## RESETTLEMENT PLAN

**DRAFT FOR PUBLIC DISCLOSURE**

**PART A: INTRODUCTION**

### MOZAMBIQUE GAS DEVELOPMENT PROJECT

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**IP SECURITY:**
- Confidential

**TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET):** 38

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1. OVERVIEW

1.1 Background

This document represents the Resettlement Plan (RP) for the Mozambique Gas Development Project (the ‘Project’) in Palma District, Cabo Delgado Province, Mozambique.

An Environmental Impact Assessment (EIA) for the Project was approved by the former Ministry for the Coordination of Environmental Affairs (MICOA) in June 2014. The approved EIA\(^1\) included an Initial Resettlement Plan (Annex I)\(^2\). As prescribed by Resettlement Decree Nº 31/2012, an approved full RP (this document) is required as a precursor to issuing an Environmental License.

This RP describes the policies, principles, procedures, roles and responsibilities for managing physical displacement impacts (loss of dwellings) and economic displacement impacts (full or partial loss of income sources or other means of livelihood) caused by the construction and operation of the Liquefied Natural Gas (LNG) Facility and export terminal.

The RP has been prepared in accordance with Mozambican legislation and International Finance Corporation (IFC) Performance Standard (PS) 5: Land Acquisition and Involuntary Resettlement (January 2012)\(^3\). IFC PS 5 is widely accepted as the international good practice standard for private sector projects involving land acquisition and involuntary resettlement. IFC PS 5 is one of the standards that will be referred to by prospective international lenders in their consideration of financing for the Project.

The Regulation on the Resettlement Process resulting from Economic Activities, enacted by Decree Nº 31/2012, of 8 August (Resettlement Decree) requires a resettlement plan to be included in the EIA process. However, the Project’s environmental licensing process predates the approval of the Resettlement Decree and the approval of the Project’s Environmental Pre-Feasibility and Scope Definition Study predates the Resettlement Decree entry into force. For this reason, the relevant EIA did not include a resettlement plan as provided for in the Resettlement Decree. However, submission by the Project of a resettlement plan to the Government for its approval is a statutory requirement for the issuance of the environmental license\(^4\).

The Project’s resettlement process was initiated in August 2013 with the official announcement of the start of the resettlement process in potentially affected communities. As such, the two implementation instruments promulgated in September 2014\(^5\) to supplement the Resettlement Decree were not taken into consideration throughout the resettlement planning process. The Project has however taken every measure to comply with the implementation instruments, where practical. This includes the structuring of the Project’s resettlement plan submission.

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\(^{2}\) Environmental Impact Assessment (EIA) Report for the Liquefied Natural Gas Project in Cabo Delgado - ANNEX I - Initial Resettlement Plan

\(^{3}\) Mozambican legislation and IFC PS 5 requirements are discussed in further detail in Chapter 2 (Policy, Legislative and Regulatory Framework)

\(^{4}\) Decree 31/2012, of 8 August, Article 15.1.

\(^{5}\) Ministerial Diploma Nº 156/2014, of 19 September, which approves the Technical Directive for the Resettlement Plans Preparation and Implementation Process; and Ministerial Diploma Nº. 155/2014, of the same date 19 September, which approves the Internal Regulations for the Operation of the Technical Commission for Monitoring and Supervision of the Resettlement Process, created by the Resettlement Decree.
The RP has been prepared in close consultation and with the full participation of affected communities and the Government of Mozambique (GoM). Civil society organizations have also played an active role in Project resettlement planning. The RP defines a framework for consultation and participation of affected and host communities, all levels of government, and civil society that will be ongoing throughout resettlement implementation, monitoring and evaluation.

The document is divided into five parts that includes the following chapters:

- **Part A: Introduction**
  - Chapter 1: Overview
  - Chapter 2: Policy, Legislative and Regulatory Framework

- **Part B: Socioeconomic Baseline**
  - Chapter 3: Socioeconomic Baseline Report
  - Chapter 4: Project physical and economic displacement impacts

- **Part C: Resettlement Action Plan**
  - Chapter 5: Compensation Entitlement Framework
  - Chapter 6: Replacement Village
  - Chapter 7: Replacement Agricultural Land
  - Chapter 8: Resettlement Livelihood Restoration Plan
  - Chapter 9: Consultation and Disclosure

- **Part D: Implementation Action Plan**
  - Chapter 10: Community Grievance Management Plan
  - Chapter 11: Monitoring and Evaluation
  - Chapter 12: Implementation Action Plan

- **Part E: Glossary**

### 1.2 Brief Project description

The purpose of the Project is to gather, process, and export natural gas in liquid form known as LNG.

The process begins offshore in Area 1 and Area 4 of the Rovuma Basin, where natural gas will be extracted via subsea wells from gas reservoirs up to 1,500 m below the seafloor. The collected gas will be transported to the onshore LNG Facility by pipelines on the seafloor. Once onshore, the gas will be processed in the LNG Facility to remove impurities, converted to liquid (by cooling the gas) and stored in specially designed storage tanks.

The LNG will then be transported through pipelines to an export jetty where it will be loaded into specialized LNG carriers to be transported to international markets. These specially designed ships maintain the LNG in a refrigerated liquid state for sea voyages of several thousand kilometers. The Project has an initial 30
year lifespan but this may be extended depending on future gas reserve development. Project activities occur in three zones:

- **Offshore** - drilling of wells and installation of pipelines on the seafloor to connect the wells and then bring the natural gas to the LNG Facility on the shore.

- **Near shore** - construction of LNG loading jetties, a material offloading facility (MOF) and imposition of a Marine Exclusion Zone (MEZ). The dock will accommodate support vessels and allow for equipment and material to be brought on shore. LNG carriers will berth at the jetties while they are filled with LNG. The purpose of the MEZ is to maintain separation between fishers and LNG operations to ensure public safety and enhance the security of the LNG Facility.

- **Onshore** - construction and operation of the LNG Facility and all associated infrastructure such as housing, construction camps and an airstrip.

Operation of the first two LNG processing trains is planned to commence in 2020. The approved Project EIA is based on construction and operation of six trains. In future, dependent on global LNG demands, it may be necessary to expand the plant. The recoverable natural gas discovered to date in Mozambique's Offshore Areas 1 and 4 could potentially support up to fourteen LNG processing trains. No further land acquisition or resettlement is envisioned to accommodate these additional trains.

For a comprehensive technical description of the Project, reference should be made to Chapter 4 of the Project EIA.

### 1.3 Project proponents

The Project proponents are Anadarko Moçambique Área 1, Lda. (AMA1) and Eni East Africa, S.p.A. (EEA). Both proponents are responsible for the review and approval of this RP.

AMA1, concessionaire and operator of Area 1 offshore of the Rovuma Basin, is a company incorporated and existing under the laws of the Republic of Mozambique and a subsidiary of Anadarko Petroleum Corporation (APC).

AMA1 holds rights to explore, develop and produce petroleum under the terms of the Exploration and Production Concession Contract entered into with the Government of the Republic of Mozambique and Empresa Nacional de Hidrocarbonetos, E.P. (ENH) on 20 December 2006.

EEA, concessionaire and operator of Area 4 of the Rovuma Basin, is a multinational company incorporated and existing under the laws of the Republic of Italy with a foreign commercial representation registered in the Republic of Mozambique.

EEA holds rights to explore, develop and produce petroleum under the Exploration and Production Concession Contract entered into with the Government of the Republic of Mozambique and ENH on 20 December 2006.

A more detailed description of the proponents can be found in Section 1.2 of the Project EIA⁶.

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Figure 1-1: Project Layout

Legend:
- Physically Displaced Settlement
- Economically Displaced Settlement
- Proposed Public Road Developments
- Proposed Public Spur Roads
- ANAI Pipeline
- ECA JV Pipeline
- DUAT
- Project Industrial Zone
- 1,500m Security Zone
- Marine Facilities
- Replacement Village
1.4 Magnitude of resettlement

Project physical and economic displacement impacts are briefly summarized in the following sections. A detailed description can be found in Chapter 4.

