

INTO AFRICA

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BOUNCING BACK **AFRICAN OIL & GAS**

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OVERVIEW & PROSPECTS**

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MOZAMBIQUE OIL & GAS: REGULATIONS AND OPPORTUNITIES

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Market

Mozambique has been recently placed among the global major players in the oil & gas sector. This new position is due to significant natural gas discoveries in the country's northern Rovuma Basin. Despite having activity in the hydrocarbons sector for many decades, just in 2012 these massive offshore started to transform Mozambique's reality. They added ambitious expectations to the country to become a key player in the LNG global market. Some optimistic reports project that Mozambique will emerge as the third-largest exporter of LNG within the next decade, holding one of two largest natural gas reserves in Africa and one of the seven largest in the globe, with estimated 200tcf.

Currently, the natural gas production is concentrated in onshore fields of Pande/Temane in the country's center-southern region. The produced natural gas has South Africa as major destination through a pipeline. Delivery points within the Mozambican portion of the pipeline also feed gas-to-power projects. In the Rovuma Basin region, Areas 1 and 4 are being developed to accommodate large-scale LNG projects destined to the international market. Additionally, a share of the produced natural gas will be allocated to boost the domestic industrial sector, including gas-to-liquids, gas-to-power and fertilizing projects.

In addition to the natural gas reservoirs, it is worth to highlight that Mozambique has shown over the last two decades an impressive economic growth of 7,5% on average; and, is expected to be one of the African countries with the highest GDP growth in the following years with the taking off of the natural gas projects.

Regulations

Mozambique recently enacted its new Hydrocarbons Regime by a set of new statutes, published since 2014. The major one is the Hydrocarbons Law No. 21/2014, with its Regulation (Decree No. 34/2015); accompanied by the Hydrocarbons Tax Law No. 27/2014, with its Regulation (Decree No. 32/2015); and the Rovuma Special Regime

(Decree-Law No. 2/2014), among other ancillary statutes. These new Regulations maintained major principles and aspects already in effect in the country; and, aimed to improve the legal framework and to provide legal stability for international investors seeking to foment the country's potential.

In summary, the Regulations conserved the State ownership of prospecting, research, production, transport, trading, refining and transformation of liquid and gaseous hydrocarbons and their products. The State is granted the opportunity to develop complementary or secondary activities involved and to gradually participate in hydrocarbons projects, as agreed in the Concession Agreements. The State must also ensure national interests in relation to: defense, labor, navigation, conservation of marine ecosystems and other natural resources, existing economic activities and security of the affected communities.

Mozambique's NoC, Empresa Nacional de Hidrocarbonetos - ENH, remains the State's exclusive representative in all hydrocarbons operations in the country and the National Petroleum Institute - INP also remains responsible for the sector's regulation and promotion. The Regulations determine the Concession regime through which the State will partner with the private sector and codified the production sharing mechanism between the State and the Concessionaires.

The Regulations allow either Mozambican entities or foreign entities registered in Mozambique to hold rights to conduct hydrocarbons operations. But holding companies of foreign Concessionaires shall be established in transparent jurisdictions, where the State can verify the ownership and tax status of such foreign entities. The Regulations also provided a pre-emptive rights of concession to Mozambican entities (entities with at least 50% of the shares belonging to Mozambicans) or foreign entities in "association" with Mozambican entities. This "association" (joint venture - JV) is not detailed and could generally fill the forms of: i) holding interests of the same incorporated JV (e.g. specific purposes entities), or ii) agreeing to an unincorporated JV (e.g. consortium). Also, any

investor that has an interest in hydrocarbons exploration in Mozambique shall make a “partnership” with ENH. This “partnership” normally means ENH shall hold interests in the Concessionaire’s JV. ENH shall also assume the leadership of marketing and trading of hydrocarbons products.

