

Final Report

Acceptable Risk?



How the security threat in Cabo Delgado was ignored for the benefit of 'The Netherlands Ltd.'



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FoI assessment Mozambique for Both ENDS and Milieudefensie

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Definitions and abbreviations used in this report

- Acceptance Proposal: ADSB's ECI acceptance proposal to MinFin and MoFA of May 12, 2020
- ADIT: Total's security advisor
- ADSB: Atradius Dutch State Business
- Anadarko: Anadarko Petroleum
- Atradius: Atradius N.V.
- ASWJ: Ansar al-Sunna Wa Jamma
- BHOS: the Dutch abbreviation for Ministry of Foreign Trade and Development Cooperation (in Dutch: Buitenlandse Handel en Ontwikkelingssamenwerking)
- CBSP: Community Based Security Plan
- CSO: Civil Society Organization(s)
- CSR: Corporate Social Responsibility
- DAF: Sub-Saharan Africa directorate (in Dutch: Directie Sub-Sahara Afrika)
- DIO: International Business Directorate, a department of MoFA (in Dutch: Directie International Ondernemen)
- DGBEB: Director-General for External Economic Relations (in Dutch: Directeur-generaal Buitenlandse Economische Betrekkingen)
- ECA: Export Credit Agency (in Dutch: Export Kredietverzekeraar or EKV)
- ECI: Export Credit Insurance (in Dutch: Export Kredietverzekering or EKV)
- EPCI: Engineering, Procurement, Construction and Installation
- ERM: Environmental Resources Management - the consultant that monitored the biodiversity aspects of due diligence for Anadarko
- Fol request: Freedom of Information request (in Dutch previously called: a WoB-verzoek and currently: Woo-verzoek)
- Fol request 1A: First Fol request to MoFA from December 2020
- Fol request 1 B: First Fol request to MinFin from December 2020
- Fol request 1C: First and only Fol to ADSB from December 2020
- Fol request 2A: Second Fol request to MoFA from September 2023
- Fol request 2B: Second Fol request to MinFin from September 2023
- FTDC: Ministry of Foreign Trade and Development Cooperation (in Dutch: Buitenlandse Handel en Ontwikkelingssamenwerking)
- HRDD: Human Rights Due Diligence
- IC: Insurance Committee (in Dutch: Verzekeringscomité or VC)
- IESC: Independent Environmental and Social Consultant
- IFC PS: International Finance Corporation Performance Standard(s)
- LNG: Liquefied Natural Gas
- MinFin: Ministry of Finance
- MoFA: Ministry of Foreign Affairs

- MP: Member of Parliament
- MVO: the Dutch abbreviation for Corporate Social Responsibility (in Dutch: Maatschappelijk Verantwoord Ondernemen)
- NIAC: Non-International Armed Conflict
- Occidental: Occidental Petroleum
- Organizations: Milieudefensie and Both Ends
- SCB: Standard Chartered Bank
- Total: TotalEnergies
- UNGP: United Nations Guiding Principles on Business and Human Rights
- WoB-verzoek: the Dutch abbreviation for Freedom of Information request

Summary

Summary

Urgency, relevance and objective of the report

In Mozambique's northern province Cabo Delgado an underreported conflict has displaced thousands of people who are now struggling for survival. Since the beginning of this conflict, which has been classified as a non-international armed conflict (NIAC) since the end of 2017,¹ inhabitants have suffered relentless violent attacks by armed groups, and witnessed killings, beheadings, and rapes, while their homes were razed to the ground. The violence reached a peak on March 24, 2021, when jihadist fighters attacked the city of Palma, located nearby the gas extraction project site (the "Project") of French company TotalEnergies ("Total"). At least 1,298 people died or are missing and 209 were kidnapped, including 55 Total (sub)contractors.² In October 2023, survivors and relatives of victims of the attack filed a civil complaint against Total for alleged negligence and indirect manslaughter.³ Some 70,000 people fled Palma after the attack, and in April 2021 Total declared a situation of force majeure on the Project and halted the Project's activities. By June 2021, the estimated number of displaced people in the Cabo Delgado province had risen to nearly 800,000.⁴

The Area 1 Mozambique Liquefied Natural Gas-project in Afungi entails the development of the offshore Golfinho-Atum gas field and the construction and operation of an onshore Liquefied Natural Gas ("LNG") plant (the "Project"), following the 2011 discovery of a natural gas field off the north coast of Mozambique. The Project site is in the province of Cabo Delgado, close to the town of Palma. Once operational, the onshore plant of the Project will liquefy the collected natural gas and supply most of the gas for exportation to Europe and Asia, as well as retain some for domestic consumption. The Project is currently led by French company Total, which took over control of the Project from American hydrocarbon exploration company Anadarko back in September 2019.⁵

Numerous Western companies play a role in the Project, among which the Dutch company Van Oord, which has been contracted to construct the Project's gas pipe system off the shore of Mozambique. Despite the structural violence in the area and numerous warnings from civil society

1 As classified by RULAC, an initiative of the Geneva Academy of International Humanitarian Law and Human Rights. See: <<https://www.rulac.org/browse/countries/mozambique#collapse1accord>> consulted on June 6, 2024.

2 According to independent journalist Alexander Perry, who spent five months investigating in Palma (between November 2022 and March 2023), the death toll is 1,507 civilians killed or missing, including 55 subcontractors. See <<https://acleddata.com/knowledge-base/9-april-2024-update-new-fatality-estimate-for-the-2021-attack-on-palma-mozambique/>> consulted on June 10, 2024.

3 The French Public Prosecutor's Office has announced that it has opened a preliminary investigation into Total's reaction to the attack in Palma. This decision follows the civil complaint filed against Total in October 2023 by survivors and relatives of victims of the 'jihadist' attack. Total is being investigated for negligence and manslaughter. See: <https://www.lemonde.fr/afrique/article/2024/05/04/attaque-djihadiste-au-mozambique-en-2021-enquete-ouverte-pour-homicide-involontaire-contre-totalenergies_6231545_3212.html> consulted on June 6, 2024.

4 See <<https://www.unhcr.org/news/briefing-notes/insecurity-northern-mozambique-continues-forcibly-displace-thousands>> consulted on June 6, 2024.

5 See <[https://totalenergies.com/media/news/press-releases/total-closes-acquisition-anadarkos-shareholding-mozambique-Ing#:~:text=The%20Final%20Investment%20Decision%20\(FID,come%20into%20production%20by%202024](https://totalenergies.com/media/news/press-releases/total-closes-acquisition-anadarkos-shareholding-mozambique-Ing#:~:text=The%20Final%20Investment%20Decision%20(FID,come%20into%20production%20by%202024)> consulted on June 6, 2024.

and the Dutch Embassy, in June 2020 the Dutch State decided to grant insurances to Van Oord and its financier Standard Chartered Bank (“SCB”) through the State’s Export Credit Agency (“ECA”) Atradius Dutch State Business (“ADSB”). These insurances, also known as Export Credit Insurances (“ECI’s”), which cover potential damages of up to USD 1,064,517,958, were approved in June 2020, but officially issued a day after the Palma attack in March 2021. Information obtained through Freedom of Information (“Fol”) requests submitted by Both ENDS, Friends of the Earth Europe, Milieudefensie and SOMO, show that the Dutch Ministries of Finance (“MinFin”), Foreign Affairs (“MoFA”) and Foreign Trade and Development Cooperation (“FTDC”) received clear warnings about the dire security situation in northern Mozambique ahead of the approval. Taking these warnings too lightly and deeming the Project’s security risks acceptable despite the conflict, the Dutch State greenlighted Van Oord’s insurance. In 2023, Dutch Parliamentarians filed a motion to, should the situation of force majeure be lifted in the future, defer a decision on continuing ECI support for the Project; at least until the outcome of a possible re-evaluation of the risks has been discussed by the House of Representatives. However, it appears that the responsible ministries refuse to implement this request. In addition, Total recently announced that it hopes to restart the development of the project in 2024. In the meantime, even though the force majeure is not yet lifted, ADSB is working on a re-evaluation.⁶

Considering the dire situation in Cabo Delgado, the current force majeure, Total’s wish to restart the project, the re-evaluation by ADSB and the worries expressed by Dutch Parliament Members, Both ENDS and Milieudefensie commissioned Dimes and Global Justice Association to investigate the Project. The aim of the research was to - based on the acquired Fol documents - assess the process that the Dutch ministries followed before approving and granting the ECI’s in support of the Project. In order to do this, between January and April 2024 we analyzed over 9,500 pages of communication and reports obtained through the Fol requests; news articles; documents related to the Fol request processes; Parliamentary questions and the answers thereto; and reports drafted by external parties, such as Uprights⁷, Rufin⁸, Milieudefensie, Both ENDS, JA!⁹ And Proximities.¹⁰

ADSB and the Dutch State currently have the chance to reconsider their support to the Project and provide full transparency about their (re-)assessment of the risks. If the force majeure is lifted, and the Dutch State again decides to go ahead with its support, it runs the risk of becoming complicit in a disaster project that is destroying the lives of many Mozambicans. The publication of this re-

6 This was announced by Dutch journalist Bram Vermeulen in the episode 5 of the podcast “Achter de Frontlinie”. The podcast is available via <<https://www.nporadio1.nl/podcasts/frontlinie/106829/5-de-rol-van-nederland-in-de-oorlog-in-mozambique>> consulted on June 6, 2024.

7 See <<https://milieudefensie.nl/actueel/report-uprights-on-total-and-Ing-mozambique.pdf>> consulted on June 6, 2024.

8 See <<https://totalenergies.com/media/news/press-releases/totalenergies-publishes-jcrufins-report-human-rights-cabo-delgado>> consulted on June 6, 2024.

9 See <<https://milieudefensie.nl/actueel/report-fuelling-the-crisis-in-mozambique.pdf>> consulted on June 6, 2024.

10 See <<https://open.overheid.nl/documenten/d362dffa-4459-4ffb-942e-9197ec03017d/file>> consulted on June 6, 2024.

port therefore comes at a critical time. At the same time, this report demonstrates that policies and safeguards ADSB and the ministries follow do not work to ensure no harm is done. In March 2024 the report “Dredging Destruction: Human rights violations and environmental destruction in international dredging projects insured by the Dutch state” demonstrated that there is a fundamental flaw in the system in which ECA’s operate. These underlying flaws are causing project governance dominated by vested interests. The learnings and recommendations in this report about the Mozambique LNG project are equally important for ADSB’s policies and standards in other projects.

“Surely contractors/operators don’t want to get into this kind of situation either. Are there any conditions for this anywhere? Is there room for delay until there is also more clarity on the developing security situation? When does it become a no-go even for contractors?” (MoFA to ADSB on May 22, 2020)

Key Findings

The ECI granting process was implemented in such a way that approval was the only possible outcome

Internal communications between ADSB, MinFin and MoFA from early 2020 to mid-June 2020, show that the assessment of the ECI requests took approval as a starting point. There are several findings that support this conclusion: Firstly, a rejection could have had negative (business and geopolitical) consequences for ADSB and the Dutch State. Total was counting on the Dutch support and put pressure on ADSB to obtain approval for the ECI’s.

A rejection would have meant that Van Oord would have had to look for other insurance options, which could also have affected the decision of other ECA’s involved with the Project. Secondly, the option to delay or reject the granting of the ECI for the project was never openly considered by ADSB or MinFin, while MoFA only discussed this option superficially. Finally, ADSB’s due diligence process does not include rejection as a potential outcome. This limitation resulted in an assessment procedure in which ADSB and the ministries forced the pieces of the puzzle together, ignoring key pieces of information.

“Major pressure from main sponsor Total on ADSB to sign as soon as possible.” (MoFA notes June 4, 2020)

States are making it difficult to access information about the Project

Between 2020 and 2023 Both ENDS, Milieudefensie, SOMO, and Friends of the Earth Europe filed several FoI requests with ADSB, MinFin and MoFA. But throughout the follow-up of their requests, they have faced (and are still facing) all possible barriers in their attempts to obtain relevant information about the Dutch State's involvement with the Project. The organizations have had to deal with extreme delays, attempts from MinFin and MoFA to omit relevant information, unjustified censorship, legal proceedings, and non-compliance with court orders. To date, MinFin has paid approximately EUR 52,000 in penalties due to follow-up delays. The resistance of governments to release information about the Project is also visible in Italy and to some extent in the UK. In May 2023, the Italian Supreme Administrative Court rejected the Italian ECA's (SACE) appeal against the Administrative Court's ruling of May 2022, which had recognised the Italian NGO ReCommon's right to get access to internal documents related to the evaluation and financing of the Project. Despite the Court order, the requested documents have still not been released.

Dutch ministries and ADSB downplayed security risks

In its acceptance proposal to MinFin and MoFA, ADSB painted a picture of the Project's security situation which did not reflect the reality on the ground. The conflict between the insurgents and the Mozambican military forces in Cabo Delgado has been classified by the Geneva Academy as a non-international armed conflict. But even though they had more than enough information about the increasing violence, attacks, limited capacity of Mozambican military forces and growing capacity of the insurgents, neither ADSB, MinFin nor MoFA in their conclusions referred to the situation as such. This is remarkable, considering that FoI documents reveal that employees of ADSB had expressed concerns about the situation on the ground internally. When ADSB representatives wanted to visit the Project site in early December 2018, they had to fly over the site by helicopter for safety reasons. Moreover, they were equipped with bullet-proof vests, ADSB told Both ENDS staff.¹¹

ADSB left out and downplayed important information about the security situation and social challenges, including crackdowns on journalists, lack of access to information, and the issue of unfair wealth distribution and youth unemployment being a contributing factor to the recruitment of youth by the insurgents. ADSB also made it seem as if several resettlement issues – such as farmers' lack of access to replacement land and limited access to the sea for fishermen – had been resolved. In doing so it ignored that some loss of livelihood compensation solutions were not yet implemented, due to the security threats. ADSB also insufficiently covered the human rights issues around the military presence in the communities.

¹¹ See <<https://www.nrc.nl/nieuws/2021/11/01/nederland-negeerde-waarschuwingen-van-eigen-ambassade-over-geweld-in-noord-mozambique-a4063888#:~:text=Nederland%20negeerde%20bij%20gasproject%20waarschuwingen%20over%20ontvoeringen%20en%20onthoofdingen%20in%20Mozambique>> consulted on June 6, 2024.

“In December 2018, we visited Pemba and took a helicopter flight over the project area due to the unsettled situation in the area.” (ADSB, December 2018)

The link between gas extraction activities and the conflict was neglected by ADSB and the ministries

The violence in Cabo Delgado surged in 2017, about seven years after one of the world’s largest offshore gas reserves was found. Investments in the Mozambican gas industry rose steeply after the discovery, but the population has so far not benefited from any of these investments. Numerous studies and news reports describe that the jihadist insurgency began out of local people’s displeasure at the neglect of Cabo Delgado, a province mostly inhabited by Muslims. Since 2021, the violence increasingly turned against civilians and – in total- more than 2,500 Mozambicans were killed in mass beheadings and clashes between jihadists and the Mozambican army. As of January 2024, the number of displaced individuals in northern Mozambique still exceeded 582,000.

Journalists, the Dutch embassy in Mozambique, Both ENDS and Milieudefensie have all flagged possible links between the gas projects and the armed conflict in the years before the ECI was granted. But FoI documents show that ADSB rejected the view that the civilian unrest and the violence is linked to gas extraction activities. By rejecting this possibility pertinently, ADSB did not sufficiently analyse the possible link between the Project and the violence.

“It is of course terrible for those people living towards Pemba that the terrorists are moving on into the country. It does however give more the picture that it is not directly related to the project as Both ENDS would like us to admit” (ADSB staff member to colleague on April 30, 2020)

MinFin and MoFA incorrectly pretended that their decision-making involved few concerns

MinFin and MoFA claimed towards the Parliament and the public that the granting of the ECI’s involved few concerns about the security situation. From the obtained FoI documents however, it is evident that a debate took place between both ministries concerning the level of risk and security threats since March 2020. The focus of the debate was how real of a risk the deteriorating security situation truly posed to the project. MoFA and MinFin both had serious concerns at some point during the approval process, but these concerns were not communicated with the public or Members of Parliament.

The ministries knew about the Palma attacks sooner than they let on, and had the opportunity to withdraw from the Project

The ECIs were granted on March 25 and 26, 2021, shortly after the insurgent attack on Palma. In their answers to Parliamentary questions from September 2021, FTDC and MinFin stated that the consequences of the attack were not clear to them until the weekend of March 27 and 28, 2021. And that the ministries therefore could not prevent the official issuance of the ECIs. Contrary to this, during a parliamentary debate in 2023 the current MinFin State Secretary Van Rij stated that ADSB received its first information about the attacks already on March 25, 2021. This is relevant because ADSB and the Dutch State could have theoretically still pulled out or delayed the policy issuance between the moment of the Palma attack and the formal ECI issuance.

It is highly unlikely that nobody within the ministries, the Dutch embassy or ADSB had heard of the severity of the attack before March 27 or 28, or even before March 25, considering that Al Jazeera¹² and The Africa Report¹³ had already published about the attacks on March 24. Al Jazeera¹⁴, the Guardian¹⁵ and the Mozambican Defence Ministry published further details of the attack on March 25, and The Guardian¹⁶ published about it again on March 26. Given the security information to which ADSB and the ministries already had access, and the debates that had taken place during the approval phase in May/June 2020, it is difficult to understand that the news of the attack was not sufficient for the ministries to pause the ECI granting on March 24 or 25.

ADSB “cherry-picked” mitigating factors and ignored warnings from reliable sources such as the Dutch embassy in Maputo and MoFA’s Sub-Saharan Africa directorate

In terms of security risks, ADSB built its proposal to the ministries predominantly on the information provided by Total and consultants who had an obvious interest in getting the Dutch ECI support. Meanwhile it ignored red flags raised by the Dutch Embassy, MoFA’s Sub-Saharan Africa directorate (“DAF”), NGOs and news media, and left out information gathered during its own site visits. The Fol documents also show that the Dutch embassy’s insights and opinion were overruled when the decision to approve the ECIs was made in June 2020. Both the Proximities report and the Fol documents make clear that the Dutch embassy was very dissatisfied with the process and the way its input was handled during the ECI approval.

Finally, in its analysis, ADSB used a narrow security focus (also confirmed by Proximities) because its financial department uses the question whether “security risks jeopardise loan repayment” as a

12 See <<https://www.aljazeera.com/news/2021/3/24/mozambique-armed-groups-attack-town-near-gas-projects>> consulted on June 6, 2024.

13 See <[https://www.theafricareport.com/75169/mozambique-fresh-attacks-on-palma-as-total-prepares-to-Ing-project/](https://www.theafricareport.com/75169/mozambique-fresh-attacks-on-palma-as-total-prepares-to-return-to-Ing-project/)> consulted on June 6, 2024.

14 See <<https://www.aljazeera.com/news/2021/3/25/fighting-in-town-near-mozambique-gas-hub-continues-for-second-day>> consulted on June 6, 2024.