The Project affected population consists of households who are to varying degrees reliant on a combination of subsistence agriculture, fishing, inter-tidal gathering and small-scale trading. Early Project activities have provided some income earning opportunities for Afungi communities and have increased cash circulation in the local economy.

By international standards, the magnitude of physical displacement (471 households) is in the middle range. Given that household livelihood activities are subsistence-based and reliant on access to a range of terrestrial and marine natural resources, livelihood restoration will be relatively challenging.

1.4.1 Project land requirements

Project land requirements are summarized in Table 1-1. In total, the Project will require 4,578 hectares (ha) of land (excluding replacement agricultural land) for the development of the LNG Facility the replacement village and replacement agricultural area. Figure 1-1 shows the extent of the Project Industrial Zone (PIZ).

Table 1-1: Land requirements according to current Project designs

<table>
<thead>
<tr>
<th>Project component</th>
<th>Area (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Industrial Zone</td>
<td>4,372</td>
</tr>
<tr>
<td>Replacement village</td>
<td>131</td>
</tr>
<tr>
<td>Public roads within the DUAT</td>
<td>75</td>
</tr>
<tr>
<td>Total</td>
<td>4,578</td>
</tr>
</tbody>
</table>

Source: Project GIS

About 1,384 ha of the total lost area is actively cultivated agricultural land or fallow.

1.4.2 Households affected by loss of dwellings

The Project will physically displace a total of 471 households (2,028 people):

- 463 households from the village of Quitupo and some of its production zones\(^7\) for the LNG Project industrial zone; and,
- 8 households from the Quitunda production zone of Senga village for the replacement village.

These households will be assisted to vacate their existing dwellings and will be relocated to a purpose-built replacement village to the east of Senga village (see Figure 1-1). Physically displaced households will also receive compensation, access to replacement agricultural land (if they lose agricultural land) and livelihood restoration assistance as defined in this RP.

\(^7\) The Project affected production zones of Quitupo are: Milamba 1, Milamba 2, Nacambande, Ngodji and Simo.
1.4.3 **Households affected by loss of productive land and assets**

A further 759 households from Palma, Maganja and Senga will be economically displaced through the full or partial loss of land-based assets such as *machambas*, crops and productive trees that lie within the PIZ and the replacement village site.

These households will be eligible to receive compensation, replacement land (dependent on the magnitude of losses) and livelihood restoration assistance as defined in this RP.

Households affected by loss of access to land and land-based assets are summarized in Table 1-2.

### Table 1-2: Households affected by physical and economic displacement (number of households)

<table>
<thead>
<tr>
<th>Project component</th>
<th>Physical displacement</th>
<th>Economic displacement</th>
<th>Total Displacement</th>
</tr>
</thead>
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<tr>
<td>Project Industrial Zone</td>
<td>463</td>
<td>736</td>
<td>1,199</td>
</tr>
<tr>
<td>Replacement village</td>
<td>8</td>
<td>23</td>
<td>31</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>471</strong></td>
<td><strong>759</strong></td>
<td><strong>1,230</strong></td>
</tr>
</tbody>
</table>

Source: Resettlement census, 2015.

Sites for replacement agricultural land are still being evaluated. While the focus is on un-utilized land, it is possible that some additional households may be affected by loss of land or assets. Should the need arise, these households will also be eligible to receive compensation, replacement land and livelihood assistance commensurate with their losses in accordance with this RP. An Agricultural Livelihood Restoration Plan (ALRP) forms Annex A of this RP.

### 1.5 Project impacts on fisheries and intertidal gathering

Local fishermen and intertidal collectors using intertidal and near shore areas to the north-east of the Afungi peninsula will lose access to some or all of their fishing grounds and intertidal gathering area as a result of LNG operations and the establishment of the MEZ and Security Zone (SZ).

During construction, the MEZ will extend 500 m from the MOF, western jetty and pipeline landfall. The extent of the Operations phase MEZ is still under consideration by the GoM. For the purposes of this RP and assessment of livelihood impacts, the SZ has been assumed at 1,500 m around the LNG jetties and other marine facilities (see in Figure 1-1).

Table 1-3 summarizes the number of fishers and intertidal collectors that will be affected by the Project. Although the construction MEZ is smaller than the operations SZ there are more individuals impacted during the construction phase. This is due to the combination of the 500 m MEZ around marine infrastructure and the expected 1,000 m temporary disturbance zone (noise and turbidity) due to the installation of the pipeline, which directly affects fishers and intertidal collectors from the communities east of the Project site including Salama, Nsemo, Kibunju, Nfunzi, Mpaia and Maganja. During operations, these communities will only be marginally affected, reducing the total number of fishers and intertidal collectors impacted during this phase.
Table 1-3: Fishers and intertidal collectors affected by loss of access to resources (number of individuals)

<table>
<thead>
<tr>
<th>Project component</th>
<th>Affected fishers</th>
<th>Affected intertidal collectors</th>
<th>Total</th>
</tr>
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<tr>
<td>MEZ Construction</td>
<td>2,878</td>
<td>278</td>
<td>3,156</td>
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<tr>
<td>MEZ Operations</td>
<td>1,600</td>
<td>63</td>
<td>1,663</td>
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Source: Resettlement census, 2015; Intertidal monitoring, 2015; and Vessel owner registration, 2014

* Number of physically displaced individuals for the MEZ is not recorded within this table as they are already included into the physically displaced households in the table above.

Displaced fishers and collectors will be eligible to receive various kinds of in-kind compensation, equipment and assistance to access alternative resources. A Fisheries Livelihood Restoration Plan (FLRP) forms Annex B of this RP.

1.6 Resettlement goal, objectives and principles

The RP was developed based on the following goals, objectives and principles.

1.6.1 Resettlement goal

The Project resettlement goal is as follows:

To undertake Project resettlement in a manner that gives physically and economically displaced households the opportunity to improve or at least restore their livelihoods and standards of living.

Physical displacement refers to the resettlement of affected population from one location to another, and the restructuring or creation of comparable or superior living conditions or to relocation and the loss of shelter as a result of project-related land acquisition and/or restrictions on land use (IFC PS 5).

Economic displacement refers to loss of assets or access to assets that leads to loss of income sources or other means of livelihood as a result of project-related land acquisition and/or restrictions on land use. ‘Livelihood’ refers to the full range of means that individuals, families and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade and bartering (IFC PS 5).

This RP addresses both ‘tangible assets’ (individual or communal quantifiable assets such as crops, immovable property and improvements made to land) and ‘intangible assets’ (individual or communal unquantifiable assets such as communication routes, sacred sites, historical sites, burial places and access to transportation and basic services). 

1.6.2 Resettlement objective

In line with Article (Art.) 2 of Decree N° 31/2012, of 8 August, the Project’s resettlement objective is to improve affected households’ quality of life as well as promote environmental protection.

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8 Decree N° 31/2012, of 8 August, Art. 1(j).
9 Decree N° 31/2012, of 8 August, Art. 1(b) and (c)
This objective also accords with IFC PS 5, which refers to the need for a resettlement program “…to provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.”

1.6.3 Resettlement principles

The following principles will support and guide achievement of the resettlement goal:

1. Avoid and minimize the need for physical and/or economic displacement through alternatives analysis, siting, alignment, and other design modifications;

2. Conduct consultation processes that achieve free, prior, and informed participation of affected people and communities (including host communities) in decision-making related to resettlement, and that continue participation during implementation and monitoring;

3. Involve representatives from Province, District, Administrative Post, Locality, Community and interested parties in the resettlement process;

4. Compensate affected parties or Project affected persons (PAPs) at Full Replacement Cost (FRC) for lost assets in cash or in kind in accordance with Mozambican legislation and IFC PS 5;

5. Provide opportunities for displaced people to improve their living standards through the provision of improved housing, social infrastructure and utilities, and through social integration with their host communities;

6. Design and implement, in a timely manner, culturally appropriate and economically sustainable livelihood restoration measures;

7. Provide measures to support physical relocation and re-establishment;

8. Identify any people or households that may be especially vulnerable to displacement impacts and provide special assistance, where warranted, to help them participate and benefit from resettlement programs;

9. Establish programs and initiatives through which displaced households can directly benefit from the Project; and

10. Carefully monitor and evaluate resettlement program implementation to ensure that Project measures are meeting the needs of affected people and to identify any corrective measures, if required.

