

## MOZAMBIQUE

### LOCAL CONTENT —NEW DEVELOPMENTS IN MOZAMBIQUE

📄 Employment policy;  
Mozambique; Oil and gas  
industry; Public participation;  
Public procurement procedures

#### Abstract

*Mozambique recently approved a set of new local content rules under the so-called “Guiding Mechanisms of the Obligations on Procurement of Goods and Services, Employment Programs, Training Programs, Association” with Nationals and Preferential Right, Conduct Adjustment and respective Reports. This statute marks a new chapter in the regulation of local content in-country and encompasses, amongst others, provisions aimed at ensuring job positions and training to Mozambican nationals (individuals and/or legal entities), the participation of national suppliers in the procurement of goods and services within the scope of petroleum operations. While the development of the oil and gas industry may change to the country’s economic landscape, ensuring that the economic benefits arising therefrom spill over into the national context and materialize in concrete social and economic benefits may be a challenge. The manner in which these opportunities will be effectively leveraged into broad-based national benefits, will ultimately depend on how local content policies are implemented and on how potential abuses are prevented.*

#### Enhancing local economy, empowering local workforce

In 2023, roughly 74% of Mozambique’s population lived below the US \$2.15-a-day poverty line (2017 PPP), and by 2026 this percentage is still estimated to be higher than 70%.<sup>1</sup> Being one of the 44 Least Developed Countries,<sup>2</sup> natural resources exploitation is still the main driver of the economy, with the start of liquefied natural gas (LNG) production at the Coral South offshore facility being one of the key contributors to the 5% GDP growth in 2023.

<sup>1</sup> See “Mozambique”, available at <https://documents1.worldbank.org/curated/en/099549004052419696/pdf/IDU1e1e790fd15e3e1456c1b57817489f569c4b7.pdf>.

<sup>2</sup> Union Trade and Development, “UN list of least developed countries”, available at <https://unctad.org/topic/least-developed-countries/list>.

Following the impressive natural gas discoveries in the Rovuma Basin, Cabo Delgado Province, Mozambique attracted investments from different players and is expected to become a key player in the global LNG market with huge projects underway. It is therefore not surprising that the country is keen to strengthen local content policies expressly targeted at the oil and gas sector and aimed at boosting local economy, by involving local companies and suppliers in the oil and gas sector's value chain enhancing skills and hiring of local workforce, building national infrastructure, and helping small and medium-sized enterprises (SMEs) meet industry needs. Where local content policies are put into action effectively, they can create a ripple effect in the economy, encouraging diversification across different sectors, boosting the manufacturing industry and promoting knowledge and technology transfer.

The Petroleum Law<sup>3</sup> (PL) and the Petroleum Operations Regulations<sup>4</sup> (POR) laid the foundations for oil and gas exploration and production in Mozambique and, among others, provide for certain rules aimed at ensuring that oil and gas projects contributed to the country's socio-economic development. In fact, both such statutes provide for certain local content provisions, notably the so-called association requirement, requirements for the contracting of local goods and services and the hiring and training of Mozambican labor. Conversely, the Special Legal and Contractual Regime Applicable to the Rovuma Basin Project (RBP)<sup>5</sup> (LNG DL), provides for additional specific local content related requirements expressly applicable to the entities engaged in the RBP, notably the LNG projects carried out by Area 1 and Area 4 Concessionaires. For the purposes herein, we shall not expand on the special regime governed under the LNG DL, though.

More recently, the Ministry of Mineral Resources and Energy (MIREME) approved a set of new local content rules under the so-called *Guiding Mechanisms of the Obligations on Procurement of Goods and Services, Employment Programs, Training Programs, Association with Nationals and Preferential Right, Conduct Adjustment and respective Reports*<sup>6</sup> (DM 55/2024). This latter statute marks a new chapter in the regulation of local content in Mozambique and encompasses, amongst others, provisions aimed at ensuring job positions and training to Mozambican nationals (individuals and/or legal entities), the participation of national suppliers in the procurement of goods and services within the scope of petroleum operations. The key provisions governed hereunder are as follows:

### Association requirement

One of the key local content rules in force refers to the so-called "association requirement". Under the PL, foreign entities wishing to provide services to the oil and gas industry need to "associate with" a "Mozambican Individual" (an individual holding Mozambican nationality) or a "Mozambican Legal Entity" (a legal entity incorporated and registered under the laws of Mozambique). The PL is however silent on how the aforesaid "association requirement" should be construed though.

Conversely, pursuant to DM 55/2024 the "Association with Nationals" may take one of the following forms: (i) equity interest in a corporate entity; (ii) association contract; (iii) consortium; and (iv) subcontracting. While this statute does not provide for minimum or maximum participation requirements, it introduces the concept of "Economic Substance"<sup>7</sup> to assess the materiality of the relevant association.

<sup>3</sup> Law No.21/2014, of 18 August 2014.

<sup>4</sup> Decree No.34/2015, of 31 December 2015.

<sup>5</sup> Decree-Law No.2/2014, of 2 December 2014.

