

The Petroleum Law 2014

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Glossary

Law No 21/ 2014 of 18 August

Having the need to adjust the legal framework of petroliferous activities to the current economic order of the country, as well as the registered developments in the petroliferous sector to ensure the competitiveness, transparency and national interests pursuant to the provisions of paragraph 1 of Article 179 of the Constitution of the Republic, the National Assembly of the Republic determines:

CHAPTER I GENERAL PROVISIONS

Article 1. Definitions

The meaning of terms and expressions used in this Law are set out in the glossary attached, which is an integral part hereof.

Article 2. Purpose

This Law establishes the regime for the granting of rights to conduct Petroleum Operations in the Republic of Mozambique and beyond its borders to the extent it is in accordance with international law.

Article 3. Scope of application

- 1) This Law applies to Petroleum Operations and any Facility belonging to or held by the right holders or third parties, used in connection with Petroleum Operations, subject to Mozambican jurisdiction, including mobile Facilities under foreign flag which is used for the purpose of conducting or assisting Petroleum Operations, save for as otherwise stipulated in the Law.
- 2) This Law shall also apply to the use or consumption of Petroleum when such use is necessary for or constitutes an integral part of Production or Transportation of Petroleum subject to this Law.
- 3) Outside the scope of this Law excludes refining, industrial utilization as well as the distribution and sale of Petroleum Products.

Article 4. Role of the State

- 1) The State controls the Reconnaissance, Exploration, Production, Transportation, marketing, refining and processing of liquid and gaseous hydrocarbons and their derivatives, including petrochemicals activities and Liquefied Natural Gas (LNG) and Gas to Liquids (GTL).
- 2) The State may be involved directly or indirectly in complimentary or ancillary activities referred to in the preceding paragraph.
- 3) The State, its institutions and other legal persons of public law lead the promotion of the evaluation of the existing Petroleum potential, in order to allow access to the benefits of petroliferous production and contribute to economic and social development of the country.
- 4) The Government disseminates the potential of existing natural resources, prior to consultation and negotiation with investors and local communities, as well as promoting the involvement of national business community in petroliferous business undertakings.
- 5) The State ensures that the national petroliferous resources are allocated to support national development.
- 6) The Government guarantees the financing of Empresa Nacional de Hidrocarbonetos, Public Company (ENH, EP), its sole representative, to invest in the improvement and stabilization of their participation in the oil and gas business.

Article 5. Evaluation and promotion of access to Petroleum resources

- 1) The State, including State institutions and other legal persons of public law, have a leading role in promoting the evaluation of existing petroliferous potential, to provide access to the benefits of petroliferous production and contribute to the social and economic development of the country.
- 2) Through its actions, the Government encourages investments in Petroleum Operations.

Article 6. Protection of National Interests

In the granting of rights to perform Petroleum Operations pursuant to this Law the State secures national interests related to the defence, labour, navigation, research and conservation of marine ecosystems and other natural resources, existing economic activities, food and nutritional security of the local communities and the environment in general.

Article 7. Fair indemnification

- 1) The State ensures fair indemnification, paid by the concessionaires having rights to exploit oil and gas, to people or communities who hold any title or right of use and enjoyment of the land as well as in territorial waters.
- 2) When the available area of the concession covers part or all of the space occupied by families or communities and involves their resettlement, the concessionaire is obliged to indemnify those covered, in a fair and transparent manner, as regulated by the Council of Ministers.
- 3) The fair indemnification shall be included in a signed memorandum of understanding between the Government, the concessionaire and the community.
- 4) The memorandum of understanding referred to in the previous paragraph is one of the requirements for the award of the right of exploitation of oil and gas.

Article 8. Content of fair indemnification

- 1) A fair indemnification mentioned in the previous article covers:
 - a) resettlement in decent dwellings by the holder of the right to a concession, in better condition than the previous ones;
 - b) payment of the value of improvements pursuant to the terms of the Land Law and other applicable legislation;
 - c) support in the development of activities that depend on life, covering food and nutritional security;
 - d) preservation of historical, cultural and symbolic heritage of families and communities, on terms to be agreed upon by the parties.
- 2) Resettlement may only take place when Exploration confirms the availability of Petroleum resources subject to the license for the purpose of commencement of Production, following the principles defined by the Council of Ministers.

Article 9. Distinction of rights

The right of oil and gas exploitation is distinct from the right to use and enjoyment of land or other pre-existing rights under the law.

Article 10. No overlap of rights

- 1) The granting of the right of exploitation of oil and gas does not presuppose granting the right of use and enjoyment of land or other pre-existing rights, which belong to the State.
- 2) The Government shall decree the termination of the right of exploitation of oil and gas, and Petroleum Operations, at the expiry of the license, at the end of resource depletion or in cases of breach of the law.
- 3) When the termination of the oil and gas exploitation right is declared, the holders of pre-existent rights and their successors shall have preference in the granting of the rights that was renounced in favour of the State.

Article 11. Community involvement

- 1) It is obligatory to give information to the communities prior to the start of Exploration activities, as well as the necessity of their temporary resettlement for such purpose.
- 2) It is obligatory to consult the communities prior to obtaining authorization before the commencement of petroliferous activities.
- 3) The Government shall establish mechanisms of involvement and ensure the organization and participation of communities in areas where petroliferous undertakings are implemented.

