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LEGISLATIVE ENVIRONMENT

Law Rethink?

Ramatlhodi says MPRDA Amendment Bill should be reviewed

BLOOMBERG

Mineral Resources Minister **Ngoako Ramatlhodi** has asked President **Jacob Zuma** to delay signing a new mineral resources law so that the legislation that faces growing opposition can be reviewed.

Proposed changes to the 2002 Mineral and Petroleum Resources Development Act include giving the State the right to a free 20% stake in all new energy ventures. Exxon Mobi, Anadarko Petroleum and Total are among those who say the law, passed by Parliament and the higher National Council of Provinces this year, will undermine their businesses and deter investment.

"I wanted to have an idea of what it contains – whether there were concerns and how they can be addressed," says Ramatlhodi, who took office last month. "We've got to simplify the laws to make things easy for investors to move in. We make the processes easy so that we encourage people to invest by creating a proper climate."

Ramatlhodi was scheduled to present options for the Bill at a meeting of the ruling African National Congress's (ANC's) economic committee on June 23. "One of the things might be to leave it and address some of the concerns in regulations."

"Certainly, it created a real damper on exploration activity... and we heard from a lot of clients that everything was being put on hold," says **Peter Leon**, head of African mining and energy projects at law firm Webber Wentzel. "I think government has realised that – hence, the about-turn by the new Minister."

Exxon, Anadarko and Royal Dutch Shell have begun prospecting in South Africa's waters over recent years as new technology boosts their

STORY HIGHLIGHTS

- Proposed changes to the 2002 Mineral and Petroleum Resources Development Act include giving the State the right to a free 20% stake in all new energy ventures.
- Besides the 20% free carried interest in petroleum rights, the Bill includes an 'uncapped' further participation clause enabling the State to acquire up to a further 80% at an agreed price or under a production sharing agreement.

ability to find and pump oil from deep beneath the seabed.

The Offshore Petroleum Association of South Africa (Opasa), whose members include Anadarko, BHP Billiton, Exxon and Total, "has taken note of the comments attributed to the Minister", says the group's chairperson, **Sean Lunn**. "Opasa will continue to engage with government in order to ensure that the potential hydrocarbon resources in South Africa are developed for the benefit of all South Africans."

Zuma is obliged to sign a Bill, unless there is a question about its constitutionality, which there is, according to Leon.

"The Bill was not correctly passed by the National Council of Provinces because they never held public hearings in each of South Africa's nine provinces," he says.

The Democratic Alliance, the main opposition party and the Legal Resources Centre wrote to the President and asked him not to sign the Bill into law "and I understand that he has taken legal advice on that", Leon says. "Now that the Mineral Resources Minister has weighed in as well, that will have another impact."

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It is not clear how the State's right to further participation will be exercised, and professional services firm Deloitte has questioned what will happen when a price cannot be agreed on.

This created uncertainty and risk that would increase the hurdle rates that investors applied, Deloitte said at a Deloitte in Conversation discussion earlier this month.

"State participation will [also] increase the cost to the investor, which means [that] petroleum companies will need to work harder to make a return on their investment," the firm said. – *With additional reporting by Natasha Odendaal.*



NGOAKO RAMATLHODI

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