15 See <<https://www.theguardian.com/world/2021/mar/25/fighting-rages-in-mozambique-close-to-totals-gas-project>> consulted on June 6, 2024.

16 See <<https://www.theguardian.com/world/2021/mar/26/mozambique-180-workers-trapped-in-hotel-amid-insurgent-attack>> consulted on June 6, 2024.

starting point,¹⁷ instead of assessing the applicable risks from a Corporate Social Responsibility (“CSR”) perspective:

“The fact that the project has not been attacked so far is not a good guarantee for the future.” “Indeed, the security situation is deteriorating by the day, a risk that remains underexposed in ADSB’s acceptance proposal. The security conclusion is summarily thin” [and] “a description of negative trend is missing.” [...] (Memo Dutch Embassy to MoFA of May 19, 2020)

A meeting with Total and the French embassy influenced the ministries’ decisions to approve the ECI’s

The decision from MinFin and FTDC to approve the ECI’s was made shortly after a conference call between ADSB, MinFin, MoFA, Total, Total’s security advisor ADIT, Total’s financier Société Générale, the French Embassy, and the Dutch Embassy on May 28, 2020. Before this call, MoFA and MinFin had serious doubts about the security situation and the effect the ongoing violence might have on the Project and the local population. On the day of the May 28 call, MinFin changed its mind, mostly based on promises and pressure from Total, and reassurances from the French Embassy. Despite the call with Total and MinFin’s change of position, MoFA still had doubts. But under pressure of MinFin, which tried to convince MoFA and even influence the content of MoFA’s advice to FTDC Minister Kaag, MoFA decided to approve the ECI request as well.

“I can’t quite get to this business case. [...] A mystery to me why ADSB is so positive” (MoFA employee on May 28, 2020)

ADSB’s monitoring plan was inadequate

ADSB’s plan to monitor the Project’s security risks appears to have been inadequate for its purpose. First, ADSB has limited visibility over the Project site, being based in the Netherlands. This point was also underlined by the Proximities report. Second, ADSB’s due diligence consultants received most of their information from Total, which was not an objective source. Third, the context in Cabo Delgado in terms of press freedom and access for NGOs make it hard to access independent information. It remains unclear how ADSB or its consultants had planned (or are planning) to go on monitoring visits in a setting of oppression.

¹⁷ Idem.

It is unclear whether and how the Dutch State can withdraw its support to the Project

To date, it remains unclear if the Dutch State can cut ties with the Project and step away from the ECIs granted to Van Oord and SCB. The ministries claim to have assessed the legal possibilities and have concluded that there is insufficient contractual liberty for the Dutch State to withdraw the ECI's. The ministries have not shared the contractual terms with the public, making it impossible to assess the exact terms and conditions of the ECI's. Due to a lack of clear communication from MinFin and MoFA, it also remains unclear if, and if so how, the Dutch State could use its political leverage to influence the decision to resume, further delay or stop the Project.

Conclusion

ADSB and the ministries assessed the security and human rights risks of the Project inadequately. Many of the anticipated risks materialised, leading to at least 2.500 deaths and 800.000 refugees in the province of Cabo Delgado. The inadequacy of the assessment is confirmed not only by this research, but also by the Proximities and Uprights reports.

Due to the current force majeure situation ADSB, MinFin and FTDC now have the opportunity to re-assess the situation on the basis of an even more complete picture of the reality on the ground. The Dutch State should seize this opportunity and assess all options, including contractual ways out and use of political influence to ensure that the well-being and reparation of the damage caused to the affected people of Cabo Delgado is prioritized over corporate interests. Solely re-assessing the Project against the same standards as before will not result in a reasonable decision if crucial information is ignored or downplayed again. To prevent a focus on the trivial, in the form of a paper exercise existing of more reports, more social action plans, and more cherry-picking of information intended to lead to the re-approval of the Project, an approval process requires meaningful consultation with affected communities, and reliance on objective information from independent sources.

Considering the ongoing safety and human rights concerns in Cabo Delgado and Total's alleged incapacity to adequately respond to attacks, a re-assessment of the security situation is likely to show that the safety of the people on and around the Project site still cannot be guaranteed. If this is indeed the case, we believe this should lead to the conclusion that the security risk is unacceptable.

The French Public Prosecutor has announced that it has opened a preliminary investigation into Total's dealing with the Palma attack. Total is being accused of negligence and indirect manslaughter. The Dutch State and ADSB should take a step back and consider whether they can continue to rely on security information provided by a company that is under investigation for alleged negligence. This time, instead of rearranging the deckchairs on a sinking ship, it is essential that ADSB

and the Dutch State first focus on the threat of the iceberg ahead.

Selection of Recommendations

The findings in this report serve to show the responsible ministries and ADSB where improvements of their assessment and decision-making process are needed and to inform Dutch Parliamentarians and civil society on how to monitor and approach ADSB's and the ministries' upcoming re-evaluation process.

To Dutch Parliamentarians:

1. Demand from ADSB and the involved ministries full transparency about the (re-) assessment, including but not limited to the safety and security aspects of the Project.
2. Continue asking critical questions to the Minister of FTDC and MinFin State Secretary, who are responsible for the Dutch ECI support to the Project. It is key that those monitoring the re-assessment processes (i) realize that the armed conflict continues to date and key drivers of the conflict remain unaddressed, (ii) consider that The French Public Prosecutor has opened a preliminary investigation into Total's actions during the Palma attack, (iii) identify the sources that are used by ADSB to obtain security information and advice and verify their independence, (iv) express to the ministries that information coming from the ground should not be overlooked, (v) realize that re-assessing the Project against international standards again by simply updating the information that was already available before, will not lead to new results or a reasonable conclusion.
3. Monitor and ensure compliance with the motion filed by Thijssen, Van Lee, Van der Raan and Teunissen on October 16, 2023, requesting the government to delay a decision on providing ECI's for the Project until the outcome of the reassessment process has been discussed in the Dutch House of Representatives.
4. Monitor and ensure that Total is not influencing the reassessment process of the ECI. Require that ADSB is transparent about any contact with Total during the process.
5. Ensure that a clause outlining the legal possibilities to terminate an ECI is included in any future contracts and monitor transparency to the public about potential improvements on this point.
6. Ensure that the reassessment process is not concluded before the civil investigation against Total by the French prosecutor is closed and the findings are made public.

To ADSB and the Dutch State (MinFin, MoFA and FTDC):

1. Provide full disclosure on what was known about the Palma attack when the ECI's to Van Oord and SBC were issued in March 2021, shortly after the attack. Explain to the public why the ECI's were issued exactly on those days, and why no action was undertaken to immediately stop or delay the issuance.
2. Explore the possibilities of a responsible withdrawal from the Project and ensure that withdrawal from the Project is considered as a possible outcome of the re-assessment. We un-

derline that the French Public Prosecutor has opened a preliminary investigation into Total's reaction to the Palma attack. Avoid ignoring or downplaying red flags that are relevant for a reasonable decision and do not work towards re-approval at all costs. There are international standards available on what constitutes a responsible exit.

3. Do not finalize the reassessment process before the civil investigation against Total by the French prosecutor is concluded and the findings are made public.
4. Investigate indications that the social unrest and armed conflict are linked to the Project.
5. Ensure compliance with the motion filed by Thijssen, Van Lee, Van der Raan and Teunissen on October 16, 2023.
6. In line with the recommendation of Uprights to Total, ensure that the Human Rights Due Diligence process is conducted with a conflict-sensitive lens.
7. Ensure that a clause outlining the legal possibilities to terminate an ECI is included in any future contracts and be transparent to the public about potential improvements on this point.

To Civil Society:

1. Closely monitor ADSB's and the Dutch State's re-assessment of the Project, and make sure that information from the ground is shared with the public.
2. Monitor and ensure that Total is not influencing the reassessment process of the ECI. Require that ADSB is transparent about any contact with Total during the process.
3. Insist on the disclosure of more details about ADSB's and the Dutch State's legal withdrawal options.
4. Insist on a full disclosure of what ADSB and the Dutch State knew about the Palma attack when the ECI's to Van Oord and SBC were issued in March 2021, shortly after the attack. This can be done through direct dialogue with ADSB and the involved ministries, or via additional Fol requests.
5. Advocate for improvement of the Fol process in general, to ensure that Dutch ministries comply with their obligations under the Dutch Fol Act.
6. Coordinate with counterparts in the United Kingdom and Italy (and possibly other countries which have granted ECI support to the Project too) about Fol requests and potential court cases initiated in their countries.
7. Continue to document links between the Project and human rights violations, if needed with the assistance of academia and journalists. Documenting possible causal links between the project and the conflict and/or serious human rights violations is key in repairing the systemic failure of Dutch policies to protect people and the environment.

Methodology and structure

Methodology and structure

The purpose of this report is to **assess the process that the Dutch ministries followed before approving and granting the ECI's in support of the Project**. We focused specifically on what ADSB and the Dutch State knew about the security concerns in relation to the Mozambique LNG gas project by TotalEnergies and what the role and responsibility of each of the actors in the approval process was.

For this, between January and April 2024 we analyzed over 9.500 pages of communication and reports obtained through the Fol requests; news articles; documents related to the Fol request processes; Parliamentary questions and the answers thereto; and reports drafted by external parties, such as Uprights¹⁸, Rufin¹⁹, Milieudéfensie, Both ENDS, JA!²⁰ And Proximities.²¹ In addition, we studied documents received through an Fol request filed in Italy, which provided important information about the due diligence process conducted by the ECA's that are involved with the Project.

This report is divided into 7 chapters, covering an introduction of the case and Dutch involvement with the Project (Chapter 1), a timeline of the ECI's granting and violent events on the ground (Chapter 2), a breakdown of what the key stakeholders knew about the security situation when approving the ECI's (Chapter 3), a breakdown of the key sources of information that were used to inform the approval (Chapter 4), an analysis of inconsistencies between what the key stakeholders knew and communicated externally (Chapter 5), an analysis of the Fol requests initiated by the Organizations (Chapter 6) and conclusions and recommendations (Chapter 7).

For this report we have used many quotes throughout to give the reader an impression of how the decision to approve the ECI's came to be. Some of the quotes obtained from Fol documents, were originally written down in Dutch. However, to make the most essential quotes accessible to both Dutch and non-Dutch readers, we have translated those into English for this report. To avoid ambiguity about the interpretation of certain translated quotes, we added a footnote behind each English quote to direct the reader to the exact place where the original Dutch version of the quote can be found.

18 See <<https://milieudéfensie.nl/actueel/report-uprights-on-total-and-lng-mozambique.pdf>> consulted on June 6, 2024.

19 See <<https://totalenergies.com/media/news/press-releases/totalenergies-publishes-jcrufins-report-human-rights-cabo-delgado>> consulted on June 6, 2024.

20 See <<https://milieudéfensie.nl/actueel/report-fuelling-the-crisis-in-mozambique.pdf>> consulted on June 6, 2024.

21 See <<https://open.overheid.nl/documenten/d362dffa-4459-4ffb-942e-9197ec03017d/file>> consulted on June 6, 2024.

Chapter 1

Introduction to the Mozambique LNG-Project and Dutch involvement

Chapter 1: Introduction to the Mozambique LNG-Project and Dutch involvement

In 2011 one of the world's largest natural gas reserves was found on the shores of the coastal province of Cabo Delgado, in the north of Mozambique.²² The discovery attracted the interest of multiple multinationals and financiers, which are involved in the extraction and exportation of the newly found fossil fuels, including French company TotalEnergies (hereafter "Total"). Numerous other Western companies play a role in Total's gas project in Mozambique, among which Dutch company Van Oord who has been tasked to construct and install the offshore pipeline system for the gas extraction.

Since 2017, inhabitants of the Cabo Delgado province have suffered relentless violent attacks by armed groups, and witnessed killings, beheadings, mutilations, and rapes, while their homes were razed to the ground. The defensive reaction of the Mozambican Government to these assaults has resulted in additional human rights violations, such as the detention of journalists reporting on events in Cabo Delgado. Amnesty International has reported that government forces have also engaged in extrajudicial killings, and torture.²³

The violence reached a peak on March 24, 2021, when fighters from a jihadist group attacked the city of Palma, which is located nearby Total's gas extraction project site in Afungi. At least 1.298 people were killed or are missing and 209 were kidnapped, including 55 Total (sub)contractors.²⁴ This is most likely the second largest terrorist attack in history. In October 2023 survivors and relatives of victims of the jihadist attack filed a civil complaint against Total for negligence and involuntary manslaughter, after which the French public prosecutor recently announced that it will open a preliminary investigation into the allegations.²⁵

Despite the raging violence, shortly after the Palma attack the Dutch State granted an insurance to Van Oord to cover potential losses for a maximum of USD 1.064.517.958. The insurance was granted through the Dutch State's insurance facilitator, also known as "Export Credit Agency" ("ECA"), Atradius Dutch State Business ("ADSB"). The Netherlands is not the only country that has insured

22 See <<https://www.bbc.com/news/business-15386875>> consulted on June 6, 2024.

23 See for example <<https://www.amnesty.org/en/latest/press-release/2020/10/mozambique-no-justice-for-victims-of-three-year-conflict-in-cabo-delgado-which-has-killed-over-2000/#:~:text=October%207%2C%202020-,Mozambique%3A%20No%20justice%20for%20victims%20of%20three%2Dyear%20conflict%20in,repairation%2C%20Amnesty%20International%20said%20today>> consulted on June 6, 2024.

24 According to independent journalist Alexander Perry, who spent five months investigating in Palma (between November 2022 and March 2023), the death toll is 1,507 civilians killed or missing, including 55 subcontractors. See <<https://acleddata.com/knowledge-base/9-april-2024-update-new-fatality-estimate-for-the-2021-attack-on-palma-mozambique/>>.

25 The French Public Prosecutor has announced that it has opened a preliminary investigation into Total's reaction to the Palma attack. This decision follows the civil complaint filed against Total in October 2023 by survivors and relatives of victims of the jihadist attack. Total is being investigated for negligence and indirect manslaughter. See: <https://www.lemonde.fr/afrique/article/2024/05/04/attaque-djihadiste-au-mozambique-en-2021-enquete-ouverte-pour-homicide-involontaire-contre-totalenergies_6231545_3212.html> consulted on June 6, 2024.

activities related to the Project. The United States Export-Import Bank (“US Exim”), the Japanese Bank for International Cooperation (“JBIC”) and Nippon Export and Investment Insurance (“NEXI”), the United Kingdom Export Finance (“UKEF”), the South African Export Credit Insurance Cooperation (“ECIC”), the Italian Servizi Assicurativi del Commercio Estero (“SACE”), and the Thai Export-Import Bank (“Thai Exim”) have also provided insurances to cover part of the Project’s activities.²⁶

This chapter introduces the nature of the gas project and the role that the Dutch State plays in it through ADSB.

a. What is the Mozambique Liquefied Natural Gas-project?

The Area 1 Mozambique Liquefied Natural Gas-project in Afungi entails the development of the offshore Golfinho-Atum gas field and the construction and operation of an onshore Liquefied Natural Gas (“LNG”) plant, following the 2011 discovery of a natural gas field off the north coast of Mozambique (the “Project”). The Project site is in the province of Cabo Delgado, close to the town of Palma. Once operational, the onshore plant of the Project will liquefy the collected natural gas and supply most of the gas for exportation to Europe and Asia, and in part for domestic consumption. The Project is currently led by French company Total, which took over control of the Project from American hydrocarbon exploration company Anadarko back in September 2019.²⁷

The Project has **been surrounded by controversies since the gas field off the Mozambican coast was discovered in 2011** and plans to extract the gas were made. Firstly, for the construction and operation of the Project there was (and still is) a need to relocate thousands of people living on or around the area which has been designated for the Project. For this, a so-called Resettlement Village was designed on the edge of the area. Because of the relocation, affected farmers and fishermen lost access to their lands and fishing spots. Secondly, since the year 2017 Mozambique has dealt with an extremely violent conflict, which has led to countless attacks on towns, civilians, and state military across the country by armed militias. The Rule of Law in Armed Conflicts Project (RULAC Project) of the Geneva Academy classifies the situation in Mozambique as a non-international armed conflict (NIAC). In the course of 2019, the violence became so extreme that local news outlets have repeatedly referred to the conflict as a civil war. Finally, the Project is supported by governments worldwide which have implemented policies aimed at reducing carbon, while the Project will produce about 18 Megaton CO₂ per year, increasing Mozambique’s total CO₂ emissions by up to 10%.²⁸

26 See <https://www.afdb.org/sites/default/files/documents/projects-and-operations/mozambique_-_mozambique_lng_area_1_-_psn_compressed.pdf> consulted on June 6, 2024.

27 See <[https://totalenergies.com/media/news/press-releases/total-closes-acquisition-anadarkos-shareholding-mozambique-lng#:~:text=The%20Final%20Investment%20Decision%20\(FID,come%20into%20production%20by%202024](https://totalenergies.com/media/news/press-releases/total-closes-acquisition-anadarkos-shareholding-mozambique-lng#:~:text=The%20Final%20Investment%20Decision%20(FID,come%20into%20production%20by%202024)> consulted on June 6, 2024.

28 See <https://cdn.friendsoftheearth.uk/sites/default/files/downloads/UKEF_Briefing_updated_June_2021.pdf?_ga=2.113454084.282571870.1668093439.663599406.1668006045> consulted on June 6, 2024.

In a context of increased civilian unrest and violence by terrorist groups, on 24 March 2021, armed militants attacked the town of Palma, killing more than a thousand people and forcing thousands to flee their homes. This led Total to declare force majeure on the Project on 26 April 2021,²⁹ which meant the immediate suspension of the activities of the Project. To date, the situation of force majeure has not been lifted, but both Total and media outlets have recently – on several occasions – announced that Total is hoping to lift the force majeure and resume the Project in the course of 2024. Both Total and the Mozambican government claim that the security situation has improved sufficiently to restart the Project.³⁰

b. Dutch involvement with the Project

The discovery of the gas reserve attracted the interest of companies and governments across the world. For example, the Dutch public and private sector joined forces in May 2014 through the creation of a business club **called the Dutch Business Club Mozambique**. The club’s evaluation report from November 2015 stated that:³¹

“There was an anticipation of large business projects that are foreseen to come to Mozambique, mainly in the oil and gas sector, creating extensive business opportunities for the Dutch. [...] An organization or platform was seen as extremely important to capitalize on these upcoming opportunities that were expected in the near future, linked for example to the financial investment decision of Anadarko. [...] With the launching of the Business Club, the members were invited to events that Heerema, Van Oord, Damen, Shell organized, and were therefore closely connected to the process of moving towards the final investment decision for the gas developments in the north of the country. It is to be expected that with a well operating Business Club, Dutch enterprises will be linked to business opportunities, gain assignments and in their turn will need and bring in other Dutch supplying companies, as such creating a flywheel for business.”