Article 12. The Labour force in the petroliferous exploitation activity

- 1) The companies involved in the exploitation of oil and gas must ensure a harmonious labour relations environment.
- 2) The companies involved in petroliferous exploitation shall guarantee employment, technical and professional training of Mozambicans, and ensure their participation in management and Petroleum Operations.
- 3) The companies involved in petroliferous exploitation shall take the necessary steps to ensure the health and safety of the workers pursuant to Mozambican legislation and good international practice.
- 4) The recruitment of personnel by the companies involved in petroliferous exploitation has to be published in the newspapers with major circulation in the country or by radio, television and internet, indicating the nearest location for submission and the required application conditions, and results has to be published.

Article 13. Promotion of the national business community

- 1) The Government shall establish mechanisms and conditions of engagement of the national business community in the oil and gas undertakings.
- 2) Oil and gas companies must be registered on the Mozambican Stock Exchange subject to applicable Mozambican law.

CHAPTER II RIGHTS, DUTIES AND GUARANTEES

Article 14. General rights of the right holders

- 1) The holders of rights to exercise Petroleum Operations shall, among others, have the following rights;
 - a) consult with the competent entities regarding geological information available pursuant to the Concession Contract;
 - b) obtain the assistance of administrative authorities for performing the field works and the constitution of passage servitudes, in accordance with law;
 - c) construct and place the Facilities and necessary installations for carrying out Petroleum Operations;
 - d) use, pursuant to relevant legal and regulated conditions, the areas demarcated for the placement of petroliferous installations of buildings and equipment,
 - e) conduct the geological activities necessary for the implementation of the approved plans, without other limitations than those arising from legal rules, the Concession Contract or decision by the entity that oversees the Petroleum sector;
 - f) extract, export and benefit from the petroliferous resources, derived from the Concession Contract, in accordance with the terms of the law.

Article 15. General obligations of the right holders

- 1) The holders of rights to conduct Petroleum Operations have, among others, the following duties:
 - a) not to commence Petroleum Operations without the relevant Concession Contract;
 - b) securing [jobs] and technical training for national citizens, preferably those residing in the concession area;
 - c) apply the most suitable methods for obtaining the highest income compatible with the economic conditions of the market, with environmental protection and the rational exploitation of Petroleum resources;
 - d) to record all activities, including research carried out;
 - e) allow the control and monitoring of their activity by the competent authorities, including access to all data records of a technical, economic and financial nature, relating to the Petroleum Operations;
 - f) gradually relinquish the initial area comprised by the right to exercise Petroleum Operations according to the terms and conditions of this Law and the respective regulations;
 - g) comply with the work plans, according to each phase of Petroleum Operations, as approved, complying with the legal and regulatory provisions and the best methodology for conducting Petroleum Operations;
 - h) comply with deadlines set for carrying out Petroleum Operations as established in the program for Production while maintaining the exploitation activity, except in cases of authorized or imposed suspension, or when determined by reasons of force majeure;
 - i) comply with the impositions of the environmental impact assessment

- j) develop actions to protect the nature and the environment according to the environmental impact assessment study approved by the competent authorities;
- k) promote safety, health, hygiene and public health, in accordance with national and international law applicable in the Republic of Mozambique;
- l) report on Petroleum Operations incidents related to the occupancy of land and characteristic to the environment;
- m) repair, under the terms of the law, the damage caused to third parties resulting from the conduct of Petroleum Operations.

Article 16. Guarantees to right holders

- 1) Holders to rights of Petroleum Operations are recognised the following legal guarantees:
 - a) transfer of rights and obligations derived from the Concession Contracts, having obtained the necessary authorization;
 - b) the support for performance of Petroleum Operations and respect for the rights inherent to them;
 - c) the right to dispose freely and market the oil and gas, subject to the rules and procedures established by this Law and complementary legislation on this matter;
 - d) resort to international arbitration to resolve disputes, after having exhausted the other alternative means of resolution.

Article 17. Conditions for Petroleum Operations

- 1) Petroleum Operations shall be conducted pursuant to a Concession Contract awarded as a result of a public tender, simultaneous negotiation, or direct negotiation.
- 2) The granting of rights to conduct Petroleum Operations pursuant to this Law shall always respect national interests in relation to defence, navigation, research and conservation of marine resources, existing economic activities and the environment in general.

CHAPTER III OWNERSHIP AND CONTROL OF PETROLEUM RESOURCES

Article 18. Ownership of Petroleum resources

- 1) The petroliferous resources in situ in the soil and the subsoil, in internal waters, 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

- 1) The Government shall implement policies to ensure the realisation of Petroleum Operations including the formulation of necessary regulation for its implementation.
- 2) The Government shall ensure that a percentage of the revenue generated from Production of Petroleum is channelled towards the development of communities in the areas in which Petroleum Operations are conducted.
- 3) The percentage referred to in the previous paragraph shall be determined in the State Budget, in accordance with the revenue expected from and relating to Petroleum Operations.

Article 20. Participation of the State

- 1) The State reserves to itself the right to participate in Petroleum Operations in which any legal person is involved.
- 2) The participation of the State may occur during any phase of Petroleum Operations on terms and conditions established in the contract.
- 3) The State shall promote in a progressive way, an increase in its participation in the oil and gas undertakings.

Article 21. Public tender

- 1) The Government shall publicly tender for activities in Exploration, Production and exploitation of oil and gas.
- 2) The procedures for conducting such public tender are defined in regulation, without prejudice to the application of the general law on the subject.

