum price for natural gas supplied to final consumers (Ministerial Decree no. 210/2012, September 12).

7.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?

The concessionaire owns the distribution network and the installations and equipment necessary for its operation until the end of the concession period and is barred from burdening or disposing in any manner, whether fully or partially, the fixed assets effected to the concession without obtaining the prior approval of the MIREME. The assignment of the concession contract is subject to the prior approval of the granting authority.

8 Natural Gas Trading

8.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

The State reserves the right to control the trading of liquefied hydrocarbons and gas, including LNG.

The State, its institutions and other public law entities have a determining role in promoting the realisation of the existing natural resources potential so as to provide access to the benefits of petroleum production and contribute to the social and economic development of the country.

The existing Petroleum Regulation involves bringing the legal framework of the oil business to the current economic order in the country, the developments in the oil sector, ensuring competitiveness and transparency, and safeguarding national interests.

8.2 What range of natural gas commodities can be traded? For example, can only “bundled” products (i.e., the natural gas commodity and the distribution thereof) be traded?

The Petroleum Law provides that a trading licence is required for the trading of gas and defines gas as “oil that under normal atmospheric conditions is in the gaseous state”, as well as unconventional gas, including methane gas associated with coal and bituminous shale gas.

9 Liquefied Natural Gas

9.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.

The current available general legal framework is silent in respect of the specific regulation of LNG facilities. Only Mozambique’s Special Regime for Natural Gas Liquefaction Projects in Areas 1 and 4 of the Rovuma Basin (Decree-law no. 2/2014, December 2) – which applies to concessionaires under existing EPCCs – regulates any special purpose vehicles (“SPVs”) established by such concessionaires and any persons entering into contracts with concessionaires or SPVs (contractors, financiers and employees) as well as their subcontractors, and in connection with activities relating to the development and operation of Offshore Areas 1 or 4 and which are undertaken under existing EPCCs or any other contracts with the Mozambican Government.

Accordingly, any SPVs established by concessionaires must be incorporated in Mozambique, although SPVs for the purposes of raising finance or undertaking sales and shipping activities may be incorporated in any “transparent” jurisdiction where

the Government of the jurisdiction can verify the ownership, management, control and fiscal situation of the investor (subject to Mozambican Government consent). While this “transparent” jurisdiction standard is equivalent to the standard imposed on new concessionaires under the Petroleum Law, unlike the requirements of the Petroleum Law, neither the existing concessionaires of Areas 1 and 4 nor their SPVs are required to be listed on the Mozambican Stock Exchange.

9.2 What governmental authorisations are required to construct and operate LNG facilities?

In Areas 1 and 4 of the Rovuma Basin, the Government shall approve the development plan submitted by the concessionaires prior to any construction of LNG facilities. Also, when applicable, a master depletion plan may be approved for the management of the tanks.

9.3 Is there any regulation of the price or terms of service in the LNG sector?

Currently, no LNG facilities exist in Mozambique. The future LNG facilities planned by Total and ENI are not expected to commence production until 2024.

9.4 Outline any third-party access regime/rights in respect of LNG facilities.

The Petroleum Law (covering LNG processing) provides that the Mozambican Government may authorise concessionaires that have discovered oil and non-associated gas deposits to develop projects for the design, construction, installation, ownership, financing, operation, maintenance and use of wells, installations and ancillary equipment, either onshore or offshore, for the production, processing, liquefaction, delivery and sale of gas in the domestic or foreign markets.

Petroleum production, including LNG production activities, may be undertaken and authorised by the Government under an EPCC without the need for further licensing or concession.

10 Downstream Oil

10.1 Outline broadly the regulatory framework in relation to the downstream oil sector.

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

- (a) Production licence.
- (b) Storage licence in distribution terminals.
- (c) Storage licence in storage facilities.
- (d) Distribution licence.
- (e) Retail licence in storage facilities.
- (f) Retail licence in fuel stations.
- (g) Retail licence in resale facilities.
- (h) Exploration of oil pipeline licence.
- (i) Exploration licence.
- (j) Exploration of unloading terminal licence.