The initiator of the club was the Dutch embassy in Maputo, Mozambique, and several participants from the private sector were part of this club, including Van Oord, and other Dutch companies like Damen, and Shell.³²

29 See <<https://totalenergies.com/media/news/press-releases/total-declares-force-majeure-mozambique-Ing-project>> consulted on June 6, 2024.

30 See <<https://www.reuters.com/business/energy/totalenergies-restart-its-delayed-mozambique-Ing-project-early-2024-sources-2023-12-22/>> consulted on June 6, 2024.

31 See Report on the Dutch Business Club Mozambique Evaluation of the pilot phase and advice on a sustainable plan for the future of November 19, 2015, page 5. Accessible via <<https://w-o-o.nl/wob/archive/documentcloud/dc-4421907.pdf>> consulted on June 6, 2024.

32 Idem.

The ownership of the Project, and thus the rights to extract and export gas from a specific area of the discovered gas fields,³³ were soon mostly (85%) in the hands of multinational companies, and in addition contracts were awarded to foreign companies to contribute to specific works for the construction of the Project. Contracts were awarded to several Dutch companies, such as Van Oord and Damen. In June 2019, the Dutch dredging company Van Oord was co-awarded a contract valued at over 1-billion-dollar contract for the engineering, procurement, construction, and installation of the subsea systems of the Project.³⁴ In the meantime the Dutch ship company Damen also appears to have been involved with the Project, through the delivery of a ship to be deployed for the Project. For this, Damen received an ECI from ADSB in the amount of USD 3.340.893 on January 13, 2021.³⁵ In addition, according to media outlets, the British/Dutch company Shell managed to secure a contract with the Project to become one of the off-takers of the LNG once the Project is operational.³⁶ The involvement of Van Oord and its financier Standard Chartered Bank (hereafter "SCB"), and Damen was insured through ECI's from the Dutch ECA ADSB, as is evidenced by the ECI disclosures of ADSB from the year 2021³⁷ These so-called 'ex post' disclosures are published on ADSB's website for high risk projects classified as Category A, such as this Project. ADSB started publishing Category A project disclosures in 2016. The disclosures contain a brief summary of environmental and social considerations of the projects for which the Category A ECI's have been granted.³⁸ The disclosures are only published after (ex post) the issuance of the ECI.

Export Credit Agencies: Atradius Dutch State Business N.V.

For companies dedicated to capital intensive projects such as Van Oord, doing business abroad **comes with financial risks that are not always easy to cover through regular insurance companies or banks.** Companies that wish to export products abroad or provide services in another country might face the issue of non-paying customers or the delay, suspension or cancellation of the activities due to unforeseen circumstances. This can be particularly problematic if the offered products or services require a substantial financial investment from the exporting company. In those cases, non-payment by the (foreign) customer can lead to severe losses for the exporter.

33 The specific area where Total operates the Project is known as the Mozambique LNG Area 1.

34 See <<https://www.vanoord.com/en/updates/van-oord-awarded-large-contract-mozambique-lng-project/#:~:text=The%20Anadarko%2Dled%20Area%201,entirely%20within%20Offshore%20Area%201>> and <https://www.vanoord.com/drupal/media/data/default/press_release_-_van_oord_awarded_large_contract_for_mozambique_lng_project_june_2019.pdf> consulted on on June 6, 2024.

35 Damen received an ECI from ADSB in the amount of USD 3.340.893 to deliver a ship that "will be deployed on an LNG project in Mozambique." See page 104 of ADSB's ex post disclosures of 2021: <<https://atradiusdutchstatebusiness.nl/nl/documenten/ex-post-all-classification-2021.pdf>> consulted on June 6, 2024.

36 See news message from S&P Global from 26 April 2021: <<https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/natural-gas/042621-frances-total-declares-force-majeure-on-mozambique-lng-project>> consulted on June 6, 2024.

37 Van Oord was granted an Export Credit Insurance from ADSB of more than one billion dollars. Damen Shipyards received an Export Credit Insurance from ADSB in the amount. three million dollars. See pages 80 and 104 respectively of the ex post declarations from the year 2021: <<https://atradiusdutchstatebusiness.nl/nl/documenten/ex-post-all-classification-2021.pdf>> consulted on June 6, 2024.

38 See <<https://atradiusdutchstatebusiness.nl/nl/artikel/publicatie-a-projecten.html>> consulted on on June 6, 2024.

ECA's are private or (semi-)governmental entities created to cover the financial risks of exporters for their activities abroad which cannot be covered by regular insurance companies or banks.

ADSB is a public financier (and like many other (public) ECA's, such as the earlier mentioned US Exim for example) created by the State to stimulate domestic companies to sell their products or offer their services abroad. In essence, ECA's exist to give domestic companies a boost on the international stage. By offering insurance for potential financial loss to companies, the financial barrier for international trade is lifted. Without the insurance, companies might not be able or willing to do business abroad, which gives ECA's a very powerful position in the field of international project financing. They act as the foundation or safety net for foreign business opportunities and guarantee the continuation of costly projects, especially when it comes to projects with a high-risk profile. Usually, once the ECA's are engaged, private actors are willing to step into a project because their financial risks are covered.

ADSB presents itself as an export credit specialist, risk assessor and country and sector expert. It offers insurance and guarantees for Dutch exporters of capital goods, international contractors, banks, and investors who seek protection against risks that may arise when doing business abroad. These include so-called Export Credit Insurances ("ECI's"), through which exporting companies of goods and services can - by paying periodic premiums to ADSB - insure themselves against potential financial losses. Private ECA's or banks are not always able or willing to cover all the potential losses of a company, for example when the insured activity is very large, if the activity has a long maturity term, or if the business activities take place in an unstable country. **In cases like these, Dutch companies have the possibility to obtain an ECI from the Dutch State, through the Dutch State's ECA ADSB.**

As said, ADSB is a public financier. It grants insurances **on behalf and under the supervision and responsibility of the Dutch Ministries of Finance ("MinFin") and Foreign Affairs ("MoFA")**. All premiums, income and claim payments are for the account and risk of the Dutch state. For its work as executor, ADSB receives an annual compensation from the Dutch State. The responsible persons for the execution of ADSB's work as public financier are the State Secretary for Tax Affairs and Tax Administration on behalf of MinFin, and the Minister of Foreign Trade and Development Cooperation ("FTDC") on behalf of MoFA.³⁹

ADSB operates as the executor of the Dutch State's ECA policy, within a predefined mandate. MinFin and MoFA are responsible for determining the policy framework within which ADSB grants ECI's, including the social and environmental due diligence requirements to be met by ADSB. The level of social and environmental due diligence to be done by ADSB on a project, depends on the amount and nature of risks involved with each individual project. A project is classified as Catego-

³⁹ FTDC has its own Minister, but organization wise it falls under MoFA. FTDC deals with all matters of international trade, development cooperation, and international environmental and climate policy. On the following website you can find an organizational chart of MoFA which includes an overview of its decision-makers and (sub)departments: <<https://open.overheid.nl/documenten/8dcc4638-473d-4895-b2f0-b01a69be2813/file>> consulted on June 6, 2024.

ry A (highest risk) if there are potentially major adverse environmental and social impacts by the project, which extend beyond the site of the project. The effects may be diverse in nature, irreversible and/or unprecedented. A project is classified as Category B (second highest risk) if there are potentially substantial adverse environmental and social impacts. The impacts of category B projects are less adverse than for category A projects.⁴⁰ The Project was classified by ADSB as a Category A project, meaning that there are high environmental and/or social risks involved.

For Category A and B projects, the approval of an ECI request requires the explicit validation of the Dutch State - through the MinFin State Secretary and Minister of FTDC.⁴¹ Together with ADSB, MinFin and MoFA form a so-called Insurance Committee ("IC", in Dutch: "Verzekeringscomitee" or "VC") designed to evaluate whether an ECI should be granted or not, based on an assessment of the applicable risks of a project. One of the **main focusses of this report has been to map how this approval process was developed for the granting of the ECI's to Van Oord and SCB in relation to the Project.**

ADSB's interest in the project

ADSB had a special interest in the Project even before the original project leader Anadarko had submitted its development plan to the government of Mozambique. Already **back in 2015 ADSB was considering visiting Mozambique**, presumably to assess the potential of the Project for Dutch businesses. On October 23, 2015, ADSB employees exchanged e-mails about the Project with each other, following a news article about the possible resettlement of thousands of Mozambicans due to the development of the Project:⁴² "Gentlemen, In particular, the resettlement of 'thousands' of Mozambicans mentioned in the last piece has my attention on the environmental and social assessment of this project. Regards." A co-worker replied that same day: "Hi [...] understandable that this is/will be one of the important attention points. [...] Ps: our visit to Mozambique is off for now."

This is the first expression of ADSB's interest in the Project, and first mentioning of potential environmental and social challenges related to the Project that we could find in the documents released under the various Fol requests. ADSB would eventually go on to classify the Project in the highest risk category, Category A "because of the potentially significant adverse environmental and social impacts of the project, which may also occur outside the project boundaries and will be partly irreversible, the presence of ecologically sensitive areas with high natural values and the need for large-scale resettlement."⁴³ The dynamics between the members of the IC during the approval process of the ECI's are discussed in Chapter 3.

40 See Exportkredietverzekering mvo-beleidsdocument page 22, via <<https://zoek.officielebekendmakingen.nl/blg-831781.pdf>> consulted on June 6, 2024.

41 See Exportkredietverzekering mvo-beleidsdocument page 4, via <<https://zoek.officielebekendmakingen.nl/blg-831781.pdf>> consulted on June 6, 2024.

42 See WOO besluit op bezwaar 8 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, internal e-mails ADSB October 23, 2015, 1203085.

43 See Wob besluit 6 september 2021, Ministerie van Financiën, deelbesluit 1, Acceptance Proposal ADSB of 12 May 2020, page 67, 871664.

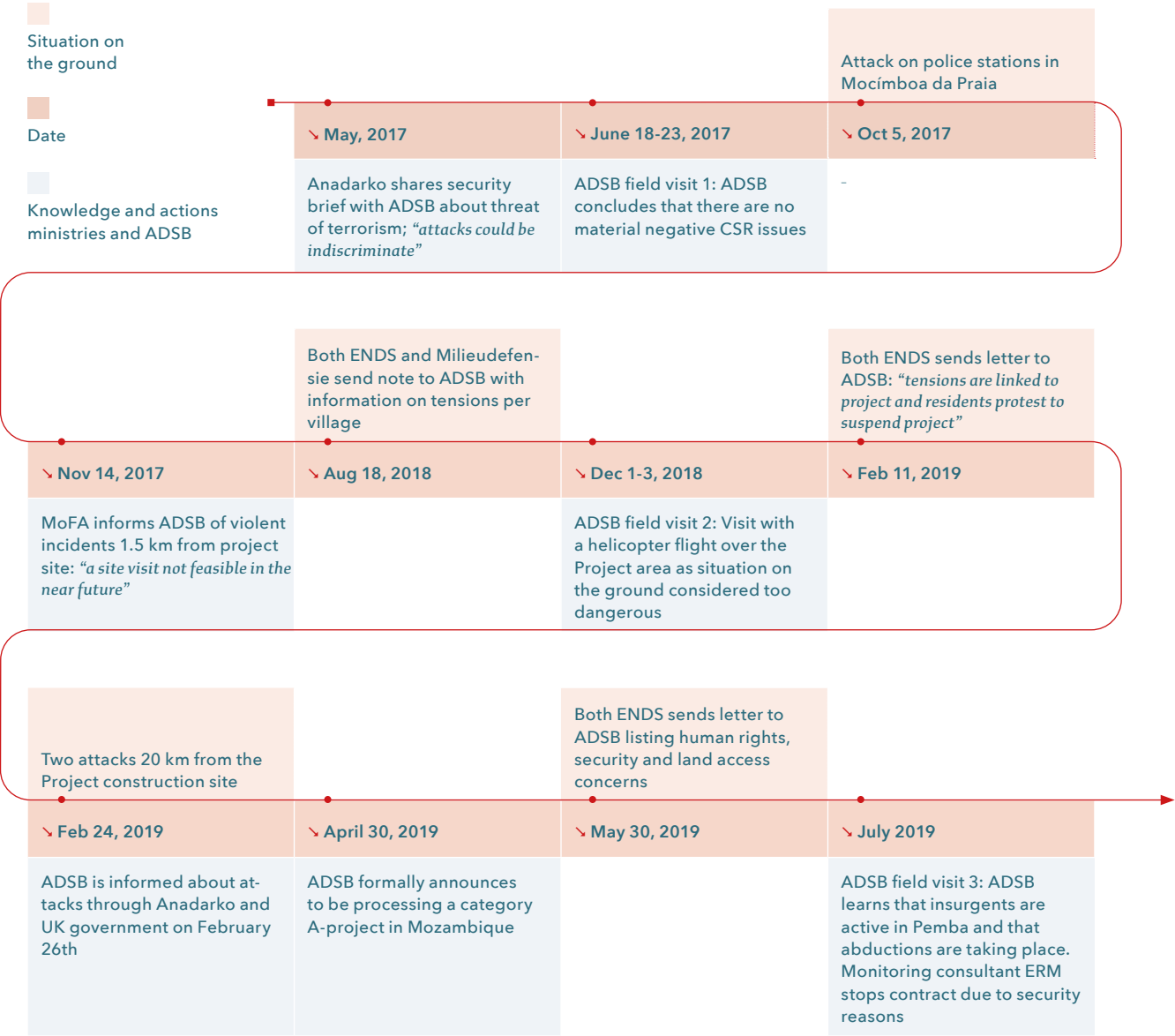
Chapter 2

Timeline: A chronology of considerations ahead of approving the Project's ECI's

Chapter 2: Timeline: A chronology of considerations ahead of approving the Project's ECI's

This chapter provides a chronological break down of both the security events on the ground and the key decision-making moments by the Dutch ministries and ADSB. **An overview of the key quotes** that were found in the FoI requests reflecting how the decision to approve the ECI's came to be. For a full overview of quotes and other events, please see Annex B.

Timeline: A chronology of considerations ahead of approving the Project's ECI's

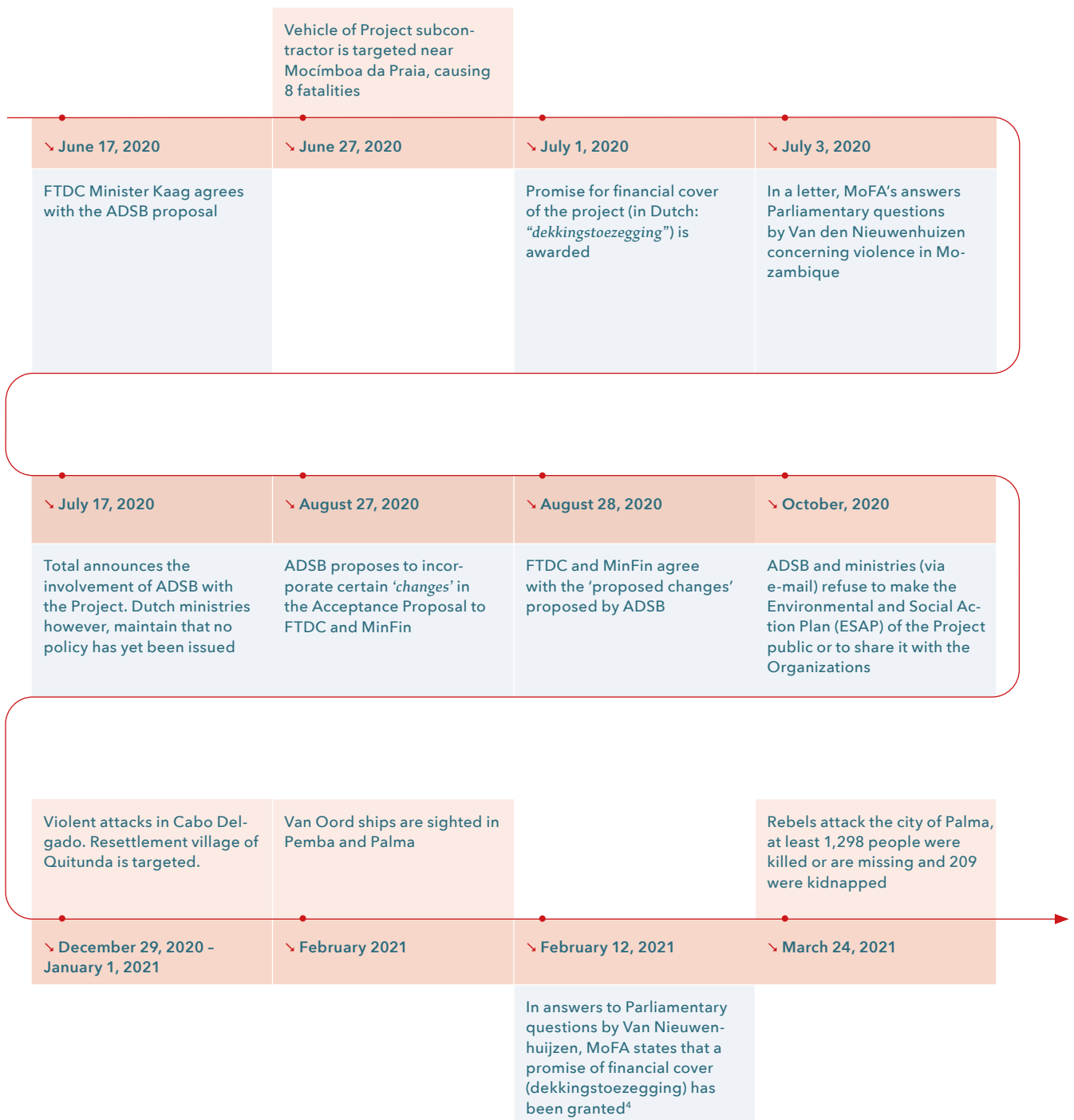


Exxon Mobil and Total asks Mozambique government to send additional troops for security	Total recalls its ships after jihadists seize the coastal town of Mocimboa da Praia in March 2019		
↘ February 1, 2020	↘ March 2019	↘ March 9, 2020	↘ April 1, 2020
		ADSB has a telephone meeting with the Dutch embassy in Maputo about security situation	Acceptance Proposal ADSB to MinFin and FTDC is finalized but “a lot of resistance is expected on CSR issues” by ADSB from the ministries

Both ENDS sends letter about the violence to MoFA	Insurgents kill 52 young people in an attack in Xitaxi after refusing to be recruited to its ranks		
↘ April 2, 2020	↘ April 7, 2020	↘ May 13, 2020	↘ May 19, 2020
ADSB points FTDC to a strong increase in- the amount incidents, presence of Wagner Group and American mercenaries, and increased capacity of insurgents		ADSB Acceptance Proposal is shared with ministries despite the escalating security situation on the ground	Dutch embassy in Maputo advises the International Business Directorate (in Dutch: Directie Internationaal Ondernemen (DIO) to pay more attention to the deteriorating security situation and the associated risks. Dutch embassy considers this element underexamined in the ADSB Acceptance Proposal.

