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PORTUGAL: An Introduction to Energy & Natural Resources (International)

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Portugal has been seriously committed to decarbonising its energy sector. According to the International Energy Agency, Portugal is now a world leader at integrating power from wind and solar PV. The country's ambitious renewable energy goals and its carbon neutrality roadmap (the so-called "RNC2050") envisage that 80 per cent of Portugal's total power demand will run on clean energy by 2030. Currently, renewable energy sources represent 67.8% of the electricity production mix in mainland Portugal. A new solar tender is likely to take place in March 2020, after last year's 1.15 GW auction hit the headlines thanks to its ultra-low bid of €14.76/MWh. Without relevant oil and gas developments, Portugal represents the modern approach to the energy sector with clear successful results.

In Lusophone countries this trend has not yet reached the same results, and most Portuguese-speaking countries depend on traditional oil and gas resources to provide for their energy needs. This generalisation however does not apply to all countries. Cabo Verde, in particular, is on a mission to reduce the nation's dependency on oil. The country is pushing ahead a plan of running on 50% renewable energy by 2030, and in January 2020 it has already issued an expression of interest to pre-qualify developers for two 5 MW solar plants on the islands of Sal and São Vicente.

It is relatively well-known that cultural ties between Portuguese speaking countries are still close, and their good diplomatic relations mean that Portugal shares a strong connection with the legal framework of the Community of Portuguese Language Countries (CPLC). Portuguese speaking countries in Africa and Asia, such as Angola, Mozambique, Guinea-Bissau, Cabo Verde and Timor-Leste, all share a common root with the Portuguese legislative tradition. All countries from the CPLC have their own independent – often specific – legislation and judicial system, whilst maintaining the same civil law principles and structure of the Portuguese legal framework.

Angola is second to Nigeria on the list of Africa's top oil producers and its vast mineral and petroleum reserves account for more than half of the country's GDP. It seems that the country is already reaping the fruits of President João Lourenço's restructuring of the country's petroleum sector, which started in 2019 with the creation of the country's petroleum agency – the "Petroleum, Gas and Biofuels National Agency" or "ANPG" (Presidential Decree No. 49/19, of 6 February) – to take the role of National Concessionaire that has long been assigned to Sonangol EP. Angola's new oil-licensing strategy for the years 2019-2025, with an announcement of as many as 55 blocks for auction, is clear evidence that the President is determined to incentivise oil production and to look for investors to replace the reserves that have been in decline. These new policies have had a positive impact on the economy, revamping the oil sector as well as the country's prolific mining industry.

Angola's mineral reserves are currently regulated by the Mining Code (Law No. 31/11, of 23 September 2011), which addresses mineral exploitation, taxation and custom rules. In 2018, a new Diamond Marketing Policy was approved by Presidential Decree No. 175/18, of 27 July 2018, and, in early 2019, the Regulations for Marketing of Rough Diamonds and for Semi-Industrial Mining of Diamonds were enacted (respectively Presidential Decree No. 35/19, of 31 January 2019, and Presidential Decree 85/19, of 21 March 2019). The former applies to all rough diamond sale and purchase agreements executed on or after

31 January 2019 and grants diamond companies operating in Angola the right to freely sell up to 60 per cent of their total production, either into the national or international markets. Alongside the 2018-2022 National Development Plan for the mining sector, the new Diamond Marketing Policy and Regulations reflect the government's drive to double the country's diamond production. From an institutional standpoint, the eyes are now on the announcement of a National Agency for Mineral Resources, which is expected to take place in early 2020. However, it remains to be seen what changes the new agency will cause to the existing supervision and governance over mineral resources.