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

An entity may hold more than one of the licences, provided it does not limit the development of competitive markets for petroleum products in accordance with the activities the entity pursues. However, the holder of a distribution licence cannot hold a retail licence except (i) in the case of liquid gas and compressed natural gas, and (ii) for the operation of a sole point of fuel supply for the purposes of training in each of the country's provinces.

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

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

10.2 Outline broadly the ownership, organisation and regulatory framework in relation to oil trading.

There are no specific requirements relating to the trade in oil as a commodity in Mozambique.

11 Competition

11.1 Which governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the oil and natural gas sector?

The publication of Law no. 10/2013 (the "Competition Law") on April 11 established the legal framework for competition in Mozambique and created the Competition Regulatory Authority ("CRA") to enforce it. Decree no. 97/2014, December 31, as amended by Decree no. 101/2021, December 31, provides the Regulation of the Competition Law. This legal framework is not specific for the oil and natural gas sector and comes as a result of the efforts made in recent years by the Mozambican Government to streamline economic initiatives and liberalise some key sectors, such as communications, ports, railways and financial services.

A further step was taken with the publication of the Statute of the CRA on August 1, 2014.

The CRA has given broad supervisory and sanctioning powers with regard to restrictive competition practices (such as cartel agreements and abuses of dominant position), and charged with clearing or prohibiting concentrations between undertakings that are subject to mandatory notification in Mozambique. The CRA's decisions may be appealed in court, namely to the Judicial Court of the City of Maputo, in the case of procedures leading to the application of fines and other sanctions, and to the Administrative Court, with regard to merger control procedures and requests for exemptions relating to restrictive agreements. The Statute also establishes a duty of co-operation on the part of undertakings and other entities subject to the activities of the CRA, in order to ensure the adequate performance of the authority's duties.

11.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

The Competition Law has a wide scope, as it applies to both private companies and State-owned companies and covers all economic activities with effects in Mozambican territory (with a number of exceptions).

It prohibits agreements and practices that restrict competition, both between competitors ("horizontal" practices), and between companies and their suppliers or customers ("vertical" practices), as well as abusive practices by dominant undertakings (including, among others, the refusal to grant access to essential infrastructure, unjustified termination of a business relationship) and abuse of the economic dependence of suppliers or customers.

However, prohibited practices may be justified and exceptionally permitted if they lead to economic efficiencies, as well as if they promote the competitiveness of small and medium-sized enterprises and the consolidation of the national economy (provided such practices do not eliminate competition and are indispensable for the objective to be achieved).

The Competition Law introduced merger control, and all concentrations that meet the market share or annual turnover criteria, to be determined by the Council of Ministers, are subject to mandatory notification to the CRA, within seven working days after conclusion of the agreement or its project, and cannot be implemented before clearance.

The violation of the prohibitions contained in the new law subjects infringing firms to fines of up to 5% of the turnover of each company in the previous year. In addition, the breach of the duties to notify concentrations within the statutory period and to co-operate with the CRA is punishable with fines of up to 1% of annual turnover.

The law also provides for penalty payments, where appropriate, as well as potentially serious ancillary sanctions, not only because the offender may find itself excluded from participating in tenders for five years, but also because it can even find itself confronted with the possible break-up of the offending undertaking. Finally, agreements and practices concluded in breach of the law are null and void.

The applicable legal framework defines the subjective and material scope of the prohibitions under the Competition Law and determines the legal criteria for mandatory notification of concentrations to the CRA, with regard to the market shares and turnover of the parties. Specifically, notification is mandatory on undertakings having a market share equal or superior to 30% and an annual turnover above 105 million meticaís (approximately EUR 1.58 million or USD 1.66 million).