The Concession Agreements could be granted by: public tender, simultaneous negotiation or direct negotiation. The types of Concession Agreements under the new Law are: a) recognition; b) research and production; c) construction and operation of pipeline systems; and, d) construction and operation of infrastructure. Security and legal protection of property rights are guaranteed to investors. Expropriation may take place only exceptionally and with a public interest justification, being such cases subject to the payment of just compensation. Other requirements include: the State’s property of data obtained; the registration of all activities; and, the provision of financial performance guarantee. Concessionaires are also required to publish their results, taxes and corporate social responsibility actions. The transmission of rights and obligations granted under a Concession Agreement and unitization of areas must be made according to Mozambican laws and is subject to the State’s approval. The right to explore hydrocarbons is separate from the use of land rights and if resettlement of local communities is needed, fair indemnification must be paid to local communities, having the State involved in this negotiation. The areas surrounding the projects are considered zones of partial protection and if the Concessionaires shall comply with the applicable environmental and safety laws.

Legal entities conducting hydrocarbons operations in Mozambique are subject to the payment of general taxes in addition to the specific taxes include : a) Income Tax (32% on net profits and capital gains); b) Value Added Tax (17% on sales, as debt rate being a creditable tax and exempt on exports); c) local taxes when applied (not significant); and, d) specific taxes as the Hydrocarbons Production Tax (similar to a royalty, in cash or in kind - 10% for crude oil and 6% for natural gas). The tax base is the amount of hydrocarbons produced and the value is determined on the basis of international prices of major international hydrocarbons export centers and rates could be reduced if destined to domestic market. The general rules as set in ordinary tax law shall apply regarding the Income Tax (e.g. amortizations, tax on capital gains in farm-in/farm-out operations, among others), but

other specific rules apply for hydrocarbons operations. Tax benefits were also granted on import duties for operation equipment and fiscal stability could be granted for a certain period, without affecting the assumptions of feasibility and profitability.

As a local content requirement, foreign entities that provide services to hydrocarbons operations are required to be in “association” (also not defined) with Mozambican individuals or entities. Also, the acquisition of goods or services above a certain value must be made by a tender, which must be published and preference should be given to local products and services since prices do not exceed 10% percent. In addition, Concessionaires should be gradually listed on the Mozambique Stock Exchange and a quota of no less than 25% of hydrocarbons produced shall be dedicated to the domestic market. Concessionaires are required to ensure participation of local communities and to provide technical-professional training for Mozambicans. General labor legislation in Mozambique and specific labor laws for hydrocarbons sector establish a quota regime limiting the number of expatriates (5% to 10%). Any disputes in connection with a Concession Agreements can be submitted to arbitration or to competent judicial authorities, as agreed in the Concession Agreement. The arbitration between the State and foreign investors shall comply with Mozambican law and could select rules of international arbitration bodies widely recognized (as ICSID).

Trends and Opportunities

These natural gas discoveries have positioned Mozambique as an outstanding investment opportunity in Africa. Recent progress on reforming the Hydrocarbons Legislation paved the way for a possible outstanding economic growth forecasted for the next decade in Mozambique - way above the expected global average growth. Mozambique presents several opportunities for the hydrocarbons sector, since upstream projects aiming to explore the country’s unveiled potential (as the new areas recently awarded in the 5th bid round), passing through transportation opportunities that will be necessary to allocate the gas to the domestic market and to abroad (as pipelines within the country and LNG liquefaction facilities for exports), until industrial and power projects fed by the natural gas.

Projects of LNG facilities are currently being undertaken both onshore and offshore and could

start producing in the next years. These LNG projects are expected to add USD 3 billion yearly in the economy for the next decade, requiring total investments of more than USD 30 billion. This trend represents significant opportunities for the entire hydrocarbons value chain. In addition, transportation and distribution networks shall be developed, adding opportunities to storage facilities and commercialization of natural gas. Furthermore, several projects for electricity and fuel generation are also expected.

Thus, in brief, the economic boom trend related to the development of the natural gas will certainly have positive impacts on Mozambique's economy as a whole and be an opportunity to stimulate other economic sectors. Additionally, the vast possibilities for investments and the natural strategic advantages of Mozambique will help to consoli-

date expectations around the discoveries of natural gas in the country and to promote its sustainable development.