↘ May 20, 2020	↘ May 22, 2020	↘ May 25, 2020	↘ May 28, 2020
Insurance Committee meeting 1: DIO shares information about increased violence and professionalism of the insurgents (received from the Dutch Embassy) with other IC members	FTDC tells ADSB that “now is a most unfavourable time to make a DT commitment”, and Minister of FTDC is informed about the increase in violent extremism in Cabo Delgado	Information about the security situation is still insufficient for FTDC and MinFin to assess the ECI-risks, as per internal communication	Insurance Committee meeting 3 between Total, ADSB, FTDC, MINFIN, Total’s security advisor, French Embassy and Societe Generale , during which Total gives a presentation about the project’s benefits and security situation and French Embassy expresses its support to the Project and trust in Total’s capabilities.

↘ May 28, 2020	↘ May 29, 2020	↘ May 29, 2020	↘ June 17, 2020
IC meeting 4: MinFin is reassured that project can manage security risks, FTDC still sees unresolved questions, and Dutch embassy still expresses concerns	Total puts pressure on ADSB by email as the closing deadline is approaching, reiterating that other ECAs have signed off. “Great pressure from main sponsor Total on ADSB to decide as soon as possible”	The International Business Directorate (in Dutch: Directie Internationaal Ondernemen (DIO)) advises FTDC Minister Kaag to agree with the ADSB proposal	MinFin State Secretary Vijlbrief agrees with the ADSB proposal for Project financing in the amount of \$640 million



Both ENDS, Milieudéfensie and Oil Change International send letter to minister Kaag with concerns about Dutch State's involvement

March 25, 2021

Insurance policy to Van Oord for 900 million euros is made official

April 26, 2021

Total announces force majeure on the Project

May 4, 2021

ADSB discloses an 'ex post' overview of Category A-projects, including the ECI for Van Oord and SCB, in relation to the Project. In the Van Oord and SCB ECI disclosure it is mentioned that the Project *"is not expected to be fully in line with the applicable host country requirements and international standards but deemed acceptable"*

May 11, 2021

September 13, 2021

Answers to Parliamentary questions by Van Teunissen & Van Raan and Van der Lee

Chapter 3

Knowledge of key actors about the security situation on the ground and opinions on 'acceptable risk'

Chapter 3: Knowledge of key actors about the security situation on the ground and opinions on ‘acceptable risk’

This chapter outlines several questions raised by the Organizations and Members of Dutch Parliament (“MP’s”) about the Dutch State’s involvement with the Project. After it became clear to the public that the Dutch State and ADSB had granted the ECI’s immediately after the Palma attack, both the Organizations and MP’s expressed deep concerns about Dutch support to the Project through letters, public statements, and several rounds of Parliamentary questions. These included critical questions about ADSB’s and the Dutch State’s knowledge and assessment of the safety situation on and around the Project site. The answers to the Parliamentary questions shed light on how the IC members assessed the Project’s safety risks at the time of coverage commitment (June 2020) and formal ECI granting (March 2021) and how they concluded that the security risks in their view were acceptable. However, the answers also left much space for follow-up questions as the IC members did not provide full transparency about the knowledge that they had or lacked when approving and granting the ECI’s, and which internal steps were taken to conclude that the risks on and around the Project site were acceptable. In this chapter we aim to fill this gap as much as possible with information obtained through the FoI requests. One of the aims of the FoI requests was to obtain further insight into the process leading up to the approval of the ECI’s by ADSB to Van Oord and SCB in June 2020. This was when the IC members⁴⁴ internally approved Van Oord’s and SBC’s ECI requests and made their coverage commitment (in Dutch: “dekkingstoezegging”) to grant the ECI’s. More than eight months later, on March 25 and 26 March, 2021, the ECI’s to Van Oord and SCB were officially issued (in Dutch: “polisafgifte”)

Firstly, we will assess and conclude to what extent the IC members, being ADSB, MinFin, and MoFA had knowledge about the security situation of the Project when they approved the ECI’s. Secondly, we will discuss which actors and departments within the ministries were responsible for which actions and decisions throughout the approval process. Thirdly, we will describe what position MinFin and MoFA took vis-à-vis final approval during the approval process. Fourthly, we will outline how external project related parties (not belonging to the IC) influenced the process and put pressure on ADSB and the ministries to approve the granting of the ECI’s.

a. What IC members knew about the Project’s security risks when the ECI’s to Van Oord and SCB were approved

In his reply to Parliamentary questions, on September 13, 2021 the State Secretary of MinFin

44 ADSB, MinFin and MoFA.

Vijlbrief stated that ADSB and MinFin, at the time of the coverage commitment of the ECI's in June 2020, could not have foreseen the escalation of violence which culminated in the Palma attack:⁴⁵

“I rule out reckless action by Atradius DSB. ADSB made the best possible risk assessment with the available information. The situation in Mozambique has subsequently worsened, which was not foreseen at the time. See also the answer to question 4. The situation in Mozambique worsened afterwards, which was not foreseen at the time.”

This statement, which was an answer to a question from MP Van der Lee from the green party (*GroenLinks*) gives the impression that an attack like the one in Palma could not have been foreseen. And that the safety situation became unmanageable only after the ECI's were already approved and issued. However, information obtained from the Fol requests, show that the Palma attack on 24 March 2021 was not a sudden or isolated occurrence. As reflected by the flow of information that ADSB and the ministries received from NGO's, the Dutch embassy and news articles that were publicly available at that time, the attack was the result of escalating violence and a deteriorating social, economic, and human rights situation that had been going on in Mozambique for years. ADSB, MinFin and MoFA were fully aware of this context of increasing violence in Mozambique and the Cabo Delgado province when they approved the ECI's in June 2020. They had reliable information at their disposition to conclude that the safety of the people in Cabo Delgado and those living or working on and around the Project site, could not be guaranteed.

As described in the timeline of Chapter 1, Van Oord and SCB filed their ECI requests with ADSB on 30 April 2020 and 23 April 2020 respectively.⁴⁶ At that moment, ADSB had been conducting due diligence on the Project for several years. A few weeks later, on May 12, 2020 ADSB finalized its acceptance proposal to MinFin and MoFA (the “Acceptance Proposal”).⁴⁷

To answer the first question raised at the beginning of this chapter (what did the IC members know about the security situation?), we will start by setting out which security related information ADSB received and included in its Acceptance Proposal.

45 Answers by State Secretary Vijlbrief to Parliamentary questions of September 13, 2021 question 5, accessible via <<https://open.overheid.nl/documenten/ronl-4af028ed-bc1e-4df6-be35-63332d74e58f/pdf>> consulted on June 6, 2024.

46 See WoB besluit 6 september 2021, Ministerie van Financiën, deelbesluit 1, Acceptance Proposal ADSB of 12 May 2020, page 2, 871664.

47 MoFA and MinFin received the Acceptance Proposal from ADSB via e-mail on May 13, 2020. See WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, e-mail ADSB to MoFA and MinFin May 13, 2020, 336950.

For several years ADSB had been receiving regular updates on the increasing violence, and attacks on and around the Project had already happened before

While ADSB was conducting its due diligence required for the granting of the ECI's, **ADSB had access to reliable information about the security situation in Mozambique.** Documents obtained through the FoI requests show that, in addition to the security information that ADSB obtained from Total and its advisors (which the ministries disclosed only marginally through the FoI requests), ADSB also received (regular) updates through the travel advice from the Dutch MoFA, and via news reports from the *Public Integrity Centre*, a non-profit organization in Mozambique, *Offshore Energy*, a news platform that reports about developments in the energy sector with a focus on the maritime and offshore world, and *The Open University*, a public research university that publishes regular updates on the situation in Mozambique. Through these public channels ADSB was kept informed about the Project, and the social, political, economic, and safety situation in Cabo Delgado and the rest of Mozambique. We will highlight a few of the news articles received by ADSB which indicate that the province of Cabo Delgado - where the Project site is based - was going through a surge of violence already long before the granting of the ECI's was approved. In fact, as also supported by reports from media outlets and RULAC,⁴⁸ the insurgency in the north of Mozambique had already started back in 2017 and had completely escalated by early 2020.

On November 14, 2017, when the Project was still led by Anadarko, information reached ADSB through a travel advise from MoFA that violent incidents had occurred in Cabo Delgado which had led to casualties. ADSB communicated internally by e-mail that said incidents happened at a 1.5-hour drive from the Project site and that this meant that a site visit would not be feasible in the foreseeable future.⁴⁹ *“In the vicinity of the town of Mocimboa in the province of Cabo Delgado, there were incidents in October 2017 between armed civilians and the police. There were casualties.”* And: *“This is the place you fly into when you go to the project site. For the time being, no site visit it seems to me. The project itself is 1.5 hours away by car. I will inquire with Foreign Affairs though in case they start getting more concrete about that site visit.”*

About one year later, ADSB did make a visit to the Project area. The **visit took place by helicopter because the situation on the ground was too unsafe** to freely travel from the airport to the Project site by then.⁵⁰

“In December 2018, we visited Pemba and took a helicopter flight over the project area due to the unsettled situation in the area.”

48 See for example <<https://www.theguardian.com/world/2021/may/13/contractors-accused-of-rescuing-white-workers-first-after-mozambique-attack>> consulted on June 6, 2024.

49 See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, ADSB e-mails November 14, 2017, 1203086.

50 See WOO besluit op bezwaar 7 feb 2023, Ministerie van Financiën, deelbesluit 1, deel 1, Notes Field Trip Mozambique, 1203646.

A few months later, on February 25, 2019, Offshore Energy reported that gunmen had attacked Anadarko contractors on the road from the airfield of Mocimboa da Praia to the Project-site, killing one, and injuring six:⁵¹ *“The attacks occurred approximately 20 kilometers from the construction site. The first involved a convoy where six contract personnel sustained non-life-threatening injuries and were either treated or are receiving treatment, and we have accounted for all personnel. Tragically, the second attack, which involved the firm contracted to construct an airstrip for the project, resulted in one fatality.”*

This news was received by ADSB employees one day later. Following these attacks, the Project leader Anadarko announced to put the Project site on lockdown. After the events, commutes by the Anadarko personnel and contractors from the Mozambican airport to the Project, were also done by helicopter instead of by car.

On May 3, 2019, the new owner of Anadarko, the American company Occidental, concluded an agreement with Total, after which Total announced its acquisition of the 26.5% of Occidental/Anadarko’s stake in the Project on September 30, 2019 for USD 3.9 billion.⁵² Meanwhile, the violence in Cabo Delgado continued.

On September 11, 2019, the *Open University* wrote about an insurgent attack that had taken place in the Mozambican town of Quiterajo in Cabo Delgado, killing two civilians, and seven members of the riot police:⁵³ *“An apparent escalation of the Cabo Delgado war insurgents attacked a town and paramilitary camp killing 7 members of the riot police and burning an armoured car and two other vehicles.”*

In the meantime, Total was sharing regular security updates to ADSB and the other international ECA’s involved with the Project. On February 25, 2020, for example, Total shared an annual security update presentation from which it became clear how serious the situation in Cabo Delgado had become between January 2019 and January 2020. **And that attacks would continue and increase in the future and would create “logistical challenges” to the Project.**⁵⁴

“Between 1 Jan 2019 and 31 Jan 20, unknown armed groups were responsible for 81 confirmed incidents within Cabo Delgado were attributed to unknown armed groups. Islamic State’s Central African Province (IS-CAP) laid claim to 9 of these incidents (11%). Almost all of the confirmed attacks consisted of between 5 to 20 attackers who were usually armed with bladed and or automatic weapons. Because of this, and without the armed groups in Cabo Delgado publicly defining their objectives, it makes it hard to establish drivers for attacks (ethnic tensions, criminality, Islamist fundamentalist, etc). 49 of the confirmed attacks were defined

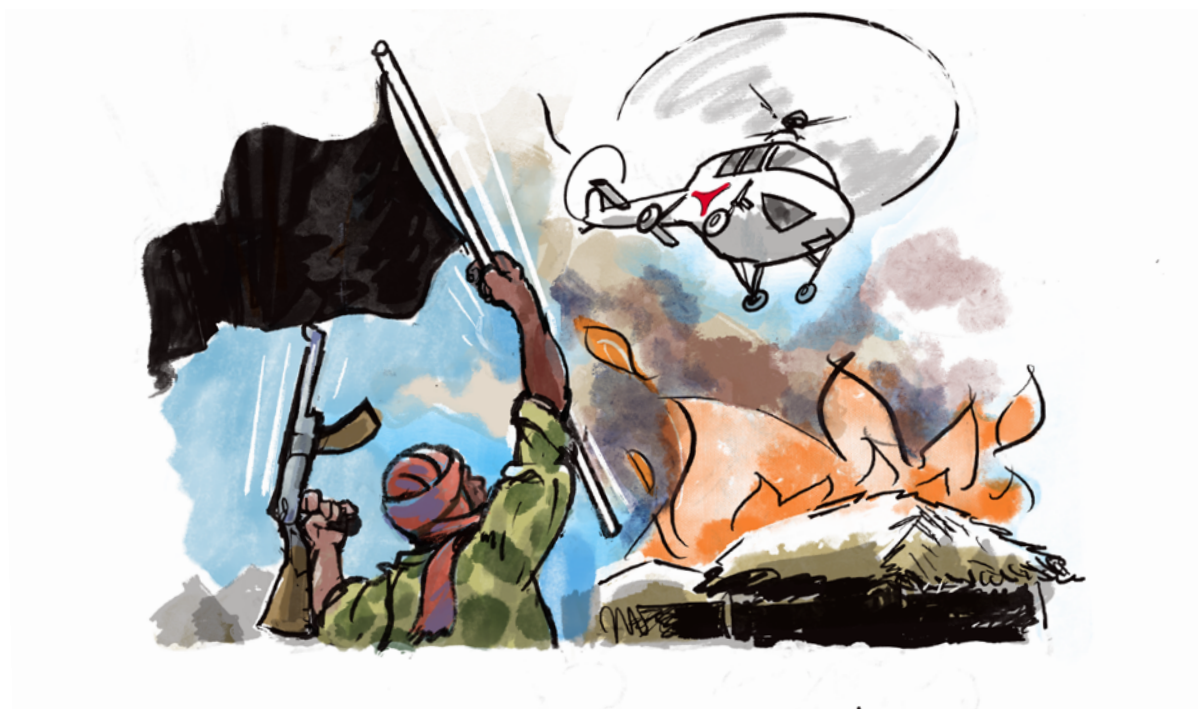
51 See <<https://www.offshore-energy.biz/gunmen-kill-anadarko-contractor-in-mozambique/>> consulted on June 6, 2024.

52 See <<https://totalenergies.com/media/news/press-releases/total-closes-acquisition-anadarkos-shareholding-mozambique-Ing>> consulted on June 6, 2024.

53 See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, Open University article September 11, 2019, Insurgents attack town and military camp killing 9, 1203110.

54 See WOO besluit op bezwaar 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Executive Summary Mozambique Annual Security Report February 25, 2020, 1203677, slide 1.

“Looks acceptable to me.”



as a village attack in which looting and the burning of properties were a common theme. Attacks have increasingly consisted of the use of firearms and a willingness to attack armed targets demonstrates signs that the groups are growing in confidence. These attacks were mostly coastal and have gradually migrated west and south as the reporting period progressed. Attacks against vehicles have been a continual trend and on 21 Feb 19 an indirect attack on a vehicle directly associated with the LNG project paused the project until 8 May 19. Although Islamist claims for attacks account for a small percentage of attacks and links to transnational Islamist groups remain unconfirmed further support of Islamist fundamentalist ideology will likely lead to an increased support presence in Cabo Delgado.

There has been no change to the overall threat that exists within Cabo Delgado as the project continues. The risk of attacks against road moves that are carried out in support of LNG operations remains extant. Attacks will continue in the region and will almost certainly increase in frequency overtime. Road moves in Cabo Delgado remain the main threat, future attacks that impact the project will highly likely originate from road moves along the supply routes which will present significant logistical challenges.”

The conflict would continue to escalate. Between March and April 2020 ADSB received multiple news articles by Open University’s Joseph Hanlon with headlines such as: *“War intensifying near Mocimboa da Praia and Bilibiza”*, from 17 March 2020⁵⁵ and *“Massacres by both sides and press restric-*

⁵⁵ See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 2, Open University article March 17, 2020, War intensifying near Mocimboa da Praia and Bilibiza, 1203157.

tions”, from April 27, 2020.⁵⁶ The article from March 17 confirmed that the death toll in the Cabo Delgado war had by then reached 910 and that the Mozambican military and police was stopping citizens and local NGO-workers from passing information about the attacks to the media, making it harder and harder for the public to understand what was happening. The article from April 27 stated that insurgent groups were evolving, were now having greater capacity and that the army did not have the capacity to defeat the insurgents:

“Dozens of government soldiers were killed in the Mocimboa attack, says the CEEI report, in what is perhaps the most candid analysis of government failures to be made by a public institution. It argues that the insurgent group “proved that it is evolving and that it has a great capacity to quickly adapt its tactics operating modes and military targets,” yet the government is failing to win over the population and the military has neither the equipment nor the leadership to defeat the insurgents.”

Early March 2020, a few months before the ECI’s were approved, ADSB contacted the Dutch embassy in Maputo, Mozambique, via e-mail to organize a call. The purpose of the call was to ask the embassy for input about the security situation in Mozambique, as part of ADSB’s due diligence. ADSB raised the following questions to the Dutch embassy:⁵⁷ *“There are a number of topics for which we would much appreciate the input of the Embassy. These are the following: Security situation in Mozambique (what is the back ground of the security incidents, what is the impact on the local population and what is the Government doing to control the situation); What is the sentiment of the local population with regard to the projects. What is the anticipated impact of the project on the people and on the economy of the country? What is the current state of affairs regarding the contesting of the election results by the opposition in Mozambique?”*

ADSB and the Dutch embassy appear to have had a phone call about these questions on March 9, 2020, but the answers from the Dutch embassy to ADSB’s questions could not be found in the disclosed e-mail exchange.

Internal ADSB e-mails obtained under the FoI request suggest that on April 1, 2020 ADSB received a call from FTDC, during which the ministry’s concerns about the upcoming approval process were expressed.⁵⁸

56 See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 2, Open University article April 27, 2020, War intensifying near Mocimboa da Praia and Bilibiza, 1203151.

57 See WOO besluit 6 september 2021, Ministerie van Financiën, deelbesluit 1, e-mail ADSB to Dutch embassy of 5 March 2020, 885680.

58 See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 2, Internal ADSB e-mail April 1, 2020, 1203157.

“I got a call from [...] from BHOS this afternoon about Moz LNG. He wants to manage the decision-making process well within BHOS because he expects a lot of resistance internally on the CSR issues. Especially the role and views of NGOs have the attention within BHOS, he said.”