Article 22. The National Petroleum Institute

- 1) The National Petroleum Institute (INP), is a legal person of public law, with legal capacity, and administrative, financial and asset autonomy, supervised by the Ministry responsible for Petroliferous activities.
- 2) The National Petroleum Institute is the regulatory body responsible for the administration and promotion of Petroleum Operations under the supervision of the Ministry responsible for the oil and gas sector, and is responsible for guidelines for participation of public and private sector in Exploration and exploitation of Petroleum Products and derivatives.
- 3) The powers, organization and functions of the National Petroleum Institute are defined by the Government, and adjusted according to this Law.

Article 23. High Authority for Extractive Industries

- 1) The High Authority for Extractive Industry shall through its actions control the petroliferous activities.

Article 24. Empresa Nacional de Hidrocarbonetos

- 1) The Empresa Nacional de Hidrocarbonetos (ENH, E.P) is the national entity responsible for Exploration, Reconnaissance, Production and marketing of Petroleum Products and represents the State in Petroleum Operations.
- 2) ENH is empowered to participate in all Petroleum Operations and the respective phases of activities from Reconnaissance, Exploitation, Production, refining, Transportation, storage and marketing of oil and gas and their derivatives, including LNG and GTL inside and outside the country.
- 3) ENH, E.P. is also empowered to manage the share of oil and gas for the development of the domestic market and the industrialization of the country.
- 4) Any investor with interest in the exploitation of Petroleum resources in Mozambique shall enter into partnership with ENH, EP, which is the sole representative of the State

Article 25. Taxes

- 1) The holders of rights to conduct Petroleum Operations are subject to the payment of specific taxes as well as the following taxes:
 - a) income tax (imposto sobre o Rendimento);
 - b) Value Added Tax (imposto sobre o Valor Acrescentado) ;
 - c) tax imposed by a local authority (imposto Authárquicos), when applicable; ; and
 - d) Other taxes and fees established by law.
- 2) The specific rules of taxation of Petroleum Operations are established by law.

CHAPTER IV PETROLEUM OPERATIONS

Article 26. Subjects

- 1) Mozambican Persons and foreign legal persons registered in Mozambique who proves competence, technical capacity and adequate financial resources for the effective conduct of Petroleum Operations may be holders of the right to conduct Petroleum Operations.
- 2) Foreign legal persons directly or indirectly holding or controlling a legal person holding rights pursuant to a Concession Contract, shall be established, registered and managed from a Transparent Jurisdiction.
- 3) The applicants for the rights to conduct Petroleum Operations shall, at the time of the submission of the application provide documentation evidencing the company incorporation, including the identity of the shareholders and their respective shareholding interest.
- 4) Mozambican Persons or foreign legal persons who associate with Mozambican Persons shall under equal circumstances have a preferential right to be awarded Concession Contracts.

Article 27. Powers of the Government

1. The Government is empowered to approve the Petroleum Operations Regulations, which should include among other matters, the following:
 - a) procedures for the granting of rights, terms and conditions of the Concession Contracts;
 - b) practices of Petroleum Operations, including resource management, safety, health and environmental protection;
 - c) submission of plans, reports, data, samples, information and accounts by the holders of rights under their respective contracts or Concession Contracts;
 - d) rules for access and use of infrastructure by third parties;
 - e) procedures for tenders for the procurement of materials, goods and services;
 - f) rules for relinquishing areas under the Concession Contracts;
 - g) terms and conditions for participation of the State in any Concession Contract.
2. It is also empowered to, in relation to the management of Petroleum Operations :
 - a) regulate the modalities of Concession Contracts, and the rules for the tender process for the granting of rights for Petroleum Operations;
 - b) signing approval for Concession Contracts for Exploration and Production, Oil Pipeline or Gas Pipeline Systems and for Facilities;
 - c) approve Development Plans, Oil Pipeline or Gas Pipeline System Development Plans, Facility [Development] Plans, Decommissioning Plans and any significant amendments thereto;
 - d) approve unitisation agreements and any significant amendments thereto;
 - e) define the authorities with regard to the execution of other contracts subject to this Law;
 - f) define the authorities with regard to the authorisation of the transfer of rights and subsequent amendments of Concession Contracts;
 - g) issue decisions in relation to Concession Contracts or Petroleum Operations for the implementation of this Law;
 - h) inspect any Facilities or sites where Petroleum Operations is being conducted;
 - i) stipulate rules and approve contracts for third party access to Facilities, and the methodology for the setting of tariffs;
 - j) approve the methodology for the determination of Petroleum prices;
 - k) periodically prepare and publish an inventory of income resulting from Petroleum Operations;
 - l) define the forms and content of the guarantees to be provided by holders of rights to conduct Petroleum Operations;
 - m) pursuant to terms and conditions to be agreed with the holders of rights to conduct Petroleum Operations, to grant an extension of the periods of the Concession Contracts;
 - n) approve the transfer of ownership of a Facility or the right to use a Facility; and
 - o) approve regulations relating to Petroleum Operations and exercise such other authority that is attributed to it by this Law and other applicable legislation.