10 The Project Resettlement Principles were designed in accordance with Art. 4 of Decree N° 31/2012. The social cohesion and social equality principles are covered by principles 5 and 6, the direct benefit principle is covered by 9, social equity principle by 4, non-variation of income by 6, public participation principle by 2, environmental accountability by 4, and social responsibility by 5.
1.7 RP preparatory activities

This section provides a brief overview of the process followed to develop the RP. The schedule of activities was first provided to stakeholders in the Initial Resettlement Plan (IRP), Annex I of the Project EIA\(^1\). The process was disclosed to communities as part of the resettlement announcement meetings that took place in August 2013. Preparation of the RP and related resettlement planning activities were concluded in September 2015. Data collection methods are described in Annex C.

Key activities carried out during Project resettlement planning included the following:

- **Announcement** – A series of announcement meetings took place in August 2013 during which the GoM and Project informed potentially affected communities of the need for their resettlement.

- **Establishment of Community Resettlement Committees (CRCs)** – CRCs were established in Senga, Quitupo, Maganja and Palma Sede\(^1\) to be the Project’s primary vehicles for interaction with affected communities. The CRCs received training about how to disseminate information and gather feedback from affected households. The CRCs will be used to communicate the cut-off date and its meaning when it is declared. Further information is provided in Chapter 9 (Consultation and Disclosure).

- **Census** – A census was conducted between September 2013 and June 2015 to identify and record all people, households, and enterprises residing within the DUAT. An additional census was conducted of boat owners and fishermen. See Annex C for a description of the census method.

- **Socio-economic survey** – A household socio-economic survey was conducted to learn about affected households’ characteristics, living standards, livelihoods, income and expenditure patterns and preferences for resettlement.

- **Asset surveys** – A systematic survey and measurement of all dwellings, structures, trees, crops and land improvements was carried out by Project survey teams from October 2013 to June 2015. Surveys covered both household and communal assets. The results of the survey will be used to calculate compensation payable to each household and business affected by the Project. More detail is provided on each of these surveys in Annex C.

- **Agriculture and fisheries specialist studies** – The agriculture and fisheries livelihood restoration plans were developed based on a robust and detailed study program that used the results of the census and asset surveys as well as other specialist studies. A detailed overview of these specialist studies is provided in Annex C.

- **Replacement village site identification** – Studies to determine potential replacement village sites were conducted concurrently with other resettlement planning activities. Site

\(^{1}\) The draft Project EIA was published for stakeholder review between 23 August and 27 September 2013. Public meetings for the draft EIA was held in Maputo, Pemba and Palma from 09-12 September 2013. Public meetings in Maganja, Quitupo and Senga were held from 16-18 October 2013.

\(^{1}\) The CRCs in Senga, Maganja and Quitupo were formed during October 2013 and once the extent of economic displacement in Palma Sede was established, a CRC was formed in August 2014.
identification took community preferences and host community agreement into account. A more detailed overview of this process is provided in Chapter 6.

- **Community boundary and communal resource mapping** – A participatory process led by Non-Governmental Organization (NGO), Forum Terra Nampula, was undertaken between October and December 2014 to define village boundaries; record tangible and intangible communal property; and map resources utilized by each affected community. Results were used to determine Project impacts on the communal resources of each village. Annex C describes the mapping process.

- **Replacement agricultural land investigations** – The Project supported the District Government technically in identifying and assessing potential replacement agricultural land areas. The outcomes of this process is presented in Chapter 7 (Replacement Agricultural Land).

- **Compensation entitlement consultations** – A draft compensation framework was developed and presented to both Government and affected communities for their discussion and approval (November 2014 – August 2015). The compensation framework was formally presented and agreed to at public meetings led by the GoM within each affected village in May 2015. The agreed compensation framework is presented in Chapter 5 (Compensation Entitlement Framework).

- **RP preparation, review and disclosure** – The production of the RP represents the penultimate and ultimate steps in the planning process. The current revision of the RP (Rev E) has been provided to Government for review and their comments and recommendations will be incorporated.

Consultation and disclosure of information relevant to the resettlement process are ongoing activities throughout the resettlement planning process. Project-related resettlement consultation and disclosure activities to date are described in Chapter 9 (Consultation and Disclosure).

### 1.8 Project ESMP

The RP is one of the constituent plans that together form the Project’s Environmental and Social Management Plan\(^\text{13}\) (ESMP). The ESMP is a set of plans and procedures that collectively guide the management and mitigation of Project environmental and social risks and impacts.

Responsibility for implementation of plans will reside with both proponents with some specific responsibilities assigned to contractors by proponents.

### 1.9 Indicative construction schedule

Figure 1-2 summarizes the principle Project phases. The phasing and timing is indicative and may vary depending on achievement of necessary agreements and approvals, and the final contracting strategy.

\(^{13}\) Environmental and Social Management Plan EA-MZ-SR0000-RRG-U13-00056-00
Figure 1-2: Indicative Project construction schedule
1.10 Avoidance and minimization of displacement

IFC PS 5 has the requirement of avoidance of displacement, and when avoidance is not possible, minimizing physical and economic displacement by exploring alternative project designs.

While the Project EIA is predicated on development of six LNG trains, the GoM directed that the Project proponents make site planning provision for the inclusion of other proponents (refer to EIA Annex B). Resettlement planning described in this RP is consistent with establishing a PIZ to meet the Government’s objective.

The Project EIA indicated that all households would be required to move out of the DUAT area, which implied that 2,733 individuals or 733 households would be physically displaced. The Project EIA conservatively estimated a Project land requirement of 7,000 ha, which did not take into account the acquisition of land for a replacement village and replacement agricultural land.

With more detailed facility master planning that came after the EIA and a preliminary risk assessment, both taking into account a hypothetical full site development of fourteen LNG trains, the Project team determined that the LNG Facility could be accommodated within a smaller footprint. This smaller footprint, at 4,447 ha, also allowed for the replacement village (131 ha) to be accommodated within the DUAT, for a total area of 4,578 ha. This represented a reduction of about 45 percent from the EIA estimated area of 7,000 ha. The smaller site footprint also reduced the requirement for physical displacement from 733 households to 471 households - a 36 percent reduction. A further benefit of the small footprint is that approximately 2,000 ha of DUAT land will be available for continued resident communities’ livelihood activities. This reduces the area of potential replacement agricultural land required by the Project in order to ensure displaced households can continue their livelihoods.

The PIZ was defined by consideration of multiple criteria. These included:

- **Public safety** – set-backs to manage risks to the public and property in the unlikely occurrence of unplanned events (e.g. accidental releases, fire, explosion) occurring during the operation of the LNG Facility;

- **Community exposure to noise, emissions and vibration** – to ensure that surrounding communities are not exposed to emissions or noise levels above acceptable levels;

- **Security** – to avoid and prevent security incidents;

- **Fire protection and safe operation of the LNG Facility** – to protect the LNG Facility from external ignition sources such as bush fires or uncontrolled agricultural burns; and

- **Land use control** – to prevent the LNG Facility perimeter being subject to opportunistic settlement and to maintain a buffer between Project construction camps and laydown areas, and surrounding communities.

The proposed operational SZ was defined by weighting multiple similar considerations to evaluate site-specific risks to the Project and community. These included:

- **Safety of community vessels** – to minimize the likelihood of collisions with Project vessels (e.g. LNG tankers) while they are maneuvering;
Avoidance of equipment becoming fouled – to prevent damage to community fishing equipment (e.g. nets and fishing gear) and avoid risk of injury and loss of property;

Public safety – to maintain safe separation between the public and the Facility in the event of accidental releases, fire and explosion; and

Security – provide a safe standoff distance from any potential aggressor; this distance allows security to monitor the adjacent waterway and provides sufficient time to effectively respond to any potential threat.