Based on this telephone conversation, ADSB prepared a memo.⁵⁹ In this memo several aspects of the safety situation were mentioned. Among others, the memo said that: *“Regular incidents take place in the province where the project is being built. The security situation is especially weak in the north-eastern part of the country (province of Cabo Delgado). During 2019 and 2020, the number of terrorist attacks increased sharply. Several countries (Russia and the US) are therefore calling on the International Community to jointly secure the area. According to reports, US and Russian mercenaries are already operating to secure the interests of these countries.”*

ADSB’s description of the violence appears to have been very mild. **According to the Dutch embassy in Maputo, the situation at that point was so bad that the region was hardly accessible anymore.**⁶⁰ *“However, it is difficult to get a good overview of the current situation in the region. The Dutch embassy in Mozambique indicates that due to the unpredictability of the situation the region is hardly accessible. Moreover, there is little openness for journalists, as a result of which news only comes out sparsely.”*

The workers of the Project were also directly impacted: *“Attention is also being paid to the wider project area where bus services for the workers are running. This is because the communities feel that they are insufficiently protected. This is partly caused by the lack of communication from the government. This is partly being taken care of by the project. An intensified police presence is also planned. Finally, the transport routes to the project are being secured. There are checkpoints and surveillance in place.”*

On April 9, 2020, MoFA informed ADSB that it had spoken with the Dutch embassy. The embassy had informed MoFA that the safety was becoming worse **and that the gas projects in Mozambique can be linked to the root causes of the conflict.**⁶¹

“The security risk is increasing rather than decreasing over the coming period in the region. At the same time, the area is controlled more by the authorities. The post, however, cannot state with strong certainty the causes of the violence.

⁵⁹ See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 2, Memo ADSB April 1, 2020, 1203740.

⁶⁰ Idem.

⁶¹ See WOO besluit op bezwaar 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 2, E-mail MoFA to ADSB April 9, 2020, 1203141.

The projects can contribute to root causes of the problems.”

ADSB left out important information about the violence and attacks on and around the Project in its advice to the Dutch State

In ADSB’s Acceptance Proposal to the Dutch State of 12 May 2020, ADSB reported some of the above-described information about the violence and attacks on and around the Project. About one and a half pages of the 60-page advice was dedicated to the security situation. For example, ADSB stated that:

*“The north of Mozambique is unsafe. This leads to unrest among the local population and complicates the development of the project. The project has together with the government of the country implemented an extensive safety strategy.”*⁶²

And that:

“The safety situation is particularly weak in the northeast of the country (including the province Cabo Delgado, where the project is located). During 2019 and 2020 the amount of terrorist attacks has increased strongly. Although the government has scaled up the presence of security services significantly for the time being it is not sufficient to contain the attacks.”

In the proposal, reference is also made to the supposed **reasons behind the poor security situation and a few specific attacks, but there is little emphasis on how bad the situation was in factual terms**. For example, the proposal does not include details on the nature and number of the attacks and the amount of people that were injured, killed or displaced since the start of the insurgency attacks in 2017. Nonetheless, somehow ADSB did conclude that the attacks had (so far) not been aimed at the gas projects. ADSB gives no evidence for this statement. Considering the February 2019 attacks during which two contractors of the Project were killed, and the position of the Dutch embassy that the Project can contribute to the root causes of the problems, the statement appears to be baseless at best. In more general terms, bearing in mind the information that ADSB had access to, the assessment of the security situation and corresponding risks for the Project and people living on and around the project site, appears to be incomplete and superficial.

One additional element to highlight here, is that ADSB, in its proposal to the Dutch State, made no reference to the fact that it had come to the conclusion that the Project was not compliant with international standards. The Project’s non-compliance with international standards was only made public in ADSB’s earlier mentioned ‘ex post’ disclosure of the ECI’s issued during 2021. On the

⁶² See WoB besluit 6 september 2021, Ministerie van Financiën, deelbesluit 1, Acceptance Proposal ADSB of 12 May 2020, page 3, 871664.

disclosure of the ECI for Van Oord, under the heading “Environmental and social information”, it is written that:⁶³ *“The project is not expected to be fully in line with the applicable host country requirements and international standards but deemed acceptable. The project was not yet fully compliant with the international standards at the time of support but was planned to be compliant when construction of the LNG plant would start. This was arranged in an ESAP.”*⁶⁴ The disclosure does not specify which elements of the Project are not in line with national and international standards. As mentioned in the timeline of Chapter 1, the ESAP as referred to in the above quote was never shared with the Organizations or MP’s, nor disclosed through the Fol requests. During recent Parliamentary Answers from 21 May 2024, MinFin State Secretary Van Rij indicated that the ESAP can not be shared with the public since it considers “a contract document subject to the legal ownership of the funding parties and the project owner. ADSB does not have the legal authority to independently disclose such documents.”⁶⁵

In the next paragraph we will outline what information the ministries had obtained about the security situation in Mozambique before approving the ECI requests, how the stakeholders discussed and evaluated the input gathered on the safety situation and what position MinFin and MoFA took vis-à-vis final approval during the final stage of the approval process.

b. Political dynamics and point of no return on 28 May 2020

From the documents obtained through the Fol requests **it is evident that - until shortly before the end of the approval process - there were serious concerns among MinFin and MoFA about becoming involved with the Project.** Especially MoFA did not seem eager to approve the ECI’s, until shortly before the approval. The concerns were mostly linked to the security and safety aspects of the Project, while circumstances such as potential ecological damage, climate impact, economic, financial and corruption risks were hardly debated. At this stage, about one month before the approval of the ECI’s, the concerns mostly revolved about the increasing violence in the region and the potential impact of this violence on the Project.

In this paragraph we will therefore focus on the discussions that were held about the safety situation among the IC members.

Despite its earlier knowledge of the Project, the Acceptance Proposal from ADSB of May 12, 2020, should be considered as the formal starting point of the Dutch State’s approval process. It was the

63 [See ADSB’s ex post disclosures from the year 2021, page 80, accessible via <https://atradiusdutchstatebusiness.nl/nl/documenten/ex-post-all-classification-2021.pdf>](https://atradiusdutchstatebusiness.nl/nl/documenten/ex-post-all-classification-2021.pdf) consulted on June 6, 2024.

64 The abbreviation ESAP stands for Environmental and Social Action Plan.

65 See Parliamentary Answers MinFin State Secretary Van Rij to questions from MP’s Hirsch and Teunissen from May 21, 2024 via <https://zoek.officielebekendmakingen.nl/ah-tk-20232024-1786.html> consulted on June 6, 2024.

moment on which MinFin and MoFA were put to work and organize the Dutch State approval. Immediately after ADSB sent its Acceptance Proposal to MinFin and MoFA, MoFA shared ADSB's proposal with the Dutch embassy in Maputo.⁶⁶ In addition, the FTDC Minister also asked the Sub-Saharan Africa directorate ("DAF"), a sub-department of the Dutch MoFA tasked with the coordination of all policy matters with regard to the countries belonging to Sub-Saharan Africa, to provide further information to MinFin and MoFA about the increased violence.

After reviewing ADSB's proposal, the Dutch embassy e-mailed a memo to the International Business Directorate ("DIO"), a department of MoFA, on May 19, 2020.⁶⁷ **In the memo, the embassy explicitly warned the ministry about the deteriorating safety situation of the Project.** The memo also indicated that ADSB's proposal did not highlight sufficiently how bad the safety situation in fact was. The memo started as follows:⁶⁸

"The embassy advises DIO in the ECI for the LNG project in Mozambique with Van Oords involvement, to more explicitly include the deteriorating security situation and the associated political risks of detriment in its decision whether or not to agree to this ECI (especially also with the recent experience in Angola in mind). Indeed, the security situation is deteriorating by the day, a risk that remains underexposed in ADSB's acceptance proposal. In addition, the political situation remains fragile, the level of corruption is worrying, and the impact of climate change in Mozambique will certainly be felt more and more in the north."

Later in the memo, the embassy specified its criticism about the way the security situation was described in ADSB's proposal, stating:⁶⁹

"Description of negative trend lacking:

- In the first four months of 2020, the number of violent attacks increased by 300% compared to the same period in 2019. Up to 24 April, 101 violent incidents have been reported in 2020. Of the 285 deaths, there were 200 civilian.*
- Clear expansion of the area in which attacks occur, mainly towards the south and closer to the project site.*
- Mocimboa da Praia is clearly of interest to the insurgents. In March, the town was occupied. The army failed to recapture it and could only re-enter the city after the insurgents voluntarily left. The file seems to describe*

⁶⁶ See WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, e-mail MoFA to Dutch embassy May 13, 2020, 336950.

⁶⁷ See WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, e-mail Dutch embassy to MoFA May 19, 2020, 336950.

⁶⁸ See WoB besluit 6 september 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, memo Dutch embassy to MoFA May 19, 2020, 336946.

⁶⁹ Idem.

it as an incident.

- *The same applies to Quissanga.*
- *Capacity of insurgents seriously increased. In March a helicopter of mercenaries employed by the government was taken from the air.*
- *During the occupation of the two towns, the insurgents confirmed their affiliation with Islamic State in a video message and raised the ISIS flag.*
- *ASWJ is the group affiliated to IS.*
- *The fact that the project has not been attacked so far is not a good guarantee for future. Added to this, the project has to incur significant costs for security.”*

In summary, the embassy was very critical about the way ADSB had described the security situation in its proposal. This triggered a series of discussions among the IC members.

The DAF shared similar concerns as the Dutch Embassy in a memo to the MinFin State Secretary and Minister of FTDC dated May 22, 2020. In general, DAF's findings were very concerning and in no way suggest that the violence in Cabo Delgado was in any way controllable. DAF stated that Cabo Delgado is a deprived area where extremely violent incidents, such as attacks involving beheadings and mutilations, have been occurring since 2017:⁷⁰

- *“The remote province Cabo Delgado is a deprived area. The central government has been struggling for years with the exercise of central authority.*
- *There have been violent (terrorist) attacks in several districts within the province since late 2017. These are estimated to have left more than 1,100 dead, including 700 civilians. Atrocious methods used during the attacks include beheading, mutilation, kidnapping and burning down homes.”*

About the incidents, DAF reported that:

- *“Cabo Delgado is the most marginalized province of Mozambique, with high (youth)unemployment, analphabetism, and malnourishment. Organized crime is omnipresent. Because of its porous borders, abundant natural resources and strategic location on the Indian Ocean, a lot of smuggling of drugs (mostly for the European market), gems, timber, ivory and people take place.*
- *The first four months of 2020 showed an explosive increase in violence, compared to the same period in 2019; 101 violent incidents up to 24 April.*
- *In March insurgents took (temporary) control over two cities. They also shot a military helicopter from the sky and hijacked a patrol ship and two French cargo ships (of Total).”*

Finally, as to the government's response to the violence, DAF stated that the central government's

70 See WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, DAF memo to MoFA and MinFin May 22, 2020, 336975.

control over the Cabo Delgado was weak and that there were reports about human rights violations being committed:

- *“Cabo Delgado is 2.500 km from Maputo. The governance in the province is weak. Army and police are present but insufficiently trained and equipped. There are reports that the government, with materials and personnel, was supported by the Russian Wagner Group. There would have also been Russian victims. Since early 2020 there are reports about the hiring of the South African Van Dyck Advisory Group, which is alleged to also deploy helicopters (gunships).*
- *Also there are more reports about crackdowns by the army in local communities and human rights violations. Journalists are also sometimes dealt with harshly or “disappear.”*

DAF’s memo, like the Dutch Embassy’s feedback, did not give the impression that any of the identified risks, especially those related to safety, were under control. The logical consequence of the memo’s was that both MinFin and MoFA had serious concerns about backing the Project.

MinFin and MoFA: joint concerns about security situation

The content of the Acceptance Proposal and subsequent warnings from the Dutch embassy and DAF about safety concerns, triggered the exchange of multiple e-mails and calls within and among the ministries and ADSB in May and June 2020. As the deadline to decide on the Acceptance Proposal was swiftly approaching, the main question was whether approval of the ECI’s could be justified from a safety perspective. MoFA expressed these concerns to ADSB via e-mail on May 22:⁷¹ *“As already indicated we are receiving various signals from the post but also internally from MOFA that the situation is very bad and getting worse.”*

MoFA was having second thoughts about backing the Project and asked ADSB whether the decision to grant the ECI’s could be delayed:⁷² *“What concerns us is that now is a most unfavorable time to make a DT commitment and our question is how are these kinds of security situations addressed in the various contracts? Surely contractors/operators don’t want to get into this kind of situation either. Are there any conditions for this anywhere? Is there room for delay until there is also more clarity on the developing security situation? When is it even for contractors a no go situation? And also if the commitments have been issued even after financial close and the situation continues to deteriorate or becomes untenable what situation then arises?”*

A few days later, on 25 May 2020, MoFA’s concerns had not yet been resolved. According to MoFA the available information was inadequate to make an assessment. MinFin shared MoFA’s worries

71 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 3, e-mail MoFA to ADSB May 22, 2020, 1203174.

72 Idem.

at that time, according to MoFA.⁷³ However, nowhere in the documents an answer to the questions ADSB has mentioned above can be found.

“The most difficult thing, of course, is that the information on the situation is still inadequate to really make an assessment. We have also just had a separate chat with MinFIN, who (now) also share the concerns.”

Call with Total and the French Embassy convince MinFin, FTDC remains reluctant

Due to the ministries' concerns, on May 28, 2020, several conference calls took place. At 1:39 PM an online meeting was held between MinFin, MoFA, ADSB, Total, the Project's lead financier Société Générale, Total's security counsel ADIT, the Dutch embassy, and the French embassy. The minutes of this meeting⁷⁴ show (a.o.) that Total gave a presentation about the Project's benefits, the number of attacks that had taken place recently, how the security on the Project site was managed, and the experience that Total claimed to have with the management of other projects under similarly challenging situations. **The general picture painted by Total about the Project was positive. The French embassy supported that claim, saying that the continuation of the Project was essential for the community in the area.**

“Continuation of the project is essential for the community in the area. This requires a good relationship with the government to be maintained. As for the French embassy, Mozambique was very interesting. Now with Total there, this region has very much increased in attention. Total's approach is good and as long as the project is well managed it is expected to have a positive effect on the development of future incident attacks.”

Later in the afternoon, at 4PM, a debriefing of the meeting with Total and the French embassy took place between ADSB, MinFin and MoFA. The three-page minutes of this meeting give an interesting insight in the political dynamics within the IC and the positions that MinFin and MoFA took towards the Project's security issues. The minutes show that MinFin had suddenly changed its mind and now appeared to have been reassured about the safety risks of the Project during the call with Total.⁷⁵

“Finance says it got a very good impression that there is a serious party involved in the project that can properly manage the security risks on the project. Finance's questions were well addressed in the meeting.”

73 WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, internal MoFA e-mail May 25, 2020, 336953.

74 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 3, minutes of meeting between MinFin, MoFA, ADSB and Total of May 28, 2020, nr. 1094575.

75 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 3, minutes of meeting between MinFin, MoFA and ADSB of May 28, 2020., nr. 1094574.

MinFin's abrupt change of opinion is remarkable, given that the assurances about the security risks came from Total, the leader of the Project with a strong (economic) interest in Dutch ECI support to the Project.

MoFA (in the below quote referred to as "BZ", the acronym for Foreign Affairs (in Dutch: "Buitenlandse Zaken")) showed itself carefully optimistic after the call with Total but noted that the Dutch embassy still maintained a more reluctant position:

"BZ is also satisfied with the presentation. BZ made contact after the meeting with the NL embassy. There was much appreciation for the openness and presentation etc. BZ still has questions about the effects outside the project area. It is an uncertain factor as to how this will develop in the future. The NL embassy has many question marks about that and are more pessimistic about it. BZ will submit the advice for approval to the minister of BHOS."



"Je maintiendrai."

When the ministries discussed what their decision was going to be, MinFin seemed to have been

convinced by the call with Total. The approval of the ECI's was suddenly acceptable in their eyes:

“Finance judges positively and will advise the state secretary accordingly.”

MoFA kept a more careful posture and wondered why MinFin had decided to go for a positive advice, while a few days before it had not been ready to make a decision:

“BZ indicates that at this meeting it cannot yet take a final decision for BZ as a whole and indicates that there are various interests at play that need to be considered in the overall consideration. The BZ DIO attendees are positive about the opportunities presented by the project. But the minister needs to be advised broadly and that overall consideration must be completed with the embassy and the Africa-directorate etc. BZ asks Finance to what extent they take into account the preliminary reservation of BZ's position on security. Finance replies that BZ's position will be mentioned in the advice to the State Secretary. BZ asks Finance why it will now give a positive advice whereas last Monday after the call with the post it was still “no advice”. Finance indicates that they can now make their advice more complete because of the meeting earlier today.”

MinFin explained why it changed its mind and why the input from Total and the French embassy played an important role.

“The information from the NL embassy was reason for the then negative attitude because the whole thing was still elusive for Finance and has now gained more clarity. A.o. advice from the French and Total helped in that aspect– it showed particularly that the previously noted differences in information from ADSB versus from the post is not about difference of views but difference in the way of assessing certain security risks where the embassy focuses on Mozambique as a whole and ADSB focuses on the project and the project environment.”

MinFin in its turn seemed slightly worried by MoFA's continuing skepticism and tried to influence the content of MoFA's future advice to the FTDC Minister. In doing so, it becomes clear that MinFin wanted MoFA to downplay some of the negative aspects of the Project. Clearly worried about MoFA's skeptic posture, MinFin pointed out that the disagreement between the Dutch embassy and MinFin about the safety situation is a difference in perspective:

“Finance asks BZ whether they include the discrepancy between the post's perspective and our zooming in on the project in their advice or will it conclude a negative security situation. BZ indicates that both are taken into account. Finance also asks whether BZ mentions in the opinion that we have greater appetite for green but not necessarily less appetite for brown. BZ indicates that it should be clear that they advise positively from a fossil point of view because of current policy but that this policy is also in flux and this is a very large project. The final decision will be taken by the minister. Finally, Finance asks BZ whether they also include

the development opportunities for Mozambique in the assessment BZ confirms this and indicates that the meeting earlier today also gave them new insights.”

Meanwhile, some of MoFA’s staff appeared surprised and even puzzled by ADSB’s positive opinion about the Project. In an e-mail from one MoFA colleague to another, sent just a few hours after the 4PM-call, the following was said:⁷⁶

“Aside from the political detriment risk due to the security situation and other serious issues, I can’t quite get to this business case (but acknowledge that I don’t have ADSB’s financial project info). IEA’s Sustainable Development Scenario is invoked, but that is from six months ago (from before covid-19) and it seems unlikely to me that IEA would reproduce this scenario now, because the situation is too unclear (I speak to them weekly). A mystery to me why ADSB is so positive.”

In the meantime, Total was urging the IC members to close the deal. Total e-mailed ADSB, MinFin and MoFA shortly after the call held earlier that day:⁷⁷

“On 26 May, Council of Ministers has approved the Moz LNG Project Finance. As all the other ECAs / AFDB have now also approved the transaction, we very much look forward to the approval of Atradius participation. This will enable the closing of what will remain as a landmark financing.”

Total’s direct access to the IC members to influence the decision making is remarkable here and raises questions about whether this is common in ECI approval processes.