Article 28. Types of Concession Contracts

1. The conduct of Petroleum Operations is subject to the prior execution of a Concession Contract pursuant to this Law which may include rights of:
 - a) Reconnaissance;
 - b) Exploration and Production;
 - c) Construction and operation of Oil Pipeline or Gas Pipeline Systems;
 - d) Construction and operation of Facilities.
2. Without prejudice to the safeguarding of confidentiality of commercial, strategic and competitive information regarding the Petroleum Operations, the main Concession Contracts entered into is subject to the approval of inspection by the entity legally responsible for this effect and the main terms of the Concession Contract shall be made public.

Article 29. Reconnaissance Concession Contract

1. A Reconnaissance Concession Contract grants the non-exclusive right to conduct preliminary research work and assessment operations in the area subject to the Concession Contract, through air-borne, terrestrial and other surveys including geophysical, geo-chemical, paleontological, geological and topographical studies.
2. The Reconnaissance Concession Contract is executed for a maximum non-extendable period of two years and permits the drilling of wells to a depth of one hundred metres below the surface or the bottom of the sea.

Article 30. Exploration and Production Concession Contract

1. The Exploration and Production Concession Contract grants an exclusive right to conduct Petroleum Operations in the Concession Contract Area, as well as the non-exclusive right to construct and operate Facilities for Production and Transportation of Petroleum from the Concession Contract Area, except where access to an Oil Pipeline or Gas Pipeline System or other existing Facilities is available on acceptable commercial terms and conditions.
2. The co-operation agreements entered into between legal persons with a view to applying for a right to, or to conduct, Petroleum Operations are subject to Government approval.
3. The exclusive Exploration right pursuant to an Exploration and Production Concession Contract shall not exceed eight years and shall be subject to the provisions concerning the relinquishment areas.
4. In the event of a Discovery, the holder of a right to Exploration and Production may maintain the exclusive right to complete the work initiated within a specified area, in relation to the Exploration period, to fulfil the obligatory work commitment, the assessment or determination of the commercial value and to allow for the Development and Production of Petroleum.
5. The holder of a right to Exploration and Production may, in accordance with the Development Plan approved by the Government, maintain the exclusive right to develop and produce oil and gas in the Development and Production Area subject to renewal for equal or shorter periods as may be most advantageous to national interest.

Article 31. Oil Pipeline or Gas Pipeline System Concession Contract

1. The Oil Pipeline or Gas Pipeline System Concession Contract grants the right to construct and operate an Oil Pipeline or Gas Pipeline System 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.
2. An Oil Pipeline or Gas Pipeline System Concession Contract is accompanied by the respective Oil Pipeline or Gas Pipeline Development Plan, which is an integral part thereof.

Article 32. Facility Concession Contract

1. The Facility Concession Contract grants the right to construct and operate Facilities for Production of Petroleum, such as processing and conversion, which are not included in an approved Development Plan for Exploration and Production

Article 33. Construction of Facilities

1. The construction and operation of an Oil or Gas Pipeline System and also the concession and operation of Facilities shall be carried out based on a Concession Contract resulting from a public tender.

Article 34. Liquefaction of gas

1. The Government may permit concessionaires who have discovered Petroleum Deposits and non-associated Natural Gas to develop projects for design, construction, installation, ownership, financing, operation, maintenance, use of wells, Facilities and related equipment, whether on land or at sea for Production, processing, liquefaction delivery and sale of the gas in the domestic market and for export.

Article 35. Internal consumption of oil and gas

1. The Government shall ensure that no less than a 25% share of oil and gas produced in the national territory is dedicated to the national market.
2. The Government regulates the acquisition, pricing and other matters relating to utilisation of the share of oil and gas in the preceding paragraph.

Article 36. Marketing and commercialisation

1. The Government shall ensure that the Empresa Nacional de Hidrocarbonetos, E.P. as representative of the State in the business of oil and gas, assume the leadership role of marketing and commercialisation of such products.
2. The Government should promote general use of gas for domestic market development and industrialization of the country.

Article 37. Capitalisation of revenue

1. The Parliament shall define a mechanism for sustainable and transparent management of revenues from the exploitation of the petroliferous resources of the country, taking into account the satisfaction of the needs of present and future generations.

Article 38. Unitisation of Petroleum Deposits

1. The Petroleum Deposit which is located partly in one Concession Contract Area and partly in another Concession Contract Area shall be developed and operated jointly or in a coordinated manner pursuant to an unitization agreement which shall be subject to Government approval.
2. If there is sufficient evidence that one or more of Petroleum Deposits covered by the commercial Development of a Discovery, extend to neighbouring Exploration and Production Areas, the rights holders involved shall, within six months after the declaration of commerciality, enter into an unitization agreement on the most rational joint Production and Development of such oil and gas deposits.
3. The Government shall after the expiry of the time limit in the preceding paragraph decide and notify [the right holders] on the unitisation and joint Development of the Petroleum Deposits based on public interest and rational and sustainable management of Petroleum resources.

Article 39. Burning of Petroleum

1. The burning of Petroleum is only permitted on terms to be defined by the Government, provided that it is demonstrated that alternative methods for the disposal of Petroleum are unsafe or not acceptable to the environment.
2. The burning of Petroleum, for the purpose of testing, verification or commissioning of a Facility, or for reasons of safety or emergency, is subject to authorisation by the Government.