The provisions on prohibited practices restrictive of competition are now fully applicable, and the violation of such rules subjects the undertakings concerned to fines of up to 5% of the turnover of the preceding year, as well as other negative procedural consequences.

11.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

The CRA has broad supervisory, regulatory, investigatory and sanctioning powers, pursuant to which it is able to question relevant persons, request documents and conduct searches and seizures and the sealing of the premises. The CRA closely co-ordinates with the other sectorial regulatory authorities.

The CRA may assign different priorities to certain practices or sectors (under the designated "principle of opportunity") and in the last quarter of each year should publish its enforcement priorities for the following year.

Please refer to question 11.2 above for measures and sanctions that may be applied to anti-competitive practices.

11.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the oil and natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

The Competition Law should, in principle, apply to this sector. However, there is one exception to its scope that relates to cases of a specific need for protection of a sector of the economy, in the benefit of the national interest or consumers' interest.

Given the recent entry into activity of the CRA, we are not yet aware of any standards with regard to timings.

12 Foreign Investment and International Obligations

12.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

In order for foreign legal entities to be holders of the right to carry out Petroleum Operations, they must be registered in Mozambique and demonstrate that they have the technical capability and adequate financial resources to conduct Petroleum Operations effectively.

Additionally, foreign legal entities that directly or indirectly hold or control legal entities that own rights under a concession contract shall be established, registered and administered under a transparent jurisdiction. This is understood as jurisdictions whereby the Government, in an independent manner, may verify the ownership, management and control, and fiscal situation of a foreign legal person who wishes to participate or participates in Petroleum Operations. Foreign legal entities that associate with Mozambican legal entities shall have a pre-emption right in the granting of concession contracts.

In the context of the acquisition of goods or services by Petroleum Operations right-holders, single or collective foreign entities that provide services related to Petroleum Operations must associate with single or collective Mozambican entities.

12.2 To what extent is regulatory policy in respect of the oil and natural gas sector influenced or affected by international treaties or other multinational arrangements?

While defining its scope, the law states that it 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.

The definition of "good petroleum industry practice" refers to 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 and technical and economic efficiency.

The Government ensures the rigorous observation of the protection and rehabilitation of environmental norms, in the terms of the law and the conventions and good international practices.

Furthermore, the holders of Petroleum Operation concession rights shall perform them in accordance with the environmental legislation and other legislation applicable and adopt measures for the protection of the environment that are in accordance with internationally accepted standards. Petroleum Operations right-holders have an obligation to promote public safety and adopt the required measures to ensure the safety and hygiene of their workers in accordance with the national and international regulations applicable in the Republic of Mozambique.

13 Dispute Resolution

13.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the oil and natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to oil and natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; downstream oil infrastructure owners or users; and distribution network owners or users in relation to the distribution/transmission of natural gas.

Disputes in the oil and natural gas sector, even when one of the parties is a Government authority/regulator, can be subject either to arbitration or the judicial authorities. Law no. 7/2014, February 28 ("*Processos da jurisdição administrativa*"), regulates the judicial procedures between the administration and any individual or company. This law includes a chapter on arbitration, stating that an arbitral tribunal may solve any dispute concerning (i) administrative contracts, and (ii) non-contractual civil liability of the administration arising from public management acts. Specifically concerning the oil and natural gas sector, one of the specific legal guarantees attributed to Petroleum Operations right-holders under the Petroleum Law is the possibility to resort to international arbitration for the resolution of disputes when all alternative resolution means are extinguished. The Law establishes that when a dispute arising from a concession contract is not solved by negotiation, it can either be subject to the local courts or to arbitration, according to the terms and conditions agreed in the concession contract.

Arbitration between the State of Mozambique and foreign investors shall be conducted in accordance with:

- (a) the law that governs arbitration, conciliation and mediation as alternative methods of conflict resolution;
- (b) the rules of the International Centre for the Settlement of Disputes between States and Nationals of Other States ("ICSID"), adopted in Washington on March 15, 1965, or pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States;
- (c) the rules set out in the ICSID's Additional Facility adopted on September 27, 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; and
- (d) the rules of such other international instances of recognised 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.

