

Rule of law

Vieira de Almeida & Associados is a Portuguese law firm specialised in banking and finance, infrastructure and energy, among other areas. It provides consulting services to the public and private sectors in Mozambique through a local partnership with law firm Silva Garcia Advogados e Consultores.

What are the legislative changes the government has implemented over the past year that may shift the oil and gas landscape?

ANA RITA ALMEIDA CAMPOS: There have been two major developments. The first are ongoing amendments to the petroleum law of 2001, which should be approved during 2013. This will hopefully establish a general consensus among investors regarding the intricacies of the legal framework surrounding oil and gas, as sturdy expectations are vital for attracting new investors.

Secondly, the new public-private partnerships law, which entered into force in August 2011, is

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also of note. One of the objectives of this legal framework is the sharing of financial benefits, which is reflected in measures such as the duty to ensure Mozambicans are granted a pre-emption right in the purchase of 5 to 10 percent of the share capital of new project promoters.

The public-private partnerships law explicitly excludes oil, gas and mining projects but governs the concessions and development of large auxiliary infrastructure projects such as roads, ports, bridges and airports, which serve as essential support systems for the country's energy and mining activities. These legal novelties are important but how they will be absorbed by the economic players and monitored by the government is yet unknown, leading to a need for specialised legal advice adapted to the evolving context.

What challenges might new legislation present?

AAC: Once the petroleum law revisions, which include an associated tax framework, are established, the difficulty for Mozambique is going to be the

implementation of the new legislation and an accurate interpretation of it by foreign investors. It will take some time for the rules and regulations surrounding the oil and gas industry in the country to become widely known, but once this legislative stability is achieved, it will provide reassurance for current and future investors. The law will also better clarify the degree to which Mozambique remains open to foreign business.

PEDRO SANTOS: Challenges can be found not only in the implementation of the said new legislation but also within Mozambique's legal system as a whole. The country still has a long way ahead toward a credible jurisdictional system and efficient and reliable enforcement procedures. Currently, arbitration still appears to be the best alternative for dispute resolutions related to big projects and concessions. While this method can alleviate barriers to international trade, it is important that the government focus on establishing an internal and reliable legal environment.

Mozambique's banking industry is notoriously undercapitalised, but the environment is quickly changing. How would you categorise development in the financial sector?

PS: From a legal perspective, Mozambique's capital markets infrastructure is firmly in place. While the financial industry is growing quickly, there are several identifiable obstacles to its expansion. These include political, currency and interest-rate risk, which, against all odds, have been addressed in Mozambique, namely through the ongoing intervention of its vigilant central bank. Capital markets also have the added advantage of establishing transparency and good corporate governance practices, which are relevant from a political and economic point of view and contribute to the strengthening of the country's business environment as well as its reputation abroad. While continued political stability is important, the emphasis here must actually be on legislative stability. If the tax environment is frequently amended without providing enough time for investments to pay off, the country will risk losing its original opportunities. Legislative continuity is critical in Mozambique, where it is essential to have as much certainty and security as is possible within a recognisable framework. ■



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