As for the oil and gas sector, the Government in Luanda has been committed to increase efficiency, transparency, maximise petroleum resources, increase tax revenues and improve the stability of financial flows to the State. The Angolan petroleum sector is mainly governed by the Petroleum Activities Law (Law No. 10/04 of 12 November 2004), the Petroleum Customs Law (Law No. 11/04 of 12 November 2004) and Petroleum Tax Law (Law No. 13/04, of 24 December 2004). In April 2019, the Executive introduced the first amendment to the Petroleum Activities Law, naming the ANPG as the National Concessionaire and granting special prerogatives to the national oil company, Sonangol EP.

Together with this new organisation model, the Presidential Legislative Decree No. 7/18, of 18 May 2018, approved the country's Natural Gas Law. This law grants oil companies joint rights to develop and sell natural gas in the domestic and international markets and provides a set of tax incentives for gas exploration and production activities. Lastly, the recently enacted Private Investment Law and the setting-up of the Angolan Competition Regulatory Authority are clear signs of the country's increasing commitment to the transparency and efficiency of its economy.

On the opposite side of the African Continent, Mozambique holds promising gas reserves in Areas 1 and 4 of the Rovuma basin, in the northern part of the country. The Area 1 and Area 4 concessions are key for the development, construction and infrastructure works required to enable natural gas production to start in 2022. In 2019, the Engineering, Procurement and Construction contract for Phase I of the Rovuma LNG onshore liquefied natural gas facility was awarded by the joint venture developing Area 4. To assist such developments, the Mozambican Government has assigned special investment licences under Areas 1 and 4 concessions.

Although the general petroleum laws and regulations of Mozambique date as of 2014 and 2015 respectively (Law No 21/14, of 18 August 2014, and Decree No. 34/2015, of 31 December 2015), the country has been working on revamping its regulatory framework. This is particularly relevant since the Petroleum Law defers matters to regulations that are still to be enacted. Conversely, and not to deter investment in the prolific Rovuma Basin LNG projects, Decree-Law 2/2014, of 2 December 2014, created a special regime to govern matters such as land rights, rights over infrastructure, labour and financing in Areas 1 and 4.

In Eastern Asia, Timor-Leste has also been focusing public investment in the oil and gas sector, particularly following the conclusion of the long-term maritime boundary dispute with Australia. The landmark treaty reached between the two countries on 6 March 2018 sets a special regime for the Greater Sunrise oil fields. Revenues are now shared in the ratio of 70 or 80 per cent to Timor-Leste and 30 or 20 per cent to Australia if development is carried out by means of a pipeline to, respectively, Timor-Leste or to Australia. If the former goes ahead, it remains to be seen whether Timor-Leste will complete the aspiring south coast infrastructure project known as the "Tasi Mane Project".

In addition, the Government of Timor-Leste and the National Petroleum and Minerals Authority (ANPM) have recently announced the opening of the country's second oil and gas licensing round. The licensing round will release a total of 18 new block for public tender (7 onshore blocks and 11 offshore blocks). Petroleum operations in Timor-Leste are governed by the fairly modern Petroleum Law (Law 13/2005, of 2 September 2005) and by the Regulations on offshore operations (Decree-Law 32/2016, of 17 August 2016). It is worth noting that onshore petroleum activities in Timor-Leste fall under the Petroleum Law and are most regulated by the relevant production sharing contract – since the Executive is yet to approve a set of regulations for onshore exploration and production activities.

The energy sector in African and Asian Lusophone countries looks promising, along with Portugal's reputation in the development of renewables. Given the shared affinities of its legal framework, Portugal enjoys improved diplomatic and business relationships with Lusophone countries, particularly from the CPLC. Angola is improving the attractiveness of the oil sector by increasing efficiency and transparency.

The launching of new licensing rounds in offshore Angola and Timor-Leste should bring new opportunities for investors. Mozambique remains focused on developing infrastructures for exploring the prolific gas reserves of its Rovuma basin. With Cabo Verde functioning mostly on wind energy and São Tomé and Príncipe investing in renewable energies, Portuguese speaking countries have a lot to offer in the energy sector for the upcoming years.

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