

South Africa takes steps to split oil, gas laws from mining

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South Africa is planning a new law that will separate parts of its oil and gas rules from legislation governing the mining industry, Energy Minister Tina Joemat-Pettersson said.

“The plan involves separating from the mineral regulatory framework those elements that relate to the petroleum value chain,” she told lawmakers Wednesday in Cape Town. Exploration and gas concessions will fall under the Upstream Gas Bill, “which will be derived from” the process of separating out the current Mineral and Petroleum Resources Development Act, she said. A separate Gas Amendment Bill “will encompass the midstream elements of the gas value chain,” she said.

Upstream relates to exploring and producing oil and gas while midstream involves transporting the products.

Oil and gas companies operating in South Africa have been left in limbo as legislators have stalled the MPRDA that proposed giving the state a 20 percent free stake in all new energy ventures and enabling it to buy an unspecified additional share. While Parliament approved the bill in 2014, President Jacob Zuma declined to sign it because he said it may violate the constitution. The bill was referred back to the legislature in January 2015.

Helpful Regulation

Exxon Mobil Corp. and Total SA are among those that objected to law on the grounds it’s too vague and will undermine their businesses. The Chamber of Mines, which speaks for companies including Glencore Plc and AngloGold Ashanti Ltd. supported plans to cut oil and gas from the mineral-resources bill, saying the delays deter investment in the nation that’s the world’s biggest platinum producer.

“These proposals could potentially be very helpful from a regulatory perspective,” Peter Leon partner at law firm Herbert Smith Freehills, said by phone from Cape Town. “The real solution is to transfer the regulation of upstream oil and gas to the Department of Energy and the removal from the Department of Mineral Resources.” The energy ministry only regulates the downstream, or retail, oil and gas industry and not exploration, which “does

not make sense,” he said.

While South Africa had proven reserves of 15 million barrels of oil at the end of 2013, according to Oil & Gas Journal, there is no significant production. About 70 percent of the nation’s crude needs are met through imports with the balance processed from coal and gas.

The Upstream Bill “will take into account all the comments from the Integrated Energy Plan and the Ministerial Advisory Committee, but first, the MPRDA has to be withdrawn,” Joemat-Pettersson said in a separate interview.

More Laws

The department has proposed further legislation to revive and strengthen the country’s oil and gas industry, “which will either be introduced or concluded in the financial year,” Joemat-Pettersson said.

The Petroleum Agency of South Africa Establishment Bill will set up a separate upstream gas regulator that will govern licensing and exploitation of shale gas. The country’s reserves are potentially the world’s eighth-biggest, the U.S. Energy Information Administration said in 2013.

The Petroleum Products Amendment Bill seeks to improve enforcement of rules for wholesalers and retailers in the liquid-fuels industry, and the IPP Office Establishment Bill will formally create the Independent Power Producer Office, and define both its role and mandate, Joemat-Pettersson said.

Through the work of the office, South Africa has obtained 6,377 megawatts of renewable energy and connected 44 projects with 2,021 megawatts capacity to the national grid, with private investment in the initiative exceeding 194 billion rand (\$13 billion), she said.

Long Process

The ruling African National Congress backs splitting the legislation, as the country prepares for the “potential game-changer” of oil, gas and shale exploration, it said in a document that was discussed at its National General Council meeting in October.

“The minister is trying to manage massive push-back from the Department of Mineral Resources, who do not want to surrender control of the oil and gas sectors,” Gordon Mackay, energy spokesman for the main opposition party, the Democratic Alliance, said by phone from Cape Town. “However, the separation is a requirement of the ruling ANC and so it must be done.” As the legislative program stands, current amendments to the MPRDA must first be completed, then the oil and gas laws can be separated from this.

“It is still going to be a long process,” Mackay said.

-Bloomberg