Article 40. Obligations of holders of rights to conduct Petroleum Operations

1. The holder of a right for Reconnaissance, Exploration and Production, construction and operation of a Facility or an Oil Pipeline or Gas Pipeline System is obliged, to the extent applicable to it, with the necessary adjustment, to:
 - 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 Petroleum industry Practices;
 - 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, a Development Plan for the Petroleum Deposit as well as any subsequent significant amendment thereto;
 - d) establish a fund for the shutdown and Decommissioning of Facilities.
 - e) submit a Decommissioning Plan to the Government, before the expiration of the Production period, or of the planned termination of use of a Facility or of the Concession Contract;
 - f) indemnify the injured parties for any losses or damages resulting from Petroleum Operations as provided by law;
 - g) publish all tenders related to principal contracts for the procurement of products, materials and services, in the most widely circulated media in the Country and on the right holder's website on the internet; and
 - 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 terms specified in legislation.

Article 41. Procurement of Goods and Services

- 1) The procurement of goods or services by holders of rights to conduct Petroleum Operations above a certain amount shall be made by tender, and it shall be published in the media, especially in newspapers with major circulation in the Country and on the respective right holder's website on the internet.
- 2) The foreign individuals or legal persons who provide services to Petroleum Operations shall associate themselves with Mozambican individuals or legal persons.
- 3) In the evaluation of tenders, the following shall be taken into account: service quality, price, delivery time and the offered guarantees.
- 4) The holders of rights to conduct Petroleum Operations shall give preference to local products and services when comparable with international products and services in terms of quality of products, materials and services, which are available in time and in quantities required, and the price, inclusive of taxes, does not exceed ten percent of the prices of imported goods available.

Article 42. Resettlement

- 1) The investor in onshore petroliferous undertakings shall after prior consultation guarantee for the costs of resettlement of populations.
- 2) Participants in the consultation process shall include, in addition to the representatives of the people concerned, the local organs of the State and the communities' authorities.
- 3) Those subjected to resettlement shall through fair compensation be guaranteed decent living conditions which shall be superior to the conditions in the area in which they live.

Article 43. Overlapping and incompatible rights

- 1) The granting of rights to conduct Petroleum Operations is incompatible with prior or subsequent granting of rights to conduct activities related to other natural resources or uses in the same area
- 2) If there is incompatibility in the conduct of the rights of the previous paragraph, the Government shall decide which rights should prevail and under what conditions, without prejudice to the compensation payable to holders of rights.
- 3) The granting of rights relating to Petroleum Operations may only be made safeguarding the national interests in defence, security, environment, navigation, research, management and conservation of natural resources, and in particular living and non-living aquatic biology, of which the sectorial competent authorities under specific legislation should be consulted.

CHAPTER V DIRECT INVESTMENTS

Article 44. Form of investment

- 1) The national and foreign direct investment may take, individually or cumulatively, the following forms, provided that it is quantifiable in monetary terms:
 - a) amounts paid in freely convertible currency, the total or partial acquisition of shares in a company incorporated in Mozambique or authorization of the petroliferous activity in cases of partial or total transfer, provided that the amount is paid into a bank registered in Mozambique or in an external account authorized under the exchange law;
 - b) equipment and related accessories, materials and other imported goods;
 - c) in the case of national direct investment in Facilities, installations and the transfer of rights to use land, concessions, licenses and other rights, of commercial, economic or technological nature;
 - d) transfer, in specific cases and under the terms agreed and sanctioned by the competent authorities, of the rights to use patented technology and trademarks according to terms to be regulated;
 - e) amounts spent on geological studies or other activities within the obligations pursuant to this Law.
- 2) The amount of direct investment covers expenses, which are properly accounted for and confirmed by an auditing firm of recognized competence, incurred in prospecting and Exploration, treatment, Development, processing and other Petroleum Operations related to Exploration and Petroleum Production.

- 3) The state investment is covered through the value enhancement of existing resources and other forms to be determined by the Government.

Article 45. Guarantees

- 1) The security and legal protection of ownership of assets and rights, including industrial property rights related to the investments made and approved in the petroliferous activity shall be guaranteed.
- 2) The expropriation may take place in exceptional cases based on the public interest and is subject to payment of a fair indemnification.
- 3) The determination of the amount of indemnification provided for in paragraph 2 shall be made within 90 days by mutual agreement by a committee of recognized competence and suitability.
- 4) The payment of compensation specified in the previous paragraph shall be made within 190 days, or other agreed period, counted from the date of decision or submission of the report.
- 5) The period of assessment and submission of the evaluation to the competent State organ shall not exceed 90 days from the date of the receipt of the assessment process.

Article 46. Performance guarantees

- 1) For compliance with the general terms and conditions of the authorisation for exploitation of Petroleum, the operators must provide a financial guarantee in accordance with terms to be regulated.

Article 47. Reservation of areas for petroliferous purposes

- 1) In the public interest, the Government may preserve land for application for petroliferous exploitation, specifying the types of incompatible activities.

Article 48. Local development

- 1) A percentage of the revenues generated by the petroliferous activity is allocated through the State Budget for the development of the communities where the respective petroliferous undertakings are located.

Article 49. Development of industrial activity

- 1) Petroleum resources shall be used, when necessary, as raw material for manufacturing.
- 2) The State may order Petroleum Products at negotiable prices to be used in local industry whenever the commercial interests of the country so require.
- 3) The activity of industrial transforming of raw materials from Petroleum exploitation activity is regulated by specific legislation.

Article 50. Initiative for transparent extracting

- 1) The Companies in the Petroleum exploitation activity are required to publicize their income, the amounts paid to the State as well as charges relating to corporate and social responsibility, subject to supervision.