With the operation of two LNG trains, tankers are expected to berth at the frequency of one every 2-3 days. With development of fourteen LNG trains, a vessel could be arriving every 4-5 hours. This increasing tanker traffic will increase the hazard for small fishing vessels. Maintaining adequate separation between community and Project vessels is critical to safeguard the public and promote safe marine operations.

It is expected that the 1,500 m SZ will lead to some benefit to communities in the long term. Surveys have shown that the fish stocks of Palma Bay have suffered from overfishing. This is largely due to the fishing practices employed in the intertidal area where small mesh nets are employed. Seagrass beds traditionally serve as a nursery for juvenile fish and provide refuge from larger predatory fish species. However overharvesting of juvenile fish in the seagrass areas has resulted in an imbalance of this natural process. As the SZ will not be accessible to the community, this process is expected to revert back to a natural state and the seagrass beds will provide the opportunity for juvenile fish to mature to breeding age and begin to replenish the fish stocks in Palma Bay. Thus the Operational SZ is likely to lead to a more sustainable fishery.
2 POLICY, LEGISLATIVE AND REGULATORY FRAMEWORK

2.1 Introduction

This chapter describes the policy and legal framework relevant to the Project for purposes of conducting resettlement. The Project complies with Mozambican legislation applicable to the development and implementation of resettlement plans, as well as IFC PS 5: Land Acquisition and Involuntary Resettlement, 2012 (IFC PS 5).

The Regulation on the Resettlement Process resulting from Economic Activities, enacted by Decree Nº 31/2012, of 8 August (Resettlement Decree) requires a resettlement plan to be included in the EIA process when the activity to be implemented entails population resettlement. However, the Project’s environmental licensing process predates the approval of the Resettlement Decree and the approval of the Project's Environmental Pre-Feasibility and Scope Definition Study predates the Resettlement Decree’s entry into force. For this reason, the Project EIA did not include a resettlement plan as provided for in the Resettlement Decree. However, submission of a resettlement plan by the Project to the Government for its approval is a statutory requirement for the issuance of the environmental license, fulfilled by this report.

Some of the Project proponents are presently negotiating Project financing with a number of international financing institutions. As a condition of financing, international lenders and export credit agencies require compliance with specified environmental and social standards for the duration of any Project finance provided by them. Prospective lenders have indicated that IFC PS 5 would be applied in the context of financing for the Project. To this end, the Project has prepared this RP with the aim of complying with IFC PS 5, in addition to Mozambican law.

The following sections describe the Project proponents’ rights to land for development of the LNG facility. They also summarize resettlement requirements provided for by Mozambican legislation and IFC PS 5. Differences between Mozambican resettlement-related requirements under local law and IFC PS 5 are tabulated together with a description of Project measures to address these (see Table 2-1).

2.2 Project land rights

A provisional Land Use and Exploitation Right (in Portuguese, Direito de Uso e Aproveitamento da Terra or DUAT), over a plot located at Cabo Afungi, Cabo Delgado Province, was awarded on 12 December 2012 to Rovuma Basin LNG Land, Lda. (RBLL), a company jointly owned by AMA1, EEA and ENH (EEA joined RBBL as a quotaholder on 19 March 2014). The DUAT was awarded for an area of 7,000 ha. Under the terms of exploitation assignment agreements between RBLL, AMA1 and EEA, and following approval of the Minister of Agriculture, AMA1 and EEA each hold exclusive exploitation rights over a certain portion of land within the Project DUAT, on equal terms. The two parties also hold joint exclusive exploitation rights over the remaining portion of land within the Project DUAT intended as common area. The exploitation assignment agreements give the Project the right to develop the provisional DUAT area on the Afungi peninsula. The Project’s EIA covers the provisional 7,000 ha, the size of the DUAT prior to demarcation, in its assessment.

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14 Decree Nº 31/2012, of 8 August, Art. 15.1.
Article (Art.) 11.10 of Decree Law Nº 2/2014, of 2 December (the LNG Decree Law) further confirms the granting of land use and benefit rights over the area to RBLL.

In June 2014, the final report on the demarcation\(^\text{15}\) of the DUAT was delivered to the Project proponents. The report indicated that 120 markers were placed to demarcate the DUAT while avoiding sensitive areas such as houses, villages, wetlands, river and lagoons, as well as a 100 m wide strip along the shoreline. Following demarcation, the DUAT area was recorded as 6,625.24 ha.

The 100 m coastal strip is deemed a ‘partial protection area’ in accordance with Art. 8 (c) of Law Nº 19/1997, of 1 October (Land Law). Under the land legislative framework partial protection areas are deemed areas of the public domain of the State and are not subject to the granting of DUATs. However, under some circumstances certain business activities may be carried out in these areas on the basis of Special Licenses granted by the authority with jurisdiction over the relevant area.

At present, the 100 m coastal strip falls under a concession held by the Portos de Cabo Delgado, S.A. (PCD) granted under, and governed by, Decree Nº 87/2013, of 31 December. However, the LNG Decree Law states that the LNG concessionaire(s) or the special purpose vehicles shall have exclusive access rights over inland, coastal and maritime areas required to develop the LNG Terminal and the Materials Offloading Facility (MOF). For this purpose, two new port concessions will be granted to the concessionaires or the special purpose vehicles incorporated for this purpose. The LNG Decree Law further stresses that detaching two separate areas from the PCD’s port concession area will be required for the development of the LNG Terminal and MOF. Art. 12.13 of the LNG Decree Law indicates that Special Licenses covering partial protection areas should be issued in favor of the concessionaire(s) or the special purpose vehicles implementing the Project. As yet, these Special Licenses have not been obtained and the port concession contracts are still under negotiation. This aside, the Project will be responsible for resettlement in the coastal area designated as partial protection area.

### 2.3 Applicable Mozambican laws and regulations

This section provides an overview of legislation that underlies the resettlement process including compensation for resettlement and related losses. This overview is not intended to provide a comprehensive description but rather a summary of the main legal instruments applicable to Project resettlement.

#### 2.3.1 Constitution of the Republic of Mozambique

The Constitution of the Republic of Mozambique (2004) vests all ownership of land and mineral resources in the State\(^\text{16}\). The State has the authority to grant land use and benefit rights, and grant the right to conduct petroleum operations. The processes for obtaining land use and benefit rights and the right to conduct petroleum operations occur through distinct processes and are regulated by different laws and regulations.

\(^{15}\) The statutorily defined process for surveying and physically marking the DUAT boundaries, which is the responsibility of the DUAT holder.

2.3.2 Law Nº 3/2001, of 21 February\textsuperscript{17}

The Project proponents’ petroleum exploration and production rights were granted under Law Nº 3/2001, of 21 February, then in force (the then prevailing 2001 Petroleum Law), which established the regime for granting rights to carry out petroleum operations in Mozambique. This law establishes that petroleum prospecting, exploration, development and production activities will be carried out by means of execution of a concession contract.

Under the 2001 Petroleum Law, access to land for the purpose of carrying out petroleum operations was granted in accordance with the requirements set out in national land legislation. No specific resettlement-related rules were provided other than the obligation to compensate legal users or occupants of the land in the contractual area who were required to be evicted. Compensation should be provided for damage caused during the petroleum operations to crops, land, buildings or improvements erected in the affected land in the contractual area. Under the transitional provisions of the current Petroleum Law (2014), rights acquired under concession contracts executed under the 2001 Petroleum Law (as is the case with the Project proponents) remain valid and enforceable. As a result, the current Petroleum Law will only apply to the Project proponents in regard to matters not covered by the former Petroleum Law (2001).

2.3.3 Law Nº 21/2014, of 18 August\textsuperscript{18}

Law Nº 21/2014, of 18 August is the law currently governing the granting of rights to carry out petroleum operations in Mozambique. This law clearly states that fair and transparent compensation is to be provided by the petroleum concessionaires to both people and communities holding land use and exploitation rights, as well as rights over territorial waters (where they are affected by the petroleum activities).