Total would increase pressure on ADSB, by reminding ADSB on deadlines and repeating that most other ECA’s supporting the Project had already approved. Thus implying that ADSB and the Dutch State were staying behind and potentially delaying the process, and that major interests were at stake. Total’s pressure on ADSB is reflected in several documents obtained under the Fol requests. For example, in notes for a meeting about the Project’s ECI approval, held between the Director-General for Foreign Economic Relations (DGBEB), belonging to the MoFA organization, and FTDC Minister Kaag on June 4, 2020. In the notes prepared for this meeting, it can be read that Total was pressuring ADSB to get the ECI approvals signed fast:⁷⁸

76 WoB besluit op bezwaar, 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, internal MoFA e-mail of May 28, 2020, 414665.

77 WoB besluit op bezwaar, 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, e-mail from Total to MinFin, MoFA and ADSB of May 28, 2020, nr. 336899.

78 WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, internal MoFA notes for conversation with Minister of FTDC June 2020, 336860, page 3.

“Proces/Timeline

- *Major pressure from main sponsor Total on adsb to sign as soon as possible.”*

The notes also show once more that all the other ECA's, except ADSB and one other ECA, had already obtained the required approvals to support the Project:⁷⁹

- *“- 18 June: new signing deadline scheduled by Total, after expiry of original 3/6 deadline, and pending Adsb/NL State approval. NB: as the only other ECA besides Adsb (of the 9 ECAs concerned), the [...] has also not yet given its approval;”*

Total's pressure on ADSB is highlighted again in an internal e-mail from June 10, 2020, exchanged among MoFA employees in preparation of a meeting with FTDC Minister Kaag:⁸⁰

“- Timepath: Major pressure from main sponsor Total on ADSB to decide as soon as possible given that the current financing commitments with the 15 financiers/banks involved (total amount of loans amounts to [...]) expire at the end of June and then new negotiations with the banks will be necessary, creating an uncertain situation for the whole project. Total will want to avoid this situation looking for alternatives for Adsb.”

In this same e-mail it is also noted that a rejection from Minister Kaag (referred to as “R”) would have negative consequences, although it is unclear why, as the explanation of this comment has been left out by MoFA:⁸¹

“-Procedure if R wants to reject: non-issuance of the ECI has negative consequences: [...]”

Advice to the State Secretary of MinFin and Minister of FTDC

On May 29, 2020, the head of the department Export credit insurances and investment guarantees (in Dutch: “*hoofd afdeling Exportkredietverzekering en Investeringsgaranties*”), belonging to the Foreign Financial Relations Directorate (in Dutch: “*Directie Buitenlandse Financiële Betrekkingen*”), a department of MinFin, sent a positive advice to the Ministry's State Secretary Hans Vijlbrief, asking for his consent to grant the ECI's.⁸² The advice mentions that ADSB was one of the last ECA's to grant the ECI. As said before, except for one, all the other involved international ECA's⁸³ had already granted their approvals at an earlier stage.

79 WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, internal MoFA notes for conversation with Minister of FTDC June 2020, 336860, page 4.

80 WoB besluit op bezwaar 28 maart 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, internal e-mail by anticipation of conversation with Minister of FTDC on June 11, 2020, 336851.

81 Idem.

82 WoB besluit 6 september 2021, Ministerie van Financiën, Note from the head of the department Export credit insurances and investment guarantees to State Secretary Ministry of Finance May 29, 2020, 872185.

83 The other ECA's were US Exim, JBIC, NEXI, UKEF, ECIC, SACE and Thai Exim.

The advice to the State Secretary **included a description of the safety risks which did not fairly represent the input provided by the Dutch embassy in Maputo and the DAF**, and even the Acceptance Proposal of ADSB. As a matter of fact, the way the situation was presented in the advice to the State Secretary showed little sign of worry at all about the safety of the Project and the people in Mozambique. Despite the fact that the Dutch embassy had just one month before informed MoFA that in the first four months of 2020 already 285 people in Cabo Delgado had been killed. In the advice to the State Secretary the following remarkably positive conclusion can be found:⁸⁴

‘Security in the area is a major focus for the project. In recent years, terrorist attacks have taken place in the project’s province. The Dutch post in Mozambique is concerned about the capacity of the Mozambican security forces to contain further escalation. The project’s security advisory office and Total are closely monitoring developments and have implemented a comprehensive safe-harbour system to mitigate the security risk to the project. Mozambique’s interest in making this project a success in combination with Total’s experience with projects in unsafe areas gives us confidence in the mitigating steps taken.’

Again, in the advice to the State Secretary it is pointed out that the meeting on May 28, 2020, with Total and the French embassy played an important role to reach a positive conclusion on the security situation:⁸⁵

“In order to get a better picture of the security situation surrounding the project area, a meeting took place between FIN, BuZa, ADSB, Total, [...], the Dutch post in Maputo and the [...] in Maputo. [...] stressed that the project has implemented a well-functioning system to mitigate the security risks.

Documents obtained from the FoI requests do not provide evidence of the existence of Total’s “well-functioning system to mitigate the security risks,” making it unclear whether such a system actually existed and how the IC members verified this point. Nonetheless, Total’s promises to have the capacity to mitigate risks, and the capacity of the security forces in Mozambique appears to have convinced MinFin. On that basis, MinFin deemed the risks regarding the security situation of the Project to be acceptable:⁸⁶

“Project leader Total has experience with the implementation of complex LNG-projects in areas where security is poor. Total indicates that it operates in areas where the safety situation is even worse. This has led to a professionalised safety management system in terms of safety. [...] will be reporting to ADSB on developments in the safety situation during the construction phase of the project. Also [...] will closely monitor

84 See WoB besluit 6 september 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, memo Dutch embassy to MoFA May 19, 2020, page 1, 336946.

85 WoB besluit 6 september 2021, Ministerie van Financiën, deelbesluit 1, Note from the head of the department Export credit insurances and investment guarantees to State Secretary Ministry of Finance May 29, 2020, 872185.

86 Idem.

developments.

We have no reason to doubt the capacity of the project and the Mozambican security forces to ensure the security of the project. We consider the risk regarding the security situation of the project to be acceptable.”

The advice did mention that MoFA was at that time still discussing what the advice to the FTDC Minister (Kaag) was going to be:⁸⁷

“The Foreign Affairs Ministry is still having internal discussions about the advisory which is currently not finished yet. In particular, concerns about the security situation and questions about local development relevance in Mozambique are of great relevance to BHOS and the local embassy.”

Due to MoFA’s doubts, State Secretary Vijlbrief suggested to discuss this point further as to understand the opinion of MoFA before granting his approval on MinFin’s behalf. This is shown by a handwritten note scribbled on the advice to the State Secretary:⁸⁸

“Please discuss. Would also like to know what BHOS thinks.”

Decisions of the State Secretary of MinFin and Minister of FTDC

Apparently, discussions between MinFin and MoFA did take place and led to a positive conclusion from both, evidenced by the fact that the ECI’s were ultimately approved in the course of June 2020. We did not find any notes, minutes or reports of the discussions between MinFin and MoFA from shortly before the decisions, which is remarkable considering the sensitivity of the decisions both the MinFin State Secretary and FTDC Minister had to make. In the documentation disclosed by MoFA through the FoI requests, FTDC’s decision to approve the ECI request could not be found. MinFin on the other hand did release several internal documents about the last days before its decision on June 15, 2020.

On that day, about two weeks after the May 28 call with Total about the security risks, MinFin State Secretary Vijlbrief gave his consent on behalf of the Ministry of Finance to issue the ECI’s:⁸⁹

“After discussion, agreed 15/6.”

Minister Kaag of FTDC followed shortly thereafter with a positive decision too. Due to lack of disclosed information from MoFA it is unclear on which date she gave her validation, but it must have

⁸⁷ Idem.

⁸⁸ Idem.

⁸⁹ Idem.

been mid to late June 2020.

In September 2021 the Dutch MinFin Minister Vijlbrief acknowledged in answers to Parliament that his Ministry had been aware of the Project's violent context. When asked why this element was not sufficiently weighed in the decision to approve the ECI, the Dutch State Secretary of MinFin answered that it had considered the safety risks but that these risks seemed to be adequately mitigated for the situation at the time:⁹⁰

“The violent situation in northern Mozambique was included extensively in Atradius DSB’s analysis, which was endorsed by the State. The violence context was one of the risks that received the most attention during the underwriting process in spring 2020. The measures proposed during the underwriting process to mitigate the violence context seemed adequate for the situation at the time.”

As said, from the documents obtained through the Fol requests it remains unclear what safety measures Vijlbrief referred to in the above statement. More broadly, it also remains unclear which measures were in fact taken by the Project.

Conclusion

It is evident that the members of the IC members had sufficient access to information to make a reasonable assessment of the security risks of the Project. However, on crucial decision moments they left out important aspects of the security risks from their conclusions, which is shown by the remarkably positive proposal of ADSB to the ministries and MinFin’s positive assessment of the security situation. MoFA’s final assessment of the security situation has not been disclosed to date, meaning that it is unclear how it weighed the risks.

Both MinFin and MoFA took a pessimistic position towards the security situation after receiving warnings from the Dutch embassy in Maputo around May 19, 2020 and from DAF around May 22, 2020. But MinFin appears to have suddenly changed its position after that one conference call with Total and the French embassy on May 28, 2020. MoFA remained somewhat sceptic, but after discussions with MinFin and insistence of the latter to push the ECI approval through, apparently decided to pursue a positive advice. It is very alarming to note that for their assessment of the safety situation and security risks, ADSB, MinFin, and eventually MoFA as well, possibly due to time restrictions, geopolitical risks and pressure from Total, relied on promises from the Project leader Total on such an essential element of the assessment.

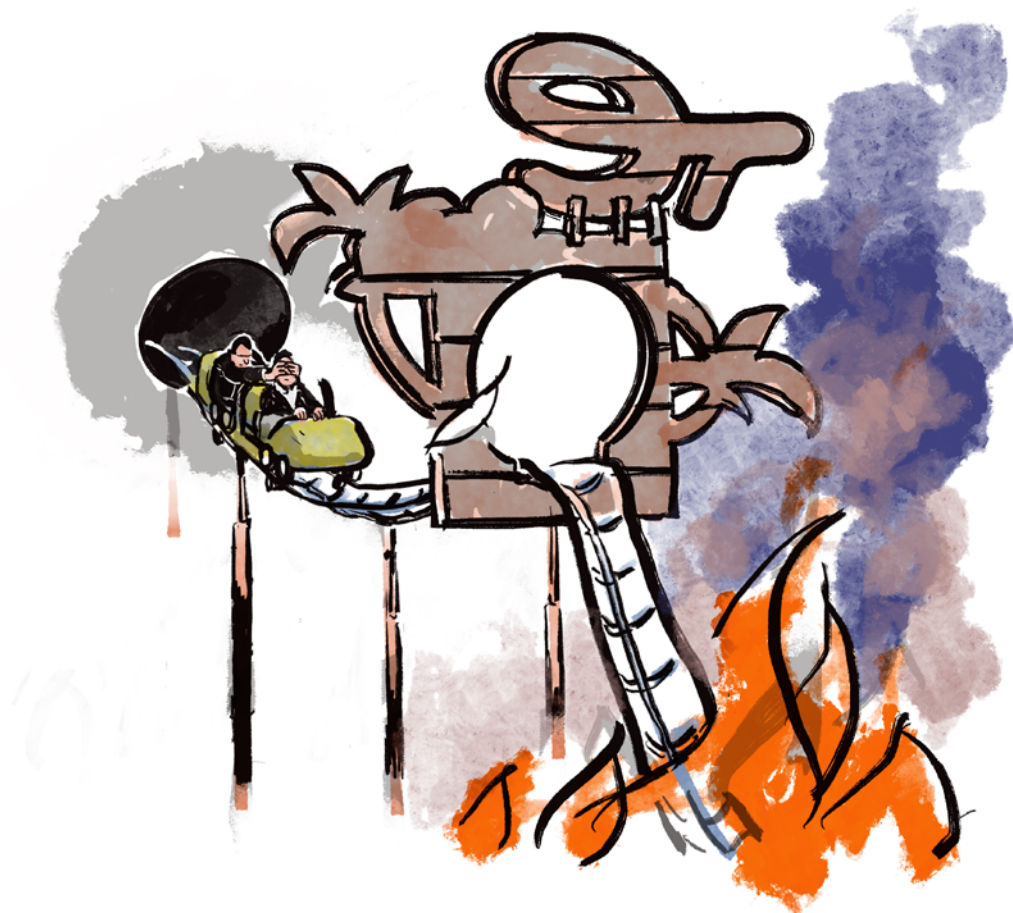
⁹⁰ Answers by State Secretary Vijlbrief to Parliamentary questions of September 13, 2021 question 2, accessible via <<https://open.overheid.nl/documenten/ronl-4af028ed-bc1e-4df6-be35-63332d74e58f/pdf>> consulted on June 6, 2024.

Chapter 4

**Cherry-Picking information to
work towards approval**

Chapter 4: Cherry-Picking information to work towards approval

In the previous chapter we discussed the security information that ADSB and the ministries obtained and were used to assess the risks. In the words of former MinFin State Secretary Vijlbrief: *“To test whether the insurance application was compliant, an extensive due diligence assessment was conducted by ADSB, using a wide range of sources including: data from concerned stakeholders, domestic and foreign NGO’s, independent consultants, site visits and the insights of the embassy in Maputo.”*⁹¹ This chapter aims to highlight what sources and pieces of information were prioritized and presented for the final approvals. The conclusions complement several findings of an external review that was



“Just trust us.”

91 Parliamentary answers by MinFin State Vijlbrief to questions from MP Van der Lee, May 28, 2021, nr. 2945. See <<https://www.rijksoverheid.nl/documenten/kamerstukken/2021/05/28/beantwoording-kamervragen-over-exportkredietverzekeringen-voor-gasprojecten-in-mozambique>> consulted on on June 6, 2024.

commissioned by Dutch Parliament in 2022 to review ADSB's security assessment – here referred to as the Proximities Report.⁹²

a. Information provided by Total and security assessment

Firstly, much of the information that was provided to ADSB and its consultants in assessing applicable security risks consisted of **documents that originated from Total itself**. External reviews have shown that part of these assessments were flawed or incomplete. First, a review conducted by Uprights⁹³ on the main due diligence document used by Total, (the LKL Human Rights Due Diligence Assessment, carried out in 2020) along with Total's subsequent Action Plan, identified the failure to appropriately address the armed conflict and to conduct heightened Human Rights Due Diligence with a conflict-sensitive approach. The authors emphasized that there appears to be no valid justification for this oversight, especially considering that the Project had been operating in a conflict-affected area since 2017, with Total assuming operatorship of the Project in September 2019. Moreover, anonymous sources have shared that despite regular warnings, Total did not have evacuation plans in place for if an attack would take place and had been delaying this process for 2 years.⁹⁴

ADSB built its positive assessment of the Project mostly on security reports from external consultant S-RM (from December 14, 2018, and July 30, 2019) and on Total's Community Based Security Plan ("CBSP") of March 26, 2020. Further, the opinion of experts Lummus Technology was sought to assess the security threats for the Offshore Engineering, Procurement, Construction and Installation ("EPCI")-contractor. Although we did not have access to these specific documents, Proximities did evaluate these sources and concluded that – even though the authors of these documents possessed ample security expertise – *“the analyses are less suitable as an underlying source for analysing the security situation in Mozambique in the context of export credit insurance. This is because there are limitations regarding the timeliness of information, the objectivity of the authors and the integrality of the topics covered.”*⁹⁵ This is attributed to the fact that ADSB's financial department uses the question whether “security risks jeopardise loan repayment” as a starting point,⁹⁶ instead of assessing the applicable risks from a Corporate Social Responsibility (“CSR”) perspective. As such, ADSB used a narrow security focus instead of assessing the broader security context. The key conclu-

92 The report can be found via <<https://open.overheid.nl/documenten/d362dffa-4459-4ffb-942e-9197ec03017d/file>> consulted on June 6, 2024.

93 Uprights (2022). Assessment of TotalEnergies' Mozambique LNG Project Human Rights Due Diligence. See <<https://uprights.org/2023/07/19/uprights-welcomes-the-publication-of-the-report-assessing-the-human-rights-due-diligence-process-of-the-mozambique-liquefied-natural-gas-project-by-totalenergies/>> consulted on June 6, 2024.

94 Based on information provided by journalist Alex Perry.

95 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, page 5. See <<https://www.rijksoverheid.nl/documenten/kamerstukken/2023/06/19/kamerbrief-verzending-rapport-proximities-inzake-de-veiligheidssituatie-in-mozambiquehttps://open.overheid.nl/documenten/d362dffa-4459-4ffb-942e-9197ec03017d/file>> consulted on June 6, 2024.

96 Idem.

sions on these assessments of the Proximities report are summarized in Table 1 below.

Table 1: Key conclusions of the Proximities Report on ADSB's security analyses

- The independence of the parties involved varied - during the process, decisions were built on sources with a clear interest in issuing the policies.
- Mitigation measures seem to have been arrived at based on subjective judgement as no objective framework has been used
- The analysis has varying subjective vulnerabilities and is incomplete. This means that the relevant security risks and corresponding mitigating measures are insufficiently outlined
- ADSB has neither the procedural mandate nor the expertise to assess security risks and mitigating measures. The quality of the analysis is largely influenced by this
- The way the presence of the Project affected the overall security situation, was not addressed by ADSB or the ministries
- Both the Dutch Embassy and the NGOs involved in providing information said they did not feel sufficiently heard during the process
- To secure local knowledge, in particular, cooperation with local NGOs can be improved

b. ADSB's field trips

The environmental and social due diligence period ran from May 2017 to April 2020. During this period, ADSB went on three site visits to Mozambique: from June 19-23, 2017, in December 2018, and from July 1-3, 2019. From the first visit, documents obtained from the FoI requests include the report of a preparatory meeting on May 4, 2017⁹⁷, minutes from a "Meeting with Community Representatives"⁹⁸, slides from the "Lender E & S visit"⁹⁹ and slides on "Stakeholder Engagement Social Investment".¹⁰⁰ For the third visit, "Notes Field Trip Mozambique"¹⁰¹ for July 1, 2, and 3 were released. **As mentioned before, for the second visit, for safety reasons the ADSB team had to fly over the site by helicopter and was equipped with bullet-proof vests, ADSB told Both ENDS staff.¹⁰² From this visit by helicopter no notes were found in the documents obtained through the**

97 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Minutes ES sub group call May4FINAL, 1203748.

98 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 2a, E & S ECA Mission Visit, June 21, 2017, Meeting with Community Representatives, 1137906.

99 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, slides MS ESMP and Licensing June 2017 Lender E S Site Visit, 1137900.

100 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, lender ES visits slides STAKEHOLDER ENGAGEMENT SOCIAL INVESTMENT, 1137902.

101 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1, deel1, Notes Field Trip Mozambique, 1203646.