Article 51. Right to use Facilities

- 1) The owner of a Facility and the holder of a right to use a Facility pursuant to this law has the obligation to provide for third-parties the right to use the Facility for the purpose of Petroleum Operations without any discrimination and on reasonable commercial terms, provided that:
 - a) there is capacity available in the Facility; and
 - b) there are no unsolvable technical problems that prevent the use of the Facility to satisfy third party requests.
- 2) If the available capacity of the Facility is insufficient to accommodate third party requests, the owner of the Facility is obliged to increase the capacity of the Facility so that, on reasonable commercial terms, third parties requests for use may be satisfied, provided that:
 - a) the third parties demonstrate need for increased capacity that is supported by adequate documentation of reserves in accordance with Good Petroleum Industry Practices
 - b) such increase shall not cause an adverse effect on the technical integrity or the safe operation of the Facility;

- c) the third parties have ensured sufficient funds to support the cost of the capacity increase requested.
- 3) Any dispute between the owners of a Facility, the holder of the right to use a Facility and third parties, in relation to the use of a Facility, shall be resolved by agreement and, in absence of such agreement, by an independent entity according to terms to be regulated.

Article 52. Ownership of data

- 1) All data obtained pursuant to any contract or Concession Contract provided for under this Law is the property of the State.
- 2) The terms and conditions for the exercise of rights in respect of data shall be established by regulations and in the respective contract or Concession Contract.

Article 53. Transfers

- 1) The direct transfer of the rights and obligations pursuant to a Concession Contract to an affiliate or to third parties shall be made in accordance with Mozambican legislation and is subject to Government approval.
- 2) This provision is also applicable to any direct or indirect transfer of participation interests in a Concession Contract, including the transfer of shares, quotas or other forms of participation in the entity holding rights pursuant to a Concession Contract.

CHAPTER VI LAND AND ENVIRONMENT

Article 54. Use and benefit of land and right of way

- 1) The use and benefit of land for the purpose of conducting Petroleum Operations is regulated by the legislation on land.
- 2) For the purpose of conducting Petroleum Operations, the duration of the right of use and benefit of the land shall coincide with the duration of the respective Concession Contract.
- 3) The areas surrounding the Facilities in a fifty-meter strip are considered partial protection zones.
- 4) The area designated as a Facility safety zone shall be defined by the regulations.
- 5) The holder of a right to conduct Petroleum Operations who, by virtue of the exercise of Petroleum Operation rights in the Concession Contract Area, causes damage to crops, soils, buildings, equipment or improvements has the obligation to indemnify the holders of rights to the referred assets in accordance with applicable legislation.
- 6) If Petroleum Operations cause environmental damage or pollution the holder of rights to conduct Petroleum Operations is obliged to indemnify the party suffering loss or damage, regardless of fault.
- 7) Without prejudice to the payment of the indemnifications that are due, the holder of the right to conduct Petroleum Operations may require the right 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 oversight

- 1) The Government shall assure strict adherence to standards and environmental protection and rehabilitation pursuant to the law and the conventions and good international practice.

Article 56. Responsibility for damages

- 1) The petroliferous operators shall be liable for damage to infrastructure, the environment, territorial waters and public health in the managing of Transportation, Exploration and exploitation of oil and gas.

Article 57. Protection of the natural resources

- 1) The Government shall establish a plan for protection of natural resources, in particular with regard to control of piracy, hydrocarbons spills and protection of the exclusive economic zone.
- 2) The investor shall ensure coexistence with other marine fauna and ecosystems especially in conservation areas and with regard to development of fishing activity.

Article 58. Partially or totally protected zones

- 1) The conduct of petroliferous activity in the areas of total and partial protection, shall abide by the provisions of applicable legislation.

**CHAPTER VII
EXPLOSIVES AND RADIOACTIVE MATERIAL**

Article 59. The use of explosives

- 1) The use of explosive substances in the petroliferous activity is subject to Mozambican legislation.
- 2) Plans for petroliferous exploitation should include adoption of techniques and safety measures related to planning execution and monitoring of the use of explosives, which must be submitted to the competent authorities for approval.

Article 60. Explosives permitted in the Petroleum activities

- 1) The only explosive substances allowed in the petroliferous activity, are those included in the legislation in force in Mozambique.

Article 61. Acquisition, transport and use of explosives

- 1) The acquisition, transport, handling, storage and use of explosives products, powders and igniting devices shall be done by licensed personnel of duly licensed entities, each holding a specific authorisation.

Article 62. Radioactive material

- 1) In addition to the provisions of paragraph 2 of Article 57 of this Law, the use and exploitation of petroliferous resources shall also be exercised in accordance with the prevailing standards for the protection against exposure to ionizing radiation.
- 2) The exposure of people, property and the environment to ionizing radiation in prospecting, Reconnaissance, Exploration and other Petroleum Operations, is subject to prior authorisation by the Atomic Energy Regulatory Authority.

Article 63. Inspection and oversight

- 1) The petroliferous exploitation activity is subject to inspection and oversight, to ensure rational and sustainable use and exploitation of the petroliferous resources.
- 2) The General Inspector of the Ministry with responsibility for the petroliferous resources is empowered to control compliance pursuant to this law and other legal decisions regulating the Petroleum activity, and technical safety in petroliferous activities.
- 3) For carrying out inspections, the Government may appoint an independent entity or a commission established for that purpose, in accordance with the regulations.