For the purposes of the current Petroleum Law, fair compensation includes:

- resettlement in proper housing, with better living conditions than the previous dwellings;
- payment of the amount of existing improvements;
- support for the development of activities on which the affected persons’ livelihood and food security and nutrition are contingent; and
- preservation of the historical, cultural and symbolic heritage of families and communities, on terms to be agreed between the parties.

Under the current Petroleum Law, fair compensation must be defined through a Memorandum of Understanding (MoU) agreed to by the Government, the concessionaire(s) and the affected communities. The obligation to pay fair compensation arises whenever resettlement is required and/or damages are caused to those affected by the concessionaire’s operations, irrespective of whether petroleum operations are carried out, and/or damages are caused onshore or offshore.

\textsuperscript{17} The Petroleum Law coeval with the right to carry out petroleum operations acquired by the Project proponents

\textsuperscript{18} The current Petroleum Law
The current Petroleum Law requires that resettlement may only occur when the existence of petroleum resources is confirmed through exploration, in terms that allow for beginning production.

2.3.4 **Law No 19/97, of 1 October**

According to both the Mozambican Constitution and the Land Law, all land belongs to the Mozambican State and cannot be sold, traded, mortgaged, pledged or by any other means disposed of. As a result, projects requiring land for implementation/development are subject to the prior award of land use and exploitation rights. The requirements for accessing these rights are described in the Land Law and supplementary Regulations. These determine that land use rights may be acquired through one of the following three ways:

- According to customary rules and practices – occupation by people and local communities in accordance with customary rules and practices;
- As a result of good faith occupation – occupation by people who, in good faith, use the land for at least 10 years;
- Through authorization granted by the State, to people or businesses, whether national or foreign, under the terms and in accordance with the provisions of the land legislation (such authorization corresponds to a material title - the so-called DUAT).

The Land Law recognizes the lawfulness of individuals and/or local communities occupying land without a material title if the right to the land is acquired through customary rules and practices - provided that these rules and practices do not contravene the Constitution of Mozambique. The Land Law also recognizes rights arising from good faith occupation of the land by individuals over a certain period of time.

Outside the scope of customary rights and/or good faith occupation described above, individuals, both men and women, national or foreign businesses and local communities are eligible to access the land use rights by means of an authorization, i.e. a DUAT. As a result, foreign investors seeking to implement a project over a plot of land must undergo an authorization procedure to obtain a DUAT.

Land use and benefit rights of local communities are exercised based on co-ownership principles found in general law. However, each member of the community has a right to apply for an individual title to plots of land following the detachment from the DUAT granted to the relevant community. In addition, the Land Law recognizes the right of local communities to participate in managing natural resources; resolve disputes; identify and define the boundaries of the land occupied by them; and participate in the formalization process of the land use and benefit rights.

The land legislative framework provides for the existence of total or partial protection areas, which are considered areas of the public domain of the State. Protected areas do not go through the DUAT process but rather Special Licenses are given allowing certain activities to be developed. Under Mozambican law, ‘total protection areas’ include areas reserved for the protection of nature.

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19 *The Land Law*
and areas of importance for defense and/or security purposes. In addition, ‘partial protection areas’ are those adjacent to key infrastructures or covering key natural resources including, but not limited to:

(i) beds of internal waters, territorial sea and economic exclusive zone;
(ii) continental shelf;
(iii) land occupied by surface facilities and above ground pipes and lines, underground and submarine cables, oil, gas and water, with a bordering strip of 50 m on each side;
(iv) strip of land that borders river and lake navigable waters up to 50 m from the maximum line of such waters; and
(v) strip of coastline and surrounding islands, bays and estuaries, from the peak high tide-waters up to 100 m inland.

As a result of the above provisions, the use of the coastal strip by the Project requires a Special License rather than a DUAT. Refer to comments in Section 2.2 regarding the timing to obtain the required Special Licenses and the associated resettlement obligations.

The Land Law is supplemented by the relevant regulation, approved by Decree Nº 66/98, of 8 December (and subsequent amendments), which among other things, establish the procedures for formation, exercise, modification, transfer and extinction of a DUAT.

2.3.5 Decree Nº 31/2012, of 8 August\textsuperscript{20}

The 2001 Petroleum Law stipulates that where land users and/or occupants require resettlement, those displaced are entitled to compensation paid by the concessionaire. No other provisions on resettlement were provided under the 2001 Petroleum Law. Prior to the enactment of the Resettlement Decree, Mozambican law did not provide a specific framework aimed at governing involuntary resettlement. As a result, the project proponent typically undertook all responsibility for resettlement planning and implementation, based on international rules, notably those of the IFC.

The Resettlement Decree now clearly establishes the rules and basic principles applicable to the resettlement process implemented as part of private or public economic activities. In doing so, the Regulation aims to improve affected citizens’ quality of life and protect the environment.

The Resettlement Decree establishes a wide range of rights, the enjoyment of which is guaranteed to the population directly or indirectly affected by the project. Its main purpose is to foster social and economic development and guarantee that the affected population is entitled to a better quality of life and social justice. As a result, the rights held by the resettled population include:

- To have their income level re-established, equal to or above the previous level;
- To have their standard of living re-established, equal to or above the previous level;

\textsuperscript{20} The regulation on the resettlement process resulting from economic activities
To be transported with their goods to the new place of residence;
To live in a physical space with infrastructures and social facilities;
To have space to perform their livelihood activities; and
To give their opinion about the entire resettlement process.

In addition, the Resettlement Decree states that resettlement must be guided by the following principles:

- **Principle of Social Cohesion**: Resettlement must guarantee social integration and restore the standard of life of those affected, to a better standard;
- **Principle of Social Equality**: The resettled population is entitled to the restoration or creation of conditions equal to or better than the previous standard of living;
- **Principle of Direct Benefit**: The resettled population must directly benefit from the project and its socioeconomic impacts;
- **Principle of No Alteration to Level of Income**: The resettled population must be entitled to restore their previous level of basic income;
- **Principle of Public Participation**: The resettlement process must guarantee the participation of the local communities and other interested parties;
- **Principle of Environmental Responsibility**: Those who pollute or otherwise degrade the environment must repair or compensate for the damage caused; and
- **Principle of Social Responsibility**: The project proponent must create social infrastructure that promotes learning, leisure, sport, health, culture and other community interest projects.

Baseline data collection should be the first step of the resettlement process and key to the subsequent stages. The project proponent is required to collect data in the area of the project, including the following elements:

- Identification and delimitation of the relevant area, considering whenever possible the areas closest to the area of the project;
- Quantification of the affected population and their socio-economic profile;
- Physical characterization of the environment;
- Current occupation status; and
- Identification of the needs and preferences of the affected population.

The socioeconomic studies must focus on the actual situation of the affected population; the social organization structure of leadership of the community; the identification of vulnerable groups and dependents; and the characterization of family standards. In addition, it should include a description
of the organization of the systems of production, of the work and basic information about the ways of life, and the possible social impacts of resettlement.

For purposes of characterizing family standards, the following factors should be taken into account:

- The typical production and income resulting from formal and informal economic activities, as well as the quality of life of the affected population;
- The scale of the expected losses and the physical or economic impact of those affected;
- The surveying of forms of access to land, housing, water, roads, social services, schools and health;
- The number of members of the families and their family ties;
- The family and/or social relationship between them;
- The nature of the occupation of the property (owner, occupant, tenant, assignee);
- The verification of the number of families under the same roof;
- Time of residence in the property;
- The number of taxpayers in the family income;
- Gender of the head of the family;
- The education of the occupants in the property, especially those contributing to family income;
- The number of children, elderly and disabled;
- The most vulnerable groups, elderly, families headed by women, widows and youth are heard to guarantee their rights;
- The type of fuel used to prepare the food; and
- The participation of the family in the organization of the social community.