Contributor's Profile

Paulo Rage is a Partner of of T&C Mayer Brown and Director of the Brazil-Mozambique Chamber of Commerce. He has significant experience in legal planning and structuring for complex cross-border projects, involving the following sectors: infrastructure (construction & engineering), energy (oil & gas and power), mining and heavy industries. He represented several multinational companies in transactions thru different jurisdictions in MEA markets, especially in Sub-Saharan and Lusophone African countries, such as: Mozambique, Angola and South Africa.

NEWS: MOZAMBIQUE LIQUEFIED NATURAL GAS PROJECT

Anadarko Lines Up Enough LNG Buyers for Mozambique Project

Anadarko Petroleum Corp. said that "in principle" it has enough customers to proceed with its liquefied natural gas project in Mozambique, eight years after making a major deepwater discovery there.

The development of Mozambique's LNG potential by Anadarko, Eni SpA and Exxon Mobil Corp. is key to stimulating growth in one of the world's poorest countries.

Anadarko signed a 15-year supply deal with Electricite de France SA in February and now needs to finalize contracts with other potential clients, said Steven Wilson, vice president and country manager in Mozambique for the Woodlands, Texas-based explorer.

"We effectively have agreement in principle for the volumes we need," Wilson said in an interview in Mozambique's capital, Maputo. "Now the intention is to follow the EDF transaction to be able to convert all those" into binding sales and purchase agreements.

Anadarko has also received government approvals for onshore facilities needed to export the gas. The project, estimated to require investment of \$20 billion, will start with two so-called trains with a capacity of more than 12 million tons a year, with a view of increasing to as many as eight trains producing 50 million tons. While Wilson is optimistic about project financing, he said the resumption of the

International Monetary Fund's program in Mozambique would further boost investor sentiment toward the southern African nation. Some of the biggest natural gas discoveries in a decade off Mozambique's northern coast has been overshadowed by the disclosure of hidden government debt in 2016, which prompted the IMF to halt funding.

"We're confident that the project will be able to raise financing in the current environment," Wilson said. "That being said, we believe that the resumption of an IMF program would be a very powerful signal to the global markets that Mozambique is committed to transparent governance; it would encourage foreign direct investment and obviously would benefit the Mozambique economy."

Mozambique Gas Company ENH Hires Lazard to Raise \$2 Billion

Mozambique's national oil company appointed Lazard Frères SAS and Lion's Head Global Partners as advisers to help raise as much as \$2 billion to refinance its portions of two gas-development projects.

Empresa Nacional de Hidrocarbonetos EP will begin a roadshow next month to regions including Asia, the Middle East and South Africa, Chairman Omar Mitha said in an interview. Lazard will advise ENH on refinancing its portion of the project Anadarko Petroleum Corp. is developing, and Lion's Head for the project Eni SpA is

building, he said. It will engage Societe Generale SA to assist with refinancing for the Anadarko portion, he said.

"We need to put that in place," Mitha, who is also chief executive officer of ENH, said in Maputo, Mozambique's capital. "It's extremely urgent."

Mozambique is seeking to restructure \$2 billion of commercial external debt, which it hasn't made payments on since October 2016. The country is counting on large gas projects that Anadarko and Eni are building to help it repay the loans, and started talks with creditors last month in London. ENH has a 10 percent stake in Eni's Area 4 project and 15 percent of Anadarko's Area 1.

Lazard is also the government's financial adviser on the debt restructuring, and the company's role advising ENH will be complementary as it will give the firm "a clear sight of what's happening at the projects," said Mitha.

"It also helps make a case for the other financial institutions so that Mozambique can go back to the market," he said. "There is a line of sight of how much money we will get in the coming future."

ENH received World Bank support to hire the financial advisers as part of the lender's Mozambique Mining and Gas Technical Assistance Project, Mitha said.