Article 64. Access to zones subject to maritime jurisdiction

- 1) The access to Petroleum Operations sites or a Facility located in internal waters, the territorial sea, the continental shelf, the exclusive economic zone and in other zones subject to maritime jurisdiction is according to terms stipulated by applicable legislation.

Article 65. Inspection

- 1) The Facilities and sites where Petroleum Operations are being conducted are subject to inspection and audit.
- 2) The inspection and audit will be conducted by a commission to be created by the Government or by an independent entity appointed by the Government.

Article 66. Environmental protection and safety

- 1) In addition to carrying out Petroleum Operations in accordance with Good Petroleum Industry Practices, the holder of rights to conduct Reconnaissance, Exploration and Production, construction, placement and operation of

a Facility, or Oil Pipeline or Gas Pipeline System, shall conduct Petroleum Operations in accordance with environmental and other applicable legislation in order to:

- a) ensure that there is no ecological damage or destruction caused by Petroleum Operations, but where unavoidable, ensure that measures for protection of the environment are in accordance with internationally acceptable standards. For this purpose, the holder of a right shall prepare and submit to the relevant authorities for approval, environmental impact assessments, including environmental impact mitigation measures;
 - b) control the flow and prevent the escape or loss of Petroleum.
 - c) avoid damage to Petroleum Deposit;
 - d) avoid the destruction of land, groundwater, rivers and lakes, flora and fauna, crops, buildings or other infrastructure, and goods;
 - e) clean up the sites after any escape or discharge, the cessation of use of a Facility, or termination of Petroleum Operations and comply with the environmental restoration requirements;
 - f) ensure the safety of personnel in the planning and conduct of Petroleum Operations; and
 - g) report to the Government on the number and quantities of operational and accidental discharge, escape and waste resulting from Petroleum Operations.
- 2) The holder of a right pursuant this Law shall act in a secure and effective manner when conducting Petroleum Operations in order to guarantee the disposal of polluted water and waste in accordance with approved methods, as well as the safe shutdown and secure Decommissioning of all boreholes and wells before these are abandoned.

CHAPTER VIII TRANSITORY AND FINAL PROVISIONS

Article 67. Offences

- 1) The following dispositions, among others, are considered violations to this Law and are subject to penalties:
 - a) Conduct of Petroleum Operations without the respective title or necessary approvals;
 - b) Withholding information obtained during the conduct of Petroleum Operations or improper disclosure of information;
 - c) Failure to provide any warranties required by law;
 - d) Failure to comply with specific administrative orders and instructions issued by the Government;
 - e) Non-compliance with the regulations in force relating to its activities as well as Good Petroleum Industry Practices.
- 2) Without prejudice to the criminal and civil procedures and other measures provided in specific legislation, the violations of the provisions of this Law and the contractual obligations are subject to penalties in accordance with the regulations which may include a warning, fines, suspension of work and termination of the Concession Contract, according to terms to be regulated.

Article 68. Existing Contracts

- 1) The rights acquired under existing contracts or Concession Contracts executed under Law 3/2001 of 21 February relating to Petroleum Operations remain valid.
- 2) At the end of the period of the contracts referred to in the previous paragraph the new contracts and concessions are executed in accordance with the provisions of this Law.

Article 69. Resolution of disputes

- 1) Disputes arising from contracts and Concession Contracts shall preferably be resolved by negotiation.,
- 2) If the dispute cannot be resolved by agreement, the issue may be submitted to arbitration or to the competent judicial authorities, on the terms and conditions established in the Concession Contract, or in the absence of an arbitration clause in the Concession Contract, by the competent judicial authorities.
- 3) Arbitration between the Mozambican State and foreign investors shall be conducted in accordance with:
 - a) the law governing 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 15 March 1965, or pursuant to the Convention on the Settlement of Disputes between States and Nationals of other States;
- c) the rules set out in the ICSID Additional Facility adopted on 27 September 1978 by the Administrative Council at the International Centre for Settlement of Investment Disputes between States and Nationals of other States, whenever the foreign entity does not meet the requirements provided for in Article 26 of the Convention; or
- d) the rules of other international instances of recognised reputation as agreed by the parties to the Concession Contracts referred to in this Law, provided that the parties have expressly specified the conditions for their implementation, including the method for the designation of the arbitrators and the time limit within which the decision must be made.

Article 70. Regulations for Petroleum Operations

- 1) The Government is empowered to regulate the matters set out in this Law, within 60 days.

Article 71. Revocation

- 1) Law 3/2001 of 21 February and any other legislation contrary to this Law are revoked.

Article 72. Entry into force

This Law enters into on the day of its publication.

Approved by the Assembly of the Republic on the 14th of August 2014.

The President of the Assembly of the Republic, *Verónica Nataniel Macamo Dhlovo*.

Promulgated on 18th of August 2014

Be it published.

