

## PETROLEUM LEGISLATION – ROUND TWO: No Consultation and No Transparency, Again?

One year ago, the Centre for Public Integrity chastised the Government for not holding public consultations on the draft Petroleum Law. The Government is preparing new petroleum legislation – this time to create the legal framework for the LNG facilities to be built in Palma. Yet the government has not informed the public of the process nor has it encouraged public discussion on the monumental choices facing the country. Given past practice, we worry that there will be no public consultations at all.

The terms governing the largest investment in Mozambique's history are being negotiated now, behind closed doors. Obviously negotiations need to be confidential. But societal decisions that will affect the long-term future of the country are being made with no public discussion and no debate in Parliament.

As reports from the Centre for Public Integrity have shown, the terms for 25 years of natural gas production from the Rovuma Basin were set in the Exploration and Production Concession Contracts signed in 2006. The distance to any significant market however means that the investment can only be justified if the bulk of the gas is sold as LNG (liquid natural gas).

The scale of investment to build LNG plants in Palma is staggering. The companies that are seeking to invest (Anadarko and ENI) need to borrow tens of billions of dollars. In order to increase the confidence of potential investors, they are asking the government to establish the terms under which the LNG facility will be built not by a normal contract, but by legislation approved by Parliament.

Minister Bias is on record hoping that the legislation can be approved during this session

of Parliament that ends in July. Consultations with companies have been completed and reports indicate that the plans are already well developed. But the debate so far has been limited to a select few. Decisions of vast consequence are once again being taken without any public consultation.

These negotiations must be concluded before companies will be able to make "final investment decisions." Neither of the companies has yet taken the formal decision to develop Mozambique LNG and industry reports increasingly suggest that these decisions are unlikely to be taken until sometime in 2015.

Obviously important parts of these negotiations must be concluded behind closed doors. And no one disputes that the government should move expeditiously to secure a good result for Mozambicans. But the most important decisions should be open to public discussion and debate. These are some of the most important questions:

1. **What equity stake will ENH have in the project and how will it be financed?** According to the 2006 EPC contracts, ENH has the right to take a 10% to 15% stake in the Rovuma project. There are

several different ways in which the national oil company can participate in the Rovuma project. The strong recommendation of the IMF was that ENH participate in the offshore gas-fields (upstream: the main source of profits) and not in the onshore LNG plants (mid-stream: the main destination for capital investment). It appears that the government has chosen to maintain an equity stake in both offshore fields and onshore LNG, massively increasing the money that ENH will need to borrow. Furthermore, there has been no public discussion on ENH's potential source of financing or the terms that will accompany the borrowing of perhaps 20% of the country's total GDP.

2. **What role does ENH Logistics have in the development of the LNG facilities and is the effort to expand this role delaying the negotiating process?** EHN Logistics, a wholly owned subsidiary of ENH, has been created to capitalize on the multi-billion dollar investment required to export Mozambican gas. It is only right that Mozambique seeks to maximize its role in the development of our natural resources. But little is known about ENH operations. As they do not provide significant annual reports to Parliament, it is impossible to know whether they are good stewards of resources that belong to all Mozambicans. Reports suggest that ENH has been more focused on positioning its logistics company than on getting an agreement on the development of LNG facilities.
3. **What are the main terms that the government is offering the consortium of companies proposing to develop the LNG facilities?** The deal for offshore gas in the Rovuma Basin was concluded in 2006. Amendments will be required however because the gas-fields cross the boundary between the Anadarko and ENI concessions and must therefore be "unitized." As CIP reports have shown in the past, the original terms were unusually generous to the companies. Will

the government use this opportunity to ensure a fairer share of the profits, or will even more concessions be made? While contracts for offshore already exist, the contract (legislation) for the LNG facilities will be entirely new. Again what terms are now being offered? Reports suggest that significant concessions are being offered on the condition that government revenue begins in 2019. Why is a start date of 2019 so important to the government and how much are they willing to give away in order to get it?

4. **What mega-projects will the government prioritize in the forthcoming Gas Master Plan?** In early 2013, the Government published "Towards a Gas Master Plan in Mozambique" – a detailed study on the potential uses of natural gas from the Rovuma Basin beyond LNG exports. From this analysis, a formal plan was to follow. The main issue is whether the government should provide gas at below market value to support the development of mega-projects (i.e. factories for fertilizer, methanol) alongside the LNG plants. It may be that the development of these megaprojects is in the long-term interests of Mozambique. But the early experience with megaprojects indicates that this is not necessarily true. There have been no government-sponsored consultations on the subject. Yet according to the Chairman of the National Petroleum Institute (INP), "the Gas Master Plan is at the stage of final negotiation" and should be submitted to the government "in the next one or two months."
5. **What are the general terms being offered in the non-binding gas sales agreements that Anadarko has recently concluded?** CIP is preparing a detailed analysis LNG pricing and its potential impact on government revenue. Mozambique LNG is destined for Asia where prices have traditionally been high, as they are directly linked to the price for crude oil. The shale gas revolution in the United States has disrupted this pattern and Asian purchasers have been trying

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to break the link with oil and drive down the sale price of LNG. Reports suggest that the Anadarko deal, for the first time, benchmarks LNG sales in Asia against US gas prices as well as Asian crude oil. All publicly reported government revenue projections for the Rovuma Basin have assumed a direct link to crude oil prices. What are the implications for government revenue of creating a link to US prices as well? As the CIP analysis of the Sasol project illustrated, the risks to government revenue can be just as high from unfair pricing formulas as from bad fiscal terms.

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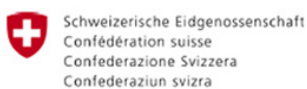
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Registo Nº: 020/GABINFO-Dez/2007

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