The Resettlement Decree also establishes how the resettlement plan should be drafted. Among others, it prescribes the following elements:

- Analysis of the socioeconomic profile of affected households (being the relocated households and those existing at the resettlement area);
- Evaluation and analysis of their tangible and intangible goods;
- Definition of the quantitative and qualitative degree of damage;
- Definition of the compensation criteria; and
- Presentation of solutions as well as technically and economically viable alternatives that allow the continuation or improvement of the affected households’ current standard of living.
According to the Resettlement Decree, a resettlement plan must take into account certain guidelines with regards to environmental factors and housing. In choosing the relocation site, the elements such as permeability of soil and fertility of the land must be taken into account. Areas with significant environmental risk (such as those affected by floods or erosion of the soil) and/or Protected Areas (as defined in national land legislation) may not be chosen as relocation sites for resettlement purposes.

The Resettlement Decree also sets out a Resettlement Model, which prescribes the most important features of replacement housing and infrastructure, as well as certain criteria applicable to the housing plots, in particular:

- Registered housing plot with appropriate infrastructure;
- Replacement housing must have at least three rooms and a minimum area of 70 m²;
- Urban plots must comprise an area of at least 800 m²;
- Rural plots must comprise an area of 5,000 m²;
- The plot must include social facilities;
- Housing plots must conform to the social and cultural features of the resettlement area;
- Basic infrastructure such as sanitation, electricity, access roads, school, nursery, market, shops, police station, leisure areas, sports and recreation areas, worship and congregation venues must be provided;
- In rural areas provision shall be made for agriculture, livestock, vegetable farming, poultry breeding and other animals;
- Housing plots shall have frontal access to the road; natural ventilation; access to water and other infrastructures, including social equipment; and
- If natural physical conditions don’t allow for the establishment of a drinking water supply system, improved latrines must be constructed at a minimum distance of 10 m from the house.

In addition, the Resettlement Decree stipulates that construction projects must use conventional materials in accordance with the approved project and the social and cultural characteristics of the relocation site. While constructing houses, the vegetation must also be preserved. Relocation sites must ensure the continuity of subsistence activities or define programs to generate income.

Finally, the Resettlement Decree prescribes that a Resettlement Action Plan (RAP) must be prepared to include the following elements:

- **Institutional Matrix** – must represent the bodies involved in the development and implementation of the RAP, their competencies and responsibilities, clearly specified and disclosed with the community;
- **Schedule** – must represent the timeframe of achievements of the tasks and serve as an important control instrument, monitoring, and evaluation of the process of resettlement;
• **Budget** – the budget must consider the expenses of the construction and the infrastructure, payment of compensations and other charges associated with the resettlement program.

The Resettlement Decree not only aims to ensure the payment of compensation but also to improve the citizens' quality of life and enhance the socio-economic development of the country. To achieve this, it establishes obligations that the proponents of economic activities must comply with including electrification of the resettlement area and the construction of sewerage, health and education infrastructure access roads; water systems; police station; shops; and sport and leisure facilities among others. In terms of compensation, the Resettlement Decree provides that the resettlement plan must define the compensation criteria applicable for resettlement purposes. However, no additional guidelines, in particular formulas for compensation purposes, are provided.

Two implementation instruments supplement the Resettlement Decree, namely:

- Ministerial Diploma Nº 156/2014, of 19 September, which approves the Technical Directive for the Resettlement Plans Preparation and Implementation Process; and
- Ministerial Diploma Nº 155/2014, of 19 September, which approves the Internal Regulations for the Operation of the Technical Commission for Monitoring and Supervision of the Resettlement Process, created by the Resettlement Decree.

2.3.6 **Law Nº 19/2007, of 18 July**

The Territorial Planning Law defines the legal framework for territorial planning, in line with the principles, goals and citizens’ rights enshrined in the Constitution. The Territorial Planning Regulations establish the legal framework for territorial planning instruments, including the relevant preparation process.

In terms of territorial planning in the Project area, a district land use plan for the District of Palma has not yet been made public. There are indications that an industrial zone will be created in the vicinity of the Project DUAT and that the Project replacement village site will be rezoned as ‘urban’. This may change the procedure to obtain the corresponding titles of the individual plots and houses as a result of the resettlement process. However, no particular impact on the resettlement process itself is, at present, foreseen.

The Territorial Planning Law also defines the concept of expropriation in connection with the construction of projects or public developments on urban or rural land covered by DUATs, even if not demarcated. Expropriation for purposes of territorial planning may be justified by reasons of ‘public interest’, ‘public need’ or ‘public utility’. Such instances are defined in the Territorial Planning Regulations.

While the Project does not qualify as a public development project (it is a private investment project), the expropriation procedure set out in the Territorial Planning Law is relevant in that rights and/or private property in connection with it can be expropriated based on public interest. This would stem from the Project’s potential economic and social impact on Mozambique in terms of

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21 The Territorial Planning Law and respective Regulations, enacted by Decree Nº. 23/2008, of 1 July
revenue generation; boost of economic growth; construction and expansion of infrastructures; creation of employment; and the like. However, in line with IFC PS 5, the Project will strive to implement resettlement without resorting to expropriation (except as a last resort) but rather through negotiated settlements and compensation with those affected.

The Territorial Planning Law makes it clear that expropriation for spatial planning purposes requires payment of fair compensation to make up for negative impacts including, the loss of tangible and intangible assets, disruption of social cohesion, and loss of productive assets. Under the Territorial Planning Regulations, fair compensation covers not only the current value of the assets/rights to be expropriated, but also the owner’s damages and loss of profits as a result of the loss of the relevant property.22

The expropriation process is regulated by the Territorial Planning Regulations, specifically by the Directive on the Expropriation Process for Territorial Planning Purposes, enacted by Ministerial Diploma Nº 181/2010, of 3 November. The regulations describe the procedure, compensation arrangements, roles and responsibilities, documentation and timeframes to be followed in the event of any expropriation. They also describe avenues for appeal.

2.3.7 Law Nº 10/88 of December 2223

For the purposes of this law, ‘cultural heritage’ refers to tangible and intangible assets created or assimilated by the Mozambican people throughout history and of importance to Mozambican cultural identity. Assets of archaeological, historical or scientific value, as well as intangible assets are considered items of cultural heritage and worthy of protection. Depending on the nature of these assets, discoveries must be communicated to the relevant authority, which will inspect and determine the classification of the find and its future management.

2.3.8 Customary law

The Constitution of Mozambique (2004) recognizes customary law as a legitimate source of rights. These informal land tenure rights are recognized under Art. 12 of the Land Law. This implies that the resettlement process needs to take into account the land tenure and land allocation mechanisms adopted by affected communities, rather than on title holding or regular land-related documentation.

While holders of land use and exploitation rights may not have titles or may not have registered such titles with the relevant authorities, this does not affect their rights in terms of customary practices as well as good faith occupation.

In addition to compliance with the Land Law, the Project will follow the participatory approach prescribed in the Land Law Regulations and Technical Annex. This will ensure that local communities and good faith occupants are properly assessed and determined, and take an active part in the identification and delimitation of boundaries and the reallocation of land rights. The Project proponents will comply with the regulatory procedures, which include information

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22 Decree Nº. 23/2008, of 1 July, Art. 70.3.
23 The Law on the Protection of Cultural Heritage
dissemination and phased consultation with affected communities, including focus group meetings with community leaders.

2.3.9 Property rights and gender

The Constitution of Mozambique (2004) establishes gender equality and non-discrimination as foundational principles (Art. 11 and 36) in all spheres of political, economic, social and cultural life. It also recognizes and guarantees the right of inheritance in accordance with the law (Art. 83), although there is no specific reference to marital property and inheritance rights. Land use rights acquired through custom (including inheritance or occupation) are established in Article 111.

Law Nº 10/2004, of 25 August (The Family Law) reiterates the equality of women and provides that both women and men have rights to administer marital property and have equal rights to transfer and inherit property. The Land Law of 1997 gives women the right to participate in all land-related decisions and the right to register DUATs individually. However, despite several statutory updates, many inconsistencies remain.