<sup>6</sup> Ministerial Statute No.55/2024, of 5 July 2024.

<sup>7</sup> "Economic Substance" is defined as a *de facto* economic involvement of a Mozambican Person ("Mozambican Person" has the meaning as described in the Petroleum Legal Framework) in the process of production of the good and/or provision of the service contracted by the Concessionaire.

## Preferential rights

The PL establishes specific rules applicable to the acquisition of goods and services by petroleum concessionaires operating in Mozambique whereby the latter are required to launch tenders for the acquisition of goods and/or services.

Conversely, the newly enacted DM 55/2024 further elaborates on preferential rights and establishes that the Concessionaires shall give preference to Domestic Suppliers<sup>8</sup> for purposes of supply of goods and services, whenever their offers are equivalent in terms of price, delivery time and quality to those offered by other suppliers. However, the diploma indicates that preferential right shall apply when the final price offered by the Domestic Supplier is not higher than 10% of the average price offered by Foreign Suppliers.<sup>9</sup>

## Employment programs

The PL sets forth a general rule whereby petroleum companies shall guarantee the employment of Mozambican citizens, but, neither the PL the POR nor the LNG DL provided for specific quotas for the hiring of domestic workforce.

On the other hand, DM 55/2024, now sets forth minimum national workforce thresholds, pursuant to which the Total Positions<sup>10</sup> shall correspond to the maximum quota of foreigners provided for in the law or in investment projects approved by the Government, and at least 25% of Senior Positions<sup>11</sup> and 85% of Technical-Skilled Positions shall be fulfilled by nationals. Needless to say, the referenced minimum quotas for nationals will have inevitably the practical effect of setting limits for the hiring of expatriates for those positions.

## Training programs and training grants

As to guarantee an efficient transfer of knowledge, the PL establishes that petroleum companies shall ensure the employment and training of Mozambican nationals. Both the PL and the POR are however silent on the types of training deemed acceptable in the context of training programs, and/or on training grants to be granted by the Concessionaires.

DM 55/2024 now expressly states that the types of training deemed acceptable encompass:

- (i) **Higher Education:**  
Bachelor or Graduate Degree; Post Graduation; Masters and Doctorate;
- (ii) **Vocational Education:**  
Technical-Professional: minimum of 1200 hours;  
Training-Professional: minimum of 600 hours; and
- (iii) **Ad-Hoc Education:**  
minimum 40 hours.

<sup>8</sup> "Domestic Supplier" is defined as any supplier of goods or services, being an individual or a legal entity, incorporated and registered under Mozambican laws, controlled by a Mozambican Person or a Foreign Person Associated with Nationals.

<sup>9</sup> "Foreign Supplier" is defined as any supplier of goods or services, being foreign individuals or companies incorporated or registered in Mozambique but controlled by a person which is not a Mozambican Person, as defined under the Petroleum Legal Framework.

<sup>10</sup> "Total Positions" is defined as the total workforce hired by the Concessionaire.

<sup>11</sup> "Senior Position" is defined as workforce that is part of the executive decision-making function within the Concessionaires, or that requires the completion of higher education and the status achieved within a professional body.

This statute further clarifies that of the number of training grants to be awarded by the Concessionaires shall vary depending on the phase of the operations and/or the amount of the investment made.

### Conduct adjustment and reporting obligations

DM 25/2024 now provides for a Conduct Adjustment mechanism aimed at addressing situations where the Concessionaires fail to comply with obligations relating to the procurement of domestic goods and services, employment programs and training programs, in order to prevent penalties. In practice, this corresponds to an agreement between the Concessionaire and the Ministry of Mineral Resources and Energy of Mozambique aimed at replacing the application of penalties for failure to comply with local content obligations which may result in the imposition of new obligations to be fulfilled by the Concessionaires and/or on the novation of obligations breached by the latter.

Finally, DM 55/2024 introduced additional reporting obligations and sets forth that Concessionaires shall prepare a *Report on Employment, Training and Procurement* (REFC), which shall be submitted to the National Petroleum Institute (INP) on a quarterly basis. The REFC shall include complete information capable of evidencing compliance with obligations pertaining to Procurement of Domestic Goods and Services, Employment Programs and Training Programs.

### Challenges ahead

The prospective development of a promising oil and gas industry in Mozambique may trigger an enormous change to the country's economic landscape. However, ensuring that the economic benefits arising therefrom spill over into the national context and materialize in concrete social and economic benefits may be a challenge. The manner in which these opportunities will be effectively leveraged into broad-based national benefits, will ultimately depend on how local content policies are implemented and on how potential abuses are prevented.

While establishing strong partnerships between the government, oil companies, and the national private sector may help to avoid oil and gas exploitation benefits from fleeing exclusively to outside interests, promoting a regulatory environment that is both efficient and transparent, alongside strong institutional frameworks and bribery and corruption prevention mechanisms is paramount. There is hardly another option for the government to ensure that the benefits resulting from the exploitation of domestic natural resources spill over into the national context, promoting economic diversification and advanced skills training, and contributing to reduce poverty levels and improve domestic living standards.

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