13.2 Is your jurisdiction a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID")?

Mozambique is a signatory to and has ratified both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the ICSID Convention.

13.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

In Mozambique, the Government or any Government authority is subject to the law and the judicial authorities. As mentioned above, Law no. 7/2014, February 28, regulates the judicial processes between the administration and any individual or company and establishes that in cases where the enforcement of a judgment (i) is absolutely and definitely impossible, or (ii) causes serious damage to the public interest, there is a legitimate cause for the non-enforcement of that judgment. Additionally, the Civil Procedure Code establishes that the State's assets that are used for public utility cannot be attached in the enforcement of a judgment, unless when the enforcement pursues the rendering of that same asset or the payment of a debt secured by collateral.

13.4 Have there been instances in the oil and natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

There have been no such instances of which we are aware.

14 Updates

14.1 Have there been any new regulatory or policy initiatives in your jurisdiction directly in response to the recent rise in global oil and gas prices (such as price caps, subsidies or a new focus on local sources of energy)?

The increase in global oil and gas prices has caused and continues to cause high increases in energy and food prices. In association with other factors that contribute to rising inflation, Mozambique has been suffering from shrinking investments and a consequent slowdown in the economy.

For Mozambique in particular, the rise in the price of oil is causing serious repercussions for the fuel industry, going beyond the most critical aspects inherent to the fact and across the various industries that make up the economic framework of the country.

The Mozambican authorities had to readjust the local price. However, the Mozambican Government tried to avoid an adjustment that would put pressure on citizens, temporarily withdrawing the tax on fuel to avoid a drastic increase.

14.2 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Oil and Gas Regulation Law in your jurisdiction (other than anything already discussed above).

Several years have passed since the approval of the legislation that currently regulates the oil and gas sector. From the most recent legislation, we highlight: (i) Decree no. 89/2019, November 18, which repealed Decree no. 45/2012, December 28, as analysed under the question above and which regulates the downstream market; (ii) Decree no. 84/2020, September 18, which approved the regulation for the licensing of Petroleum Operations infrastructure, which establishes the rules and procedures for the licensing of the construction, installation, alteration, replacement, operation and demobilisation of petroleum infrastructure, including the storage and exercise of transport by circulating means, as well as authorisations through registration. It also determines the applicable fees and the sanctioning regime; and (iii) Law no. 19/2018, which approved the legal framework applicable to the granting of security over moveable assets and represents a significant move towards reserve-backed lending in the oil and gas sector. This new legal framework is now being applied in practice and permits the holders of the right to explore oil and gas operations to grant the still unextracted oil and gas products as security with the purpose of financing their operations.



Claudia Santos Cruz joined Morais Leitão in 2015, assisting clients on the international and cross-border aspects of their investments in Portugal and Lusophone Africa, including Angola, Mozambique and Cape Verde. She is Co-Head of the Lusophone Africa practice team at Morais Leitão, which is dedicated to deals, transactions and advising international clients investing in these markets. Claudia and her team work on a daily basis with Morais Leitão Legal Circle-integrated law firms in Angola, Mozambique and Cape Verde and she is herself a member of the MDR Advogados team in Mozambique. Claudia coordinates the international Oil & Gas team and Shipping practice at Morais Leitão and is also a member of the international Banking & Finance department.

Claudia is a specialist in areas such as Energy and Mineral Resources (Oil & Gas/Mining), international aspects of foreign investment into Lusophone Africa jurisdictions, Banking & Finance, Corporate and Shipping.

**Morais Leitão, Galvão Teles,
Soares da Silva & Associados**
Rua Castilho, 165
1070-050 Lisbon
Portugal

Tel: +351 21 381 74 00
Email: cscruz@mlgts.pt
URL: www.mlgts.pt



Paula Duarte Rocha is a partner at MDR Advogados.