102 See <<https://www.bothends.org/nl/Actueel/Voor-de-pers/Een-baggerwereld-wereldwijd-onderzoek-naar-verwoesting-Nederlandse-baggeeraars/>> consulted on June 6, 2024.

Fol requests.

Lack of safe space and no room for multiple views during lender consultation process

In the first visit to the Project in 2017 ADSB spent four days on and around the Project site. On June 21st two hours (from 3 to 5PM) were reserved for “meetings with communities”. ADSB visited the communities with other ECA’s and banks, namely SACE, ECIC, US Exim, Société Générale, SCB, and the Environmental and Social (“E&S”) consultant at the time, D’Appolonia¹⁰³ (later replaced by RINA). In a preparatory meeting, the ECA’s discussed how people from the communities would be selected for the community visit: “they [those organizing things on the ground] will be choosing people from local communities. [...] said **the resettlement committee representative will be a good representation from local communities, as opposed to open meetings which would not be feasible.** [The ADSB representative] confirmed she understood that point”.¹⁰⁴ The report of the visit to the Pioneer Camp Afungi Palma District on June 21st,¹⁰⁵ shows that three questions were asked to community representatives: details of the relationship between the community and the Project, what the community would like the Project to improve, and how the Project’s grievance mechanism was working. According to the report there were mostly positive responses, and the wish was expressed that the Project should move faster, particularly on the resettlement process. A community resettlement committee member stated: “*So far there has been no irregularity that is worth mentioning. However, my community Quitupo observes that the implementation of the resettlement plan is delayed with the Community becoming impatient.*”¹⁰⁶

International Finance Corporation Performance Standard (“IFC PS”) 1 prescribes that consultation with communities should (iv) be free of external manipulation, interference, coercion, or intimidation; and (v) enable meaningful participation, where applicable. Authorities in the field of consultation norms prescribe the minimum guarantee of **a safe space to share concerns, and self-selection of relevant stakeholders** so that genuine concerns are reported. The United Nations Guiding Principles (“UNGP”) Interpretative Note states that “*engagement with stakeholders enables an enterprise to identify whether stakeholders have the same or different perspectives (from the enterprise and from each other)*”.¹⁰⁷ This should happen “*allowing their ability to speak ‘openly’ and without fear for their security about the business actions in line with a process that allows for ‘full expression’. [...] It requires sensitivity to cultural differences and perceived power imbalances, where these exist.*”¹⁰⁸

103 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Minutes ES sub group call May 4, 1203748.

104 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Minutes ES sub group call May 4, 1203748.

105 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 2a, E & S ECA Mission Visit, June 21, 2017, Meeting with Community Representatives, 1137906.

106 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 2a, E & S ECA Mission Visit, June 21, 2017, Meeting with Community Representatives, 1137906.

107 OHCHR (2012). UNGP – An Interpretative Guide, P41.

108 OHCHR (2012). UNGP – An Interpretative Guide, P47.

According to international standards, the visit may not have been conducive to true meaningful consultation or a safe space, considering that the Project staff and police were present during the field visits of June 2017 and July 2019. The composition of the group and **set-up of the conversation raises concerns about the communities' liberty to express their concerns**. In addition, it is highly unlikely that a two-hour community visit could have provided a comprehensive insight into the issues that the communities were facing at the time.

The way grievances were dealt with

From a presentation provided to ADSB and the other ECA's and banks during their visit in 2017, it becomes clear that the **Project accuses complainants of abusing the complaints mechanism for personal gain**. A summary of the grievances concluded that:

“the majority of current grievances relate to opportunistic behaviour and asset damage”

“[they cover] the absence of employment within communities and lack of new job opportunities due to reduced activities in Project area and high community expectations associated with delays in household compensation and relocation, thus opportunistic behaviour has become an attempted means to access money compensation”.¹⁰⁹ There is no information available on whether the financiers posed any follow up questions to this conclusion drawn by the Project staff, nor on potential other reasons behind the grievances.

Security of the communities

In the meeting notes of the July 2019 visit, we identified several other red flags. **First, several security incidents were flagged already during this trip**, considering that between January and June of 2019, an Anadarko contractor had been killed, the security presence in the region had increased, clashes between insurgent armed vigilante groups and occurred, and the UK Common office had advised against all unnecessary travel. The notes reveal **a strong presence of security forces in and around the Project**. Later evidence from Amnesty from 2021 shows that government forces were implicated in extrajudicial killings, torture, and numerous accounts of Mozambican government soldiers raping and sexually assaulting women and girls, despite the government consistently denying any human rights violations.¹¹⁰ Notes also state that “insurgents have been

¹⁰⁹ WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, lender ES visits slides STAKEHOLDER ENGAGEMENT SOCIAL INVESTMENT, 1137902.

¹¹⁰ Amnesty (2021). Mozambique: “What I saw is death”: War crimes in Mozambique’s forgotten cape. See <<https://www.amnesty.org/en/documents/afr41/3545/2021/en/>> consulted on June 6, 2024.

active in the wide area from Pemba to the border of Tanzania but most active on the roads between Pemba and Mocimba de Praia, attacking food trucks. Also, **11 abductions of mostly women and children, who were forced to cook for the insurgents, had been reported.**¹¹¹ The Project staff appeared to partly attribute to the increased number of incidents “to the better reporting since the project works started.”¹¹² Then, in a meeting with local NGO’s, when these were asked by the meeting organisers whether the Project was actually violating human rights, NGO’s responded to ADSB and the group that they were “*concerned about project induced in migration and social disruption*”.¹¹³ In addition, they raised the issue that the district administration was not responsive to issues NGO’s raised. As per the notes, no follow-up questions were asked about any of these security concerns.

In addition, when visiting the Quitupo community in July 2019, ADSB explicitly asked community members about the security situation and received the following answer: “*We congratulate the project. Because of the efforts to increase military presence for the project the area has become safer.*”¹¹⁴ One would imagine that increased clashes between insurgents, a military presence increase at the project itself, and military behaviour leading to grievances and human rights violations, would all have been **a sign that there was a considerate security risk at play.** In fact, ADSB’s CSR proposal stated that “*attention is also being paid to the wider project area where bus services for the workers are running. This is because the communities feel that they are insufficiently protected.*”¹¹⁵ However, no follow up questions on the potential impact of this security situation on local people and its potential risk for the continuation of the Project appear to have been asked by ADSB or other ECA’s and bank, as per the available meeting notes. Neither did ADSB seem to be aware of power imbalances between them as financiers, and community representatives being observed by both Total and police. On the contrary, an ADSB staff member mentioned that they considered the meetings of the field trip as a confirmation to continue to support the Project. “*We observed absolutely no sense of any request to stop the project or for ECA’s to back out. We observed a genuine request from them [the communities] through us to the project to improve communication with the NGOs in order to ensure harmonious development of the local people in spite of the big changes that will be brought about by the LNG facilities.*”¹¹⁶

To conclude, ADSB omitted to perform **a serious consideration of the red flags** that ADSB had noted during their own field visits. This included a weighing of the risks related to the increased se-

111 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, Notes Field Trip Mozambique, day 1, 1203646.

112 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, Notes Field Trip Mozambique, day 2, 1203646.

113 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, Notes Field Trip Mozambique, day 2, 1203646.

114 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 1, Notes Field Trip Mozambique, day 2, 1203646.

115 WOO besluit 6 september 2021, Ministerie van Financiën, Voorlegging, BIJLAGE 1 BEOORDELING VAN MILIEU EN SOCIALE ASPECTEN, p.18, 871843.

116 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel1, Notes Field Trip Mozambique, day 2, 1203646.

curity and human rights incidents, an increased insurgency threat and military presence, and worries about social unrest. Surely, ADSB staff must have been aware that a few short meetings with community members organized in the presence of the Project leaders was insufficient to obtain a complete picture. And that such an approach would rather lead to people giving the answers that were expected from them, considering the power imbalance of the meetings.

c. Dealing with critical sources

From the available Fol documents it remains **unclear how ADSB made a selection** between the different pieces of information it received on negative impacts of the Project. The information that ADSB received points to security issues that could have serious consequences for both the Project's continuity and its surrounding communities. Not only had ADSB taken note of serious security issues during its own visits, but its technology consultant Lummus, the Dutch Embassy, Friend of the Earth International and Both ENDS had all flagged the gravity of the security situation on multiple occasions.

Ignoring warning signs from key sources

Firstly, ADSB's technology consultant Lummus Technology, had raised in its monthly reports from before May 2020 that security issues outside the Project area and transportation of workers to the Project site were a concern. On May 22, 2020, the consultant stated that "*conditions appear to be within the definition of a Baseline Security threat*"¹¹⁷, meaning that in its view a certain threshold of security threat had been met.

On May 19, 2020, the Dutch Embassy expressed that there was **a clear expansion of violence closer to the Project site. Mocimboa da Praia and Quissanga were targets for the insurgents**, and the capacity of insurgents had substantially increased.¹¹⁸ The embassy also raised that the security situation was deteriorating by the day. On May 28th, during the online meeting with Total, the embassy pointed out again that the attacks went beyond Cabo Delgado.¹¹⁹ Aside from the fact that ADSB only started communicating with the Dutch embassy about security quite late in the process of preparing the Acceptance Proposal (in March 2020), **ADSB made little use of the information provided by the embassy staff involved in the final version of the Acceptance Proposal**. In the CSR-section of the Acceptance Proposal ADSB mentioned that – in its opinion – ADSB had a better understanding of the Project and about what was going on in the region than the Dutch embassy:

117 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 3, Email Moz LNG ☐ Baseline security threat, 1203113.

118 WOO besluit, 6 september 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, Bijlagen p.2, 336977.

119 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 3, Gespreksverslag (meeting notes) ADIT Total pre VC followup Mozambique 28 mei 2020,1094575.

“[conversations with the Embassy] clearly showed that ADSB has a much more detailed knowledge of the project itself and what is going on in the region.”¹²⁰

The information provided by Both ENDS also appears to have barely been addressed, both during conversations between the ministries and ADSB, and in ADSB’s Acceptance Proposal. Both ENDS shared information about the security situation throughout the process, among which through letters sent on February 11, 2019, May 30, 2019 and April 20, 2020. In conversations with ADSB, Both ENDS also stated that the attacks in Mozambique occur most often in areas where gas extraction activities were taking place. Both ENDS stated that there was a need to protect the local population from this risk, arguing that there may be a link between the violence and the gas extraction, or at least, that ADSB needed to assess what effect the Project had in the complex dynamics of the conflict. This point was also made by the Dutch embassy on April 9, 2020, when it stated that “the projects can contribute to root causes of the problems.”¹²¹ From FoI documents it becomes clear that **ADSB did not support this view and - triggered by Both ENDS’ criticism - argued against it.** On April 30, 2020, a news article from the Open University stated that a group of insurgents had moved away from the Project to the city of Pemba,¹²² which an ADSB employee interpreted as proof that the violence was not linked to the Project:

“Thank you very much for forwarding this information. It is of course terrible for the country and those people living towards Pemba that the terrorists are moving on into the country. It does however give more the picture that it is not directly related to the project as Both ENDS would like us to admit.”¹²³

In the CSR-section of the Acceptance Proposal, ADSB argued that Both ENDS had asked them several times whether ADSB saw a direct link between the Project and the violence. ADSB dismissed this idea arguing that “*the project has been carrying out preparations for this project here since 2007. The violence started 10 years later so no direct link can be demonstrated.*”¹²⁴ This argument appears to be rather thin considering that according to IFC PS 4 ADSB had the obligation to research whether the presence of the Project had a negative influence on the local security situation. The fact that

120 WOO besluit 6 september 2021, Ministerie van Financiën, Voorlegging, Bijlage 1 Beoordeling Van Milieu En Sociale Aspecten, 871843.

121 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 2, E-mail MoFA to ADSB April 9, 2020, 1203141.

122 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1, deel 3, Joseph Hanlon (Open University), Mozambique 484 Govt. says debt 'criminal'; Insurgents move toward Pemba; Religion in Cabo Delgado 30 Apr 2020, 1203100.

123 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1, deel 3, Joseph Hanlon (Open University), Mozambique 484 Govt. says debt 'criminal'; Insurgents move toward Pemba; Religion in Cabo Delgado 30 Apr 2020, 1203100.

124 Wob besluit 6 september 2021, Ministerie van Financiën, Voorlegging, Bijlage 1 Beoordeling Van Milieu En Sociale Aspecten, 871843.

the violence started six years after the gas discoveries, is presented by researchers¹²⁵ as evidence that the Project (and other business development) is linked to the violence. The reasoning behind this link is that – despite the business opportunities in the region – the population was still not seeing any benefits from the presence of multinational companies. This reasoning has later also been confirmed by journalists.¹²⁶

In the Acceptance Proposal, ADSB only referred to input from Both ENDS once, without going into detail. ADSB simply stated that: “The project is very much in the picture with NGOs. Both here in the Netherlands (Both ENDS) and locally.”¹²⁷

The Proximities Report confirmed that both the Dutch Embassy and the international and local NGO’s involved in providing information said they did not feel sufficiently heard during the approval process.¹²⁸ Instead, ADSB and the ministries depended heavily on other (less independent) sources such as Total, and the French Embassy. About the French embassy, the Proximities said that it is “an actor that has strong interest in issuing the export credit insurance policy which may conflict with the independent information position.”¹²⁹

The use of consultants to verify information

According to Proximities, early 2020 ADSB **realized that it needed independent information** in order to verify the information provided by Total.¹³⁰ Between May 20-25, 2020, **Van Oord also flagged the importance of accurate and unambiguous information as “the local situation was complex and that the information from the media was difficult to verify.”**¹³¹ The need for independence was then raised with Total’s project manager who agreed that an independent consultant could be hired to fulfil this need. As a result of this request, it seems that **Total itself proposed ADIT as the independent consultancy firm** tasked to provide updates on the security situation to the

125 ACSS and ACSRT/CAERT (October 29, 2021) Understanding the Origins of Violent Extremism in Cabo Delgado <https://africacenter.org/programs/2021-10-understanding-origins-violent-extremism-cabo-delgado-mozambique/>. International Crisis Group (June 2021), Stemming the Insurrection in Mozambique’s Cabo Delgado <https://www.crisisgroup.org/africa/southern-africa/mozambique/303-stemming-insurrection-mozambiques-cabo-delgado>; ISS (2022). The many roots of Mozambique’s deadly insurgency. <https://issafrica.org/iss-today/the-many-roots-of-mozambiques-deadly-insurgency>. Consulted on June 6, 2024

126 See for example: NOS (April 4, 2021). Bram Vermeulen. Extremistisch geweld in Mozambique gevoed door westerse gaswinning in de regio. <<https://nos.nl/artikel/2375409-extremistisch-geweld-in-mozambique-gevoed-door-westerse-gaswinning-in-de-regio>> consulted on June 6, 2024.

127 Wob besluit 6 september 2021, Ministerie van Financiën, Acceptatievoorstel Mozambique LNG Project, p. 100, 871664.

128 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p. 137.

129 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p55.

130 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p 22.

131 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p 23.

ECA's during the Project's construction phase.¹³² Questions from Proximities regarding the extent to which ADIT performs other services for Total, were not answered "due to confidentiality agreements". In relation to ADIT, indeed, Proximities concluded that that the Project sponsors had considerable influence on the selection of the external consultants, and that ADIT is "*an actor with a reasonable interest in issuing the export credit insurance policy that might conflict with the independent information position.*"¹³³ Proximities added that the assessment process, overall, lacked objectivity.

To conclude, ADSB seems to have disregarded numerous warnings from key stakeholders, including local Mozambican and foreign NGO's, independent consultants, reports from site visits, and insights from the Dutch embassy in Maputo. ADSB's decision-making process appears to have heavily relied on the favourable assessments of project leader Total, the security consultant contracted by Total, while overlooking concerns raised by relatively unbiased sources. This paints a picture of a process in which sources that supported the anticipated outcome - a green light for approval - were given more weight than those who pointed out serious concerns.

d. The role of environmental and social consultant RINA

The consultancy firm RINA from Italy played **a key role in green lighting the Project on several social and security components**. RINA was hired as an Independent Environmental and Social Consultant ("IESC") on behalf of the ECA's. During the due diligence phase from between May 2017 and April 2020, RINA reported regularly to the ECA's and the other Project financiers, and would continue to monitor the Project once the ECI's were issued.¹³⁴ After its assessment, RINA concluded that the Project was well positioned to meet the applied IFC Performance Standards and that the project essentially complied with the requirements of the relevant ECA's and involved financial institutions.¹³⁵

Thanks to the documents obtained through the FoI requests, we had access to RINA's ESC Social Site Visit Trip Notes March 2018¹³⁶, RINA's IESC Response to NGO Memo by APC July 2018¹³⁷, and the Mozambique LNG Project Interim Environmental and Social Due Diligence of July 2018. Through an FoI request conducted in Italy, we also had access to RINA's Final Environmental and

132 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1, deel 3, Gespreksverslag (meeting notes) ADIT Total pre VC followup Mozambique 28 mei 2020,1094575.

133 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p 52.

134 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 3, Mvo deel voorlegging MozLNG_2020 definitief voor VC 12, p11, nr. 1203660.

135 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 3, Mvo deel voorlegging MozLNG_2020 definitief voor VC 12, p12, nr. 1203660.

136 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Moz LNG IESC Social Site Visit Summary (March 2018), 1137909.

137 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, RINA's IESC Response to NGO Memo by APC July 2018, 1137952.

Social Due Diligence Document of November 2019.¹³⁸ The following findings emerge from these documents.

The level of independence of the due diligence process

It is important to note that RINA received the information on which it based its due diligence report, from the Project leaders (first Anadarko, and later Total). RINA reviewed project plan studies and impact forecasts from the companies involved with the Project over several years, as indicated in the Annex of its due diligence report. There is no mentioning of interviews with other stakeholders such as experts, NGO's, academics or independent local sources. Based on the information available, RINA made (at least) one site visit to the Project in March 2020. From the field notes of this visit it becomes clear that "the consultant team was **accompanied by staff from Anadarko Mozambique Area 1 Limitada AMA1** and the resettlement and community relations teams,"¹³⁹ raising doubts about the independence of information they were able to retrieve, considering the international standards on consultation and providing a safe space to local communities to express potential criticism.

Furthermore, Proximities noted that the Project has had significant influence in selecting the technical consultant RINA, and concluded that RINA is an actor with considerable independence as it "has minimal interest in issuing the export credit insurance policy."¹⁴⁰ We have a different view on this point. Research has shown¹⁴¹ that the commercial nature of this type of relationship, which is similar to the relationship between corporations and (social) auditing firms, can create "*perverse incentives against rigorous, potentially damning audit reports [...] auditors have every incentive to be lenient with companies, to disguise problems, and help brands preserve their reputation.*"¹⁴² Market pressures and **the need for consultants to please clients, so that they will be re-hired**, in our opinion, can create a conflict of interest and damage the independence of a consultant.