There are discrepancies between the principles established in the Constitution upholding equality and non-discrimination, and outdated law from the Civil Code, as well as customary practices, which still prevail in rural areas. The primary law on inheritance is the Succession Chapter from the 1966 Civil Code (Art. 2024-2174), which still favors inheritance through the male family line.

Community Courts rely mostly on customary practices to resolve disputes, while the formal judicial system mostly applies the outdated Civil Code. Law Nº 28/2007, of 1 December (The Tax Code on Succession and Gifts) and provisions in other statutes, such as the Land Law and the Family Law, supplements the Succession Chapter.

2.4 IFC Performance Standard 5: Land acquisition and involuntary resettlement

IFC PS 5 (January 2012) is a set of standards aimed at avoiding and minimizing the impacts of involuntary resettlement arising from a project’s acquisition of land rights. IFC PS 5 advocates that expropriation or use of governmental authority should only be used as a last resort and encourages the use of negotiated settlements that meet its requirements.

According to IFC PS 5, “…resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement” (para. 1). IFC PS 5 notes this as occurring in instances of (i) lawful expropriation or temporary or permanent restrictions on land use; or (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.

IFC PS 5 is designed to be applied as part of the process of identifying impacts and risks and putting in place systems and management plans to help avoid, mitigate and manage risks and impacts as a sustainable way of doing business. The following are key PS 5 elements:

- Involuntary resettlement should be avoided, and to that end a project must explore all viable alternative project designs to avoid and/or minimize physical and economic displacement, while balancing environmental, social and financial costs and benefits, particularly focusing on the poor and vulnerable;
Where displacement is unavoidable, it must be carefully planned and implemented, with mitigation actions adequate to minimize the adverse impacts of relocating the communities;

Displaced persons should: (i) receive compensation for their losses at replacement cost; (ii) be assisted with the move and supported during the transition period, and (iii) be assisted in their efforts to improve (or at least restore) their former living standards, income earning capacity and production levels;

Special attention needs to be paid to the needs of the poorest groups to be resettled, as well as to minorities and other vulnerable groups, such as the elderly and poor;

Resettlement activities must be implemented with appropriate disclosure of information, consultation and the informed participation of those affected in planning and implementing resettlement;

Existing social and cultural institutions of displaced persons and any host communities will be respected;

Resettled persons should be integrated into host communities, both socially and economically to minimize adverse impacts on host communities;

Where the livelihoods of the affected persons are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost should be offered as a matter of priority;

Where affected persons' livelihoods are natural resource-based and where the project results in restrictions on access, measures will be implemented to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility;

The improvement of the displaced persons' living conditions should be effected by way of allocation of adequate housing with security of tenure at the resettlement sites;

The project should take possession of the land following payment of compensation. Where this proves impossible, notably in the event of a dispute, the amounts owed by way of compensation must be made available to the affected party through deposit in an escrow account prior to the loss.

Under IFC PS 5, both those who have formal legal rights to land or assets that they occupy or use and those who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law, are entitled to be compensated for the loss of those rights.

Apart from physical and economic displacement, PS 5 also applies to restrictions on access to land or use of other communal resources such as marine and aquatic resources, timber

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24 PS 5 defines replacement cost as “… the market value of the assets plus transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account.”
and non-timber forest products, freshwater, medicinal plants, hunting and gathering grounds and grazing and cropping land.

2.5 Differences between Mozambican legislation and IFC PS 5

Generally, Mozambican legislative and regulatory requirements governing rights to land and resettlement are aligned quite closely with those of IFC PS 5. This is expected, as the Resettlement Decree in many key respects is modeled on World Bank and IFC resettlement principles and approach. Areas of similarity include (but are not limited to) the following:

- Focus on resettlement as a development opportunity whereby affected people can be assisted to improve their living standards and livelihoods;
- The need to provide resettlement assistance, improved housing and measures to restore livelihoods, not just cash compensation;
- Provision for in kind assistance (e.g. land for land, house for house) as well as cash compensation;
- Emphasis on providing equivalent replacement land, access to natural resources and other forms of assistance as part of livelihood restoration;
- Similar procedural requirements including the requirements for a census, socio-economic surveys, asset surveys, identification of impacts and mitigations, as well as preparation and approval of a RAP prior to resettlement commencing;
- Focus on dissemination of information and the right of interested and affected parties to information about the resettlement process and decisions affecting their future;
- Avoidance and minimization of impacts on cultural property;
- Requirement for a mechanism for filing claims and managing conflicts (i.e. grievance and dispute resolution mechanism) between the affected persons and the project proponents; and,
- Requirement for ongoing monitoring and evaluation.

In some areas, the requirements of Mozambican legislation are more extensive than those of IFC PS 5, for example:

- The Resettlement Decree defines an explicit set of ‘rights’ for project affected people;
- The Resettlement Decree is more prescriptive about the socio-economic baseline data to be collected and the kinds of analysis and evaluations to be performed than IFC PS 5;
- The Resettlement Decree is very prescriptive about the size and standard of replacement housing, replacement plots, and the types of supporting infrastructure to be provided; and
- The Resettlement Decree requires preparation of a Resettlement Implementation Plan in addition to a RP.
There are also areas where the requirements of IFC PS 5 are more extensive than those of Mozambican legislation. These include (but are not limited to) the following:

- Need for avoidance and minimization of physical and economic displacement;
- Need for informed consultation and meaningful participation beyond public meetings and government-led representative committees;
- A performance based definition of adequate replacement housing that can be measured by quality, safety, size, number of rooms, affordability, habitability, cultural appropriateness, accessibility, security of tenure and locational characteristics;
- A requirement to implement differentiated measures for vulnerable people to ensure that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities (this requirement goes beyond the Resettlement Decree and technical directive’s requirements for gathering baseline data and ensuring vulnerable are represented in consultations); and
- Accessible avenues for making a complaint.

Some of the key differences between the requirements of the Mozambican legislation and those of IFC PS 5 are summarized in Table 2-1. Project measures to bridge differences, where they arise, are also described. In case of ambiguities between the Mozambican Regulation and IFC PS 5, the most stringent requirements should be applied to the extent such requirements do not conflict with the applicable Mozambican law.
Table 2-1: Project actions to Mozambican Law and IFC Performance Standard 5

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<tr>
<td>Avoidance/ minization of physical and economic displacement</td>
<td>The Resettlement Decree is silent on the need for avoidance/minimization of displacement.</td>
<td>Avoidance, and when avoidance is not possible, minimization of displacement by exploring alternative project designs, is an objective of IFC PS 5.</td>
<td>The need for avoidance/minimization of physical and economic displacement is not expressed in the Resettlement Decree.</td>
<td>Project measures to avoid and minimize displacement impacts are described in Section 1.10. In ongoing dialogue with the Government on replacement agricultural land, the Project continues to emphasize the importance of avoiding/minimizing displacement.</td>
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<td>Gender and property rights</td>
<td>The 2004 Constitution establishes gender equality and non-discrimination as foundational principles (Art. 11 and 36) in all spheres of political, economic, social and cultural life. The Family Law asserts the equality of women, provides that both women and men have rights to administer marital property and have equal rights to transfer and inherit property. The Land Law gives women the right to participate in all land-related decisions and the right to register DUATs individually.</td>
<td>Documentation of ownership or occupancy and compensation arrangements should be issued in the names of both spouses or heads of households. Other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.</td>
<td>According to some customary practices, women are dependent on male members of society for access to land, particularly in more traditional communities. In Afungi, Mwani women can hold property in their own right. Polygamous marriages are not recognized by law, although a household may, in practice, comprise several wives and multiple homesteads.</td>
<td>The Project proposes to register the ownership of the replacement house in the name of both spouses.</td>
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| Replacement housing          | The Resettlement Decree defines a ‘resettlement model’ that includes (but is not limited to):  
- At least 3 bedrooms and 70 m² floor area;  
- Conventional materials;  
- Not less than 800 m² plots in urban areas, 5,000 m² in rural areas;  
- Establishment of roads, water supply, sanitation, electrification;  
- School, health post, market, shops and other prescribed facilities; and  
- Areas for agriculture, cattle breeding and other activities. | IFC PS 5 indicates that a project will offer physically displaced persons a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction. Adequate housing can be measured by quality, safety, size, number of rooms, affordability, habitability, cultural appropriateness, accessibility, security of tenure and locational characteristics (Guidance Note PS 5). | The Resettlement Decree prescribes physical characteristics of replacement houses, plots and infrastructure. IFC PS 5 indicates displaced people will be offered a choice of options. IFC housing criteria are performance oriented rather than prescriptive. The IFC refers to ‘cultural appropriateness’ as an important criteria but the Resettlement Decree is silent on this aspect. | The Project has designed a replacement village, housing and infrastructure in compliance with Resettlement Decree urban requirements – see Chapter 6 (Replacement Village). A prototype house has been constructed and used to elicit feedback from the Technical Committee and affected people. Quitupo residents have expressed preferences about kitchens, external ablution arrangements and toilets, which will be incorporated into the final designs. Displaced persons were given a choice of replacement village location. They will be offered basic options for house roofing and colors. |
| Replacement agricultural land | District Government is responsible to provide areas to carry out livelihood activities. | Replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost should be offered plus the cost of preparation to levels similar or better than the land lost, plus transaction costs such as registration, | There is not enough vacant land of equivalent or better potential available within the Project DUAT to replace all lost land. Unlike PS 5 that establishes that, in the event of loss of land or property, the principle of compensation in kind shall apply, i.e. replace with property of an equivalent or | The Project will follow the principle of land for land compensation so far as feasible. The Government will be responsible for securing suitable replacement agricultural land. Where full replacement area is not available, the Project will pay cash compensation based on improvements per hectare for any short fall. |
### Mozambique Gas Development