She is highly experienced in the Mozambican market, having worked in all areas of practice, advising both national and foreign investors as well as national and foreign private companies. Paula has notable experience and a track record in banking and project finance transactions. Experienced in cross-border transactions and regulatory issues, Paula has developed know-how in advising economic operators and contracting authorities in public procurement and public-private partnerships.

Paula has been a registered arbitrator with the Mozambican Centre for Arbitration, Conciliation and Mediation since 2002 with relevant experience in commercial arbitration, as a nominated arbitrator by the parties and as Chairman of the Arbitral Tribunal, and was the IBA Tax Reporter for Mozambique (2012–2014). In January 2014, Paula started her collaboration with Morais Leitão, Galvão Teles, Soares da Silva & Associados, a Portuguese law firm, as a consultant in all matters pertaining to Mozambique.

Paula is a member of the Mozambique Internationalization Commission of the Commercial Arbitration Center, and was also President of the Training and Bar Access Examination Committee of the Mozambique Bar Association (2014) and a member of the National Council of the Mozambique Bar Association (2016).

MDR Advogados
Avenida Marginal, 141
Torres Rani, Torre de Escritórios, 8.º piso
Maputo
Mozambique

Tel: +258 21 344 000
Email: pdrocha@mdradvogados.com
URL: www.mdradvogados.com

Morais Leitão, Galvão Teles, Soares da Silva & Associados (Morais Leitão) is a leading full-service law firm in Portugal, with a solid background of decades of experience. Broadly recognised, Morais Leitão is a reference in several branches and sectors of the law on national and international levels. The firm's reputation amongst both peers and clients stems from the excellence of the legal services provided. The firm's work is characterised by a unique technical expertise, combined with a distinctive approach and cutting-edge solutions that often challenge some of the most conventional practices. With a team comprising over 250 lawyers at the client's disposal, Morais Leitão is headquartered in Lisbon with additional offices in Porto and Funchal. Due to its network of associations and alliances with local firms and the creation of the Morais Leitão Legal Circle in 2010, the firm can also offer support through offices in Angola (ALC Advogados), Cape Verde (VPQ Advogados) and Mozambique (MDR Advogados).

Morais Leitão Legal Circle is an international alliance of law firms created by Morais Leitão, based upon the sharing of values and common principles of action with the purpose of establishing a platform that delivers high-quality legal services to clients around the world. It encompasses a select set of jurisdictions, including Portugal, Angola, Cape Verde and Mozambique.

www.mlgts.pt

M L **MORAIS LEITÃO**
GALVÃO TELES, SOARES DA SILVA
& ASSOCIADOS

ICLG.com



Current titles in the ICLG series

Alternative Investment Funds	Franchise
Anti-Money Laundering	Gambling
Aviation Finance & Leasing	Insurance & Reinsurance
Aviation Law	International Arbitration
Business Crime	Investor-State Arbitration
Cartels & Leniency	Lending & Secured Finance
Class & Group Actions	Litigation & Dispute Resolution
Competition Litigation	Merger Control
Construction & Engineering Law	Mergers & Acquisitions
Consumer Protection	Mining Law
Copyright	Oil & Gas Regulation
Corporate Governance	Patents
Corporate Immigration	Pharmaceutical Advertising
Corporate Investigations	Private Client
Corporate Tax	Private Equity
Cybersecurity	Product Liability
Data Protection	Project Finance
Derivatives	Public Investment Funds
Designs	Public Procurement
Digital Business	Real Estate
Digital Health	Renewable Energy
Drug & Medical Device Litigation	Restructuring & Insolvency
Employment & Labour Law	Sanctions
Enforcement of Foreign Judgments	Securitisation
Environment & Climate Change Law	Shipping Law
Environmental, Social & Governance Law	Technology Sourcing
Family Law	Telecoms, Media & Internet
Fintech	Trade Marks
Foreign Direct Investment Regimes	Vertical Agreements and Dominant Firms