The President of the Republic, ARMANDO EMÍLIO GUEBUZA

GLOSSARY

Development and Production Area – a part of the Concession Contract Area, which following a Commercial Discovery has been delineated;

Concession Contract Area - the acreage within which the holder of rights is authorised to conduct Petroleum Operations;

Good Petroleum Industry Practices - all those practices and procedures that are generally employed in the international petroleum industry aimed at optimal Petroleum resource management and prudent Petroleum Operations, including the conservation of pressure, ensuring regularity of the Petroleum Operations and observing aspects of health, safety, environmental preservation, technical efficiency and cost effectiveness;

Concession Contract - an administrative contract whereby the State awards to a Mozambican Person or a foreign legal person registered in Mozambique the right to conduct Petroleum Operations;

Petroleum Deposit - an accumulation of Petroleum in a geological unit limited by rock characteristics, structural or stratigraphic boundaries, contact surfaces between Petroleum and water in the formation, or a combination of these, so that the Petroleum comprised is in pressure communication through liquid or gas; or a portion of a geological formation such as shale or coal, containing Petroleum, which is delineated for the purpose of Exploration or Production of Petroleum;

Discovery - the first Petroleum encountered in a geological structure by drilling that is recoverable at the surface by Petroleum industry methods;

Development – activities related to the planning, preparation, construction and installation of one or more Facilities for the Production of Petroleum, including the drilling of wells for the purpose of conducting Petroleum Operations;

Decommissioning - activities related to the planning, preparation and implementation of the cessation of Petroleum Operations, including termination of use of Facilities and their removal and disposal;

Natural Gas - Petroleum which under normal atmospheric conditions is in a gaseous state, as well as unconventional gas, including coal-bed methane and shale gas;

Facility - installations, including platforms, installations for liquefaction, plants or vessels, and other equipment intended for conducting Petroleum Operations, excluding supply and support vessels, and vessels or vehicles that transport Petroleum in bulk. Unless otherwise provided, a Facility also includes cables or pipelines;

Transparent Jurisdiction - those jurisdictions where the Government independently can verify the title, management, control, and fiscal status of such foreign legal entities which intend to participate or which is participating in the Petroleum Operations.

Petroleum Operations –the planning, preparation and implementation of activities related to Reconnaissance, Exploration, Development, Production, storage, Transportation and the cessation of such activities or the termination of use of a Facility, including implementation of a plan for Decommissioning, the sale or delivery of Petroleum to the stipulated point of export, or supply point, such point being the point where the Petroleum is delivered for consumption or use, or shipped as a commodity including in the form of liquefied Natural Gas;

Exploration – Reconnaissance activities, as well as other Petroleum Operations and use of Facilities for the purpose of Discovery of Petroleum and the assessment of a Discovery, including drilling;

National Legal Person – [an entity] which is registered in Mozambique and has established its effective management in the country, and wherein the majority of its capital is held.

Mozambican Person - any legal person established and registered pursuant to Mozambican legislation, with its headquarters in the country and where at least fifty-one percent of its share capital is held or controlled by national citizens or by Mozambican companies or institutions, whether private or public;

National Individual - A natural person of Mozambican nationality

Petroleum - Crude Oil or Natural Gas, or other hydrocarbons existing in their natural state in the subsoil or seabed, as well as other substances produced or capable of being produced from or in association with Crude Oil, Natural Gas, or from shales or tar sands;

Crude Oil - crude mineral oil, asphalt, ozocerite and all kinds of Petroleum and bitumens, in their natural state whether solid or liquid or obtained from Natural Gas by condensation or extraction, excluding coal or any substance that may be extracted from coal;

Development Plan - a document containing alternatives for the Development of a Petroleum Deposit, the schedule of activities and an estimate of costs for the Production of Petroleum discovered in a Concession Contract Area and the construction, placement and operation of required Facilities;

Facility Development Plan - a document containing a schedule of activities and estimates of costs for the construction, placement and operation of a Facility, when such activities and an estimate of costs are not covered by a Development Plan;

Oil Pipeline or Gas Pipeline Development Plan – a document containing the schedule of activities and estimates of costs for the construction, placement and operation of an Oil Pipeline or Gas Pipeline System;

Decommissioning Plan – a document containing the alternatives for the cessation of Petroleum Operations and the reuse, removal or disposal of Facilities, including a schedule of activities and estimate of costs;

Production - extraction of Petroleum from subsoil Petroleum Deposits, including drilling of wells for Petroleum Production purposes, injection for improved recovery, separation and treatment including liquefaction, storage, measurement and preparation for shipment of Petroleum for transport in bulk, and the operation and use of a Facility for the purpose of Petroleum Production;

Petroleum Products – derivatives and residues from refining or processing Petroleum, such as propane, butane and mixtures thereof, also referred to as Natural Gas liquids (NGL), gasoline for cars, aviation gasoline, naphtha, aviation oils, diesel fuel oils, lubricating oils and greases, paraffins, solvents, bitumen products and any other similar products with the same descriptions and sources that may have the same use, including synthetics, and even compressed Natural Gas (CNG) and other gaseous fuels for the use exclusively as fuel, excluding pure biofuels;

Reconnaissance – geosciences and geotechnical activities, including shallow drilling that allow preliminary assessment of the Petroleum potential of an area, including the acquisition and interpretation of information, samples and data;

Oil Pipeline or Gas Pipeline System – oil pipeline(s) or gas pipeline(s) including valve stations, compression or pump stations, and associated Facilities built for the purpose of Transportation of Petroleum, excluding flow-lines or pipelines for the distribution of Crude Oil, Natural Gas or Petroleum Products

Transportation - activities related to the transport of Petroleum through an Oil Pipeline or Gas Pipeline System, in bulk by vessels or vehicles, from the Production Facilities to the stipulated point of delivery.