Resettlement Plan – Part A

**Document No.:** EA-MZ-SR0000-RRG-U14-00006-27

**Rev. F**  **Rev Date:** 25 Nov 15

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<td>transfer taxes or customary fees. If circumstances prevent the project from providing land or similar resources as described above, alternative income earning opportunities may be provided, such as credit facilities, training, cash, or employment opportunities. Cash compensation alone is insufficient to restore livelihoods.</td>
<td>greater value, the Resettlement Decree is silent on the criteria for replacement agricultural land. The Resettlement Decree is further silent on situations where there is no additional land available for allocation.</td>
<td>The Project will assist to: - Improve agricultural methods to compensate for surface area lost; - Improve soil quality and land-use efficiency; and - Diversify livelihood options and income generation through professional training, employment and improved infrastructure access.</td>
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**Valuation of land**

<p>|                | Land has no market value as it falls outside the scope of legal trade. However, there is an associated value resulting from the value that DUATs have for their respective holders, either because the livelihood activities are based on land use or on intangible assets associated to those rights, such as location, access to roads and transportation network, proximity of social structures, household, family burial grounds and medicinal plants, among other factors concurring to social cohesion. | Land-based compensation strategies are the preferred form of compensation for agriculturally-based households. Otherwise compensation should be calculated at FRC (market value plus transaction costs). | There are no legal land markets from which to determine market values for land. Also see note above. | The Project has followed World Bank precedent and will compensate landholders for their investment in land improvement i.e. the value of labor invested in clearing, grubbing and cultivating land. The Project will compensate for all machambas and fallow land as measured in the Project asset survey. |</p>
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<td>Valuation of assets</td>
<td>Under the Resettlement Decree, the preparation of a proposal containing compensation criteria is within the project's initiative, provided it complies with applicable legislation, i.e. the compensation is fair and equitable. The Ministry for Agriculture publishes the rates of compensation to pay for loss of permanent crops on an annual basis; benchmark – recommended market value for the relevant products. Under the expropriation legal framework, depreciation is allowed for in the calculation of compensation for residential property.</td>
<td>Compensation for asset loss is replacement cost at market value plus transaction cost, where replacement with similar or identical assets to those lost is possible.</td>
<td>In the valuation of assets, IFC PS 5 requires transaction cost in addition to market value whereas Mozambican legislation only requires market value. Mozambican expropriation legislation allows for the use of depreciation in the valuation of assets in contrast to IFC PS 5 that stipulates full replacement value.</td>
<td>The Project completed a valuation study to identify replacement cost for trees and crops (see Annex D). Resultant valuations were independently reviewed by local institution, CEAGRE (see Annex F). Proposed compensation rates were disclosed to the Government and affected communities and adjusted where warranted, based on feedback. The Project pays the Government published rate, or assessed FRC, whichever is higher.</td>
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<td>Particular attention to vulnerable people</td>
<td>The Resettlement Decree prescribes that ‘vulnerable and dependent groups’ are (among others) to be a focus of socio-economic studies. Relevant data is to be collected on the most vulnerable groups, elderly, households headed by women, widows and youths. Consultative meetings must include representatives of</td>
<td>Where the project involves elements that are likely to generate impacts, the project will identify individuals and groups that may be directly and differentially or disproportionately affected because of their disadvantaged or vulnerable status. In such cases, the project will implement</td>
<td>IFC PSs require not only identification and engagement with vulnerable groups, but also implementation of differentiated measures to ensure that adverse impacts do not fall disproportionately on vulnerable people and that they are able to participate in development benefits and opportunities.</td>
<td>Project measures to identify, consult with and assess the specific needs of and types of assistance for vulnerable individuals and households are described in Chapters 3 (Socioeconomic Baseline report), 4 (Project Physical and Economic Displacement Impacts), 5 (Compensation Entitlement Framework) and 9</td>
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<td>Consultation and informed participation</td>
<td>The Resettlement Decree prescribes participation based on public hearings and use of representative committees. At least four public consultation hearings at intervention sites are required during the preparation and implementation of the RP. The public consultation and participation process must involve ongoing communication among the governmental bodies competent to make decisions regarding an activity; the entrepreneurs responsible for implementation; and the stakeholders and affected parties.</td>
<td>Disclosure of relevant information and participation of affected communities and persons, including host communities, will continue during the planning, implementation, monitoring, and evaluation of compensation payments, livelihood restoration activities, and resettlement. The consultation process should (i) capture both men’s and women’s views, if necessary through separate forums or engagements, and (ii) reflect men’s and women’s different concerns and priorities about impacts, mitigation mechanisms, and benefits, where appropriate. The client will document the process, in particular the measures taken to avoid or minimize risks to and adverse impacts on the affected</td>
<td>IFC PS 5 is more prescriptive about the requirements for ‘informed consultation’ and ‘meaningful participation’ than the Resettlement Decree and related Ministerial Directives.</td>
<td>The Project is working with the Government to complete the four statutorily required public meetings in each affected community. The Project has a comprehensive Project Stakeholder Engagement Strategy, as well as a resettlement-specific engagement action plan. The Project has a dedicated resettlement stakeholder engagement team that has worked in Afungi since the start of resettlement planning. Multiple engagement techniques are used including key informant discussions, individual discussions, and focus group in addition to CRC, Government meetings and Technical Review Committee meetings. The NGO, Forum Terra has conducted land rights awareness</td>
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### Rights to natural resources

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<td>Replacement sites must provide equal or better conditions than those of the original sites to offset loss of access to communal resources (such as fishing, grazing, fuel or forage).&lt;sup&gt;25&lt;/sup&gt;</td>
<td>For persons whose livelihoods are natural resource-based and where project-related restrictions on access apply, measures will be made to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where appropriate, benefits and compensation associated with natural resource usage may be collective rather than</td>
<td>IFC PS 5 is more prescriptive about the replacement of natural resources. Legislation does not provide guidance for situations where a natural resource is not available for replacement whereas IFC PS 5 requires alternative livelihood replacement.</td>
<td>Where communal resources are impacted, communities are entitled to have their customary access rights (rights of way) formalized and guaranteed by means of registration of public interest servitudes in the National Land Cadastre (Art. 13 and 17 of the Land Regulations). The concept of natural resource access servitudes is also provided for by the general law, and will be used by the Project, where feasible and appropriate.</td>
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