Finally, RINA's reflection on how to deal with NGO criticism further emphasizes its focus on protecting the ECA's from reputational damage. RINA notes that the overall tone of critical NGO letters appears to entail "*anti-project advocacy rather than any specific gaps or weaknesses that have been identified in the way that the Project is managing the key E&S issues*" *[...] Notwithstanding the good foundation for reputational risk management and stakeholder engagement that has been established [some actions] can be implemented by the Project to provide further protection against any ongoing anti-Project*

138 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019.

139 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Moz LNG ☒ IESC Social Site Visit Summary (March 2018), 1137909.

140 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p 61.

141 See for example TERWINDT, C. AND SAAGE-MAASS, M (2016), Liability Of Social Auditors In The Textile Industry. December 2016, Friedrich Ebert Stiftung.

142 SOMO (2022). A piece, not a proxy. p.15.

advocacy by these or other NGOs.”¹⁴³ RINA’s emphasis appears to have been on protecting the client against anti-project advocacy, instead of investigating in-depth where the criticism is coming from and what risk the Project may pose to the Project and surrounding communities.

RINA’s assessment and expertise on security

Proximities concluded that RINA – even though it has experience with the assessment of compliance with IFC Standard PS4 – has no specific security specialists in its team. In addition, RINA had no local knowledge of Mozambique or Cabo Delgado. It is important to keep these conclusions in mind when reading the recommendations the consultant made to the ECA’s and other financiers about the security of the local communities in Cabo Delgado.

RINA observed that many security aspects linked to the community are not captured in relevant documentation or management plans of the Project. This is first flagged in RINA’s interim due diligence report. In this report, under IFC PS4, RINA mentioned two concerning security aspects. Firstly, *“the increase in population by non local people can also threaten security”¹⁴⁴ and secondly, “over the past six months there have been terrorist acts with many people killed in the Cabo Delgado area.”* RINA stated that although violence had not affected the immediate Project area, the recent events *“have highlighted the issue of security [...] to date community safety impacts have been identified but are not currently captured in a relevant management plan.”* It advised that community safety mitigation measures will need to be captured in a Community Safety Security Plan and Security Management Plan, and that associated procedures should be finalized. It also indicated that both plans will also need to indicate the countermeasures against terrorist attacks.¹⁴⁵

At a later stage, in its final due diligence report of 2019, RINA included a slightly more critical position towards security, referring first to the attacks against the Project. *“Project personnel had not been affected directly until February 21, 2019, when an AMA1 convoy on the road from Mocimboa da Praia to Afungi approximately 20 kilometers from the construction site was involved in an ongoing insurgent attack [...] A separate attack on a contractor vehicle left three workers with Gabriel Couto (the Airport Contractor) killed.”¹⁴⁶* Moreover, RINA showed an increased concern about the communities around the Project site. It reiterated that the recommendations on community security risk assessments in the interim report have not yet been followed up on.

“The previous reports have noted the potential risk of effects on both the Project and the local communities related to recent insurgent attacks in

143 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, RINA’s IESC Response to NGO Memo by APC July 2018, p.3, 1137952.

144 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Moz LNG E&S Interim DD Report (Final), p. 10, 1137990.

145 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Moz LNG E&S Interim DD Report (Final), p. 52, 1137990.

146 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p. 58.

the project area should not be underestimated. The security measures the Project will need to take to protect its investment and workforce should be based on an assessment including engagement with communities on security issues with the aim to support community security.”¹⁴⁷

RINA recommended to confirm the security measures for the relocated population at the Resettlement Village site with the IESC and ECA's and financiers “before anyone moves”.¹⁴⁸ RINA also reiterated that “security has become a bigger issue than when the IESC first presented the preliminary ESDD in 2016. The Security Management Plan is expected to fulfil this requirement of PS4, but it needs to be finalized.”¹⁴⁹

RINA then **advised the Project to undertake a program to assist local communities in dealing with their anxiety** “common to this kind of insecurity and uncertainty” and given the growing threat of insurgents in the area, that “AMA1 and MRV Projects contract an expert in similar conflict circumstances to work with local communities.”¹⁵⁰ The Fol documents do not demonstrate whether this advice was taken up by the Project or its financial backers (i.e. the ECA's and banks). Considering that RINA has no expertise on the region nor security aspects, it is surprising that RINA does not advise that an expert security advisor with knowledge of Cabo Delgado and of conflict situations is hired to make an additional informed assessment of how big the security threat is to the Project and affected communities, which could potentially negatively impact the continuance of the Project.

On the Project's emergency response and plan, RINA noted in its interim due diligence report that the Project meets IFC PS1 and IFC PS4, which require that the Project assists affected communities, local government agencies, and other relevant parties to respond effectively to emergency situations. “The Emergency Management Plan (EMP) is currently expected to be finalized in 2018 [...] it needs to ensure safe rapid effective and efficient response to an incident where the response level is determined by the complexity of the incident the risk to personnel and the public.”¹⁵¹ In its final due diligence report in 2019, RINA however, mentions that it “has not undertaken a field review of AMA1 emergency response capabilities but at this stage of the Project there is no obvious risk in terms of compliance with PS1.”¹⁵² Again, RINA did not propose to hire an expert on emergency response to make an informed assessment on whether project emergency response capabilities would indeed suffice in practice.

147 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p. 59

148 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p. 63.

149 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p. 60.

150 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p. 59.

151 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Moz LNG E&S Interim DD Report (Final), p. 50, 1137990.

152 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p. 33.

More importantly, RINA does not address the ongoing armed conflict in Mozambique, nor does it use this terminology. Considering that RINA built its assessment mainly on information provided by Total, which does not speak of an armed conflict in its own due diligence reports, this is not surprising. This oversight would have necessitated heightened due diligence, as also indicated by Uprights. As a result RINA neglected both the potential and actual human rights impact of the Project associated with the armed conflict.

Continuous monitoring without press freedom or access to the area

Finally, in order to continuously check compliance with the standard on security, ADSB indicated that RINA was supposed to continue to monitor and report on the Project even after the ECI's had been issued. However, ADBS's Acceptance Proposal includes two contradicting statements that raise questions on how RINA would have been able to do this monitoring and reporting. First, ADSB stated that:

“Due to the dangerous situation in the area, it is difficult to gather good information about the attacks and the sensitivities. For example, journalists cannot travel to the area for independent truth-telling.”¹⁵³

It then went on to say that:

“In addition, we expect regular feedback from tenderers' consultant monitoring visits on how safe the local operation is. In this way, we can keep a finger on the pulse and will use our influence to prevent project-related violations of human rights wherever possible.”¹⁵⁴

It remains unclear from the FoI documents how either RINA, an organisation based in Italy, or ADSB - based in the Netherlands - were planning to perform monitoring visits to assess the security of the communities around the Project in such a repressed environment, where even the press or international and local NGO's could (and can) not access the area.

To conclude, the FoI documents suggest that no adequate independent due diligence assessment was made on behalf of the ECA's and other financiers. RINA relied heavily on documents provided

153 WoB besluit 6 september 2021, Ministerie van Financiën, Voorlegging, Bijlage 1 Beoordeling Van Milieu En Sociale Aspecten, p.115, 871843.

154 WoB besluit 6 september 2021, Ministerie van Financiën, Voorlegging, Bijlage 1 Beoordeling Van Milieu En Sociale Aspecten, p.116, 871843.

and meetings set up by the Project leaders, who had a clear interest in the project moving forward. Additionally, the nature of the E&S consultant-client relationship allowed for possible conflicts of interest since RINA could have had an interest in retaining its client in a highly competitive market based on limited access to external information sources. Moreover, **the presence of a non-international armed conflict would have required specific heightened due diligence methods which were not acknowledged or implemented by RINA. This point was neither** acknowledged nor reflected in ADSB's Acceptance Proposal. Finally, the violent situation on the ground would not have allowed (and does not allow) for a monitoring process that provides accurate information about the security situation.

e. Ignoring key red flags in the security context

Aside from lack of critical reflection on information coming from certain information sources, it is worth mentioning a few topical red flags that appear to have received little attention by ADSB or the involved ministries' staff altogether, particularly in conversations and the Acceptance Proposal. Proximities confirms that during the investigation the external security advisers "did not assess all the subjects that could be relevant to the issuance of export credit insurance."¹⁵⁵

Youth and employment prospects

First, ADSB's Acceptance Proposal casually mentions "finally, there are few future prospects for young people in this region making it attractive for them to join an Islamic group."¹⁵⁶ However, the details on the unemployment context the consequences that this could have for the Project, did not receive more attention in the Acceptance Proposal – as also confirmed by Proximities. Despite the fact that this topic was covered in other ADSB reports.

For example, in ADSB's CAR analysis of May 14, 2019, youth unemployment is flagged as a key issue. "The country is one of the poorest in the world where especially youth unemployment is high."¹⁵⁷ Also the security report created by SR-M in 2018 already specifically pointed out the risk of youth unemployment. **The report states that "a lack of opportunities for local youth plays a role in their choice to join ASWJ."**¹⁵⁸ In addition, on April 27, 2020, ADSB received news through the Open University's newsletter that **youth were directly being targeted by insurgents in their recruitment strategies**, which should have at least raised concerns about the potential for growth of the insurgency itself. The spokesperson for the General Command of the Mozambican police

155 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p 7.

156 WoB besluit 6 september 2021, Ministerie van Financiën, Acceptatievoorstel Mozambique LNG Project, 871664.

157 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 1, CAR analyse, landenbleied Mozambique, 1203767.

158 Proximities (2023), Rapport Onafhankelijke review naar de beoordeling van de veiligheidssituatie bij de exportkredietverzekering verstrekking voor het LNG-project in Mozambique, p.156.

Orlando Mudmmane said insurgents “cruelly and indiscriminately shot dead 52 youths in the village of Xitaxi. He said that in their attempt to recruit young people to their ranks they encountered resistance and reacted by murdering those who refused to join.”¹⁵⁹ Finally, Parliamentary answers reveal that the Mozambican Integrated Development Agency of the North (ADIN) had specifically started creating training and employment opportunities for young people to prevent recruitment of young people by armed groups.¹⁶⁰

Even though ADSB does repeatedly refer to the loss of livelihood opportunities that the Project will bring, the exacerbation of the vulnerable situation in which young people would be until potential benefits would be realized, is not treated as a key factor in any of the analyses. With an eye on re-evaluation it is important to flag that there is evidence that recruitment drives by the militant group were facilitated by the so-called “natural resource curse” as it not only increased inequality but also raised the stakes in the province.¹⁶¹

Ignoring lack of press freedom and repression

In the Acceptance Proposal ADSB mentions that “it is difficult to get a good overview of the current situation in the region. The Dutch embassy in Mozambique indicates that due to the unpredictability of the situation, the region is hardly accessible. Moreover, there is little openness for journalists, which means that news only comes out sparsely.”¹⁶² This same sentence was also included in ADSB’s earlier report to MoFA on April 2nd, 2020.¹⁶³

ADSB also received news about the dire situation for press and the concrete details of threats against journalists in April 2020 through the Open University. On April 16, 2020 the Open University reported that “the government does not want the war reported by journalists or studied by academics. Several journalists have already been arrested and illegally detained for extended periods for reporting the war and there are restrictions on foreign journalists going.”¹⁶⁴ This report mentions the kidnapping of Pakna community radio journalist Ibraimo Mbaruco by military on April 7 2020.¹⁶⁵ On April 27, 2020 ADSB received news that “reports are confused and sometimes

159 WOO besluit 7 februari 2023, Ministerie van Financiën, deelbesluit 1 deel 2, Newsletter Joseph Hanlon, Mozambique 483 ☐ Cabo Delgado massacres by both sides; is army infiltrated? ☐ Covid-19, nr.1203151. See also: <<https://www.theguardian.com/world/2020/apr/22/islamist-group-kills-52-in-cruel-and-diabolical-mozambique-massacre>> consulted on June 6, 2024.

160 Parliamentary answers to Van den Nieuwenhuijzen by State Secretary Vijlbrief, Feb 12, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 1670.

161 ISS (2022). The many roots of Mozambique’s deadly insurgency. See <<https://issafrica.org/iss-today/the-many-roots-of-mozambiques-deadly-insurgency/>> consulted on June 6, 2024.

162 WOO besluit 6 sept 2021, Ministerie van Financiën, Acceptatievoorstel Mozambique LNG Project, 871664.

163 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, Report to FTDC, 20 04 01 Highlights Mozambique LNG_BHOS, 1203740.

164 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, Joseph Hanlon newsletter, Mozambique 481 ☐ Gas bubble bursts, Cabo Delgado debate; cocaine baron caught ☐ 16 Apr 2020,1203152.

165 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, Joseph Hanlon newsletter, Mozambique 481 ☐ Gas bubble bursts, Cabo Delgado debate; cocaine baron caught ☐ 16 Apr 2020,1203152.

conflicting which is exacerbated by the increasingly severe limitations on the press.”¹⁶⁶ On April 30, it became known to ADSB that national and international civil society organizations had denounced the “harassment and intimidation” of civil society groups as well.¹⁶⁷

On May 7, 2020, the Dutch newspaper NRC published an article about the violence in Cabo Delgado, and specifically mentioned the threats made against journalists, while reiterating that “domestic and foreign journalists [were] denied access to the area to investigate the root causes of the conflict in northern Mozambique. 17 human rights organisations complained of “intimidation” of journalists and civil society organisations in a fire letter to the president”.¹⁶⁸

The Fol documents do not show any follow up questions from ADSB and the ministries on press freedom or shrinking civic space. Nor is this risk further analysed in the Acceptance Proposal. It is particularly surprising that MoFA did not follow up on this further, considering that freedom of expression, with a focus on press freedom and civic space is a priority in the Dutch human rights policy.¹⁶⁹ According to its policy, “the Netherlands is striving to enhance prevention, protection and prosecution. Finally, the Netherlands seeks to ensure the prosecution of people who physically or verbally threaten journalists.”¹⁷⁰

To conclude, when reaching its decision to approve the Project, ADSB overlooked certain concerning indicators such as high youth unemployment, lack of press freedom and the shrinking civic space. From the Fol documents it can be concluded that no critical reflection was given to these indicators, nor was there recognition that these could be a significant risk factor for the Project. Going forward, the available evidence that recruitment drives by the militant groups were linked to the discontent around the presence of the Project and that it increased inequality, needs to be explicitly considered and studied.

f. Red flags in the resettlement process

The Project’s resettlement process was initiated in August 2013.. The resettlement included 556 households, consisting of 2446 people.¹⁷¹ In ADSB’s Acceptance Proposal, it is mentioned that many

166 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, Newsletter Joseph Hanlon, Mozambique 483 [Cabo Delgado massacres by both sides; is army infiltrated?](#) [Covid](#)19, nr.1203151.

167 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, Newsletter Joseph Hanlon Mozambique 484 [Govt. says debt 'criminal'; Insurgents move toward Pemba; Religion in Cabo Delgado](#) [30 Apr 2020](#), 1203149.

168 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, Hoe jihadisten in razend tempo het noorden van Mozambique veroveren [NRC](#), 1139982.

169 Human Rights Report 2017, Updated international human rights policy: activities and results, p. 11. See <https://open.overheid.nl/documenten/ronl-ed-53bf59-16f2-46d3-9ef9-2b3d11b636fa/pdf> consulted on June 6, 2024.

170 Human Rights Report 2017, Updated international human rights policy: activities and results, p. 11.

171 WOO besluit 7 juli, 2023 Ministerie van Financiën, deelbesluit 2 deel 2a, Anadarko Resettlement Plan. Final Draft for Government Approval, 2016 nr. 1137860.

people would be economically affected by the resettlement, particularly the people who own land in the Project area and others who live from fishing and tidal gathering. ADSB stated that “NGOs are very focused on the access to land and sea of the people. This has been given a lot of attention in due diligence.”¹⁷² However, the concrete points of concern that were expressed by communities on lack of livelihood opportunities (both in agriculture and in fishing) which continue to be an issue to this day, appear to have been misrepresented in the proposal.

Collection of information and consultation

Firstly, the FoI documents flag some key issues about how information about community concerns was collected. Based on field notes from ADSB and other information it appears that the so-called Community Resettlement Committees (“CRC’s”) were often a main source of information for issues surrounding resettlement. In the field visit by ADSB¹⁷³ to the Project, ADSB only spoke to CRC representatives about resettlement. From Anadarko documents related to the resettlement process from between 2015 and 2017, available to ADSB, it however becomes clear that there was mistrust between the communities and the CRC committees, its members being seen as people “who accept everything that is imposed on them by Government and the Project” and “that people do not feel represented by them”.¹⁷⁴ This might indicate that grievances or complaints held by communities may not have been fully represented by the CRC’s.

Information gathering issues also appear from the community consultations done by Anadarko and the apparent lack of a safe space for community members to share concerns. The Mozambican organization Justiça Ambiental (“JA!”) found that when Anadarko (and later Total) representatives, visited communities for consultation meetings, they were accompanied by a military entourage. In the FoI documents, one woman shared her experience during a Quitupo community consultation meeting:

“but I have participated in many consultations and some attended by ministers and others by Administrators from other districts and I have never seen policemen.”¹⁷⁵

JA! Concluded that, along with the presence of leaders who often have a beneficial relationship with the Project, community members were too afraid to speak out and dissent, even if they

172 WoB besluit 6 september 2021, Ministerie van Financiën, Acceptatievoorstel Mozambique LNG Project, p. 67, 871664.

173 WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 2, deel 1, Minutes ES sub group call May4FINAL, 1203748.

174 WOO besluit 7 juli, 2023, Ministerie van Financiën, deelbesluit 2, deel 2a, Consolidated Resettlement Comment And Response Report. 1138584.

175 WOO besluit 7 juli, 2023 Ministerie van Financiën, deelbesluit 2 deel 2b, Annex H.10 Public Meeting Minute Maganja (19 Aug 15), 1138669.

disagreed with the Project.¹⁷⁶ Also, the Fol documents give the impression that there was often a presence of high-level government and the companies leading the gas projects in Mozambique (including ENI and Total) during the meetings.

Access to land and compensation

First, the lack of access to land for agriculture was flagged as a major issue throughout the consultation process. This started in May 2016, when “the most common concern related to potential tension and conflicts arising within households and communities as a result of inequalities relating to employment compensation and loss of agricultural land, was cited by just over a third of respondents.”¹⁷⁷ Also, in Anadarko’s social summary it was flagged that potential conflicts could arise between the displaced and host communities and this had to be carefully managed.¹⁷⁸ According to one community member: “Anadarko occupies the land before they search for the owner to compensate them. The compensation offered is normally not sufficient. My advice is that Anadarko should first negotiate with the owners and then do the work.”¹⁷⁹

These concerns were reflected in ADSB’s visit conducted in July 2019 and in RINA’s reporting. “Serious concerns were raised on delays of the resettlement process and lack of access to land after resettlement. In the words of one community member: “We want to see our concerns written down and taken seriously. Access to agricultural land is our main concern we want to see land now”¹⁸⁰, stated ADSB notes. Also, RINA flagged land compensation issues as a key concern to be dealt with.¹⁸¹ In its November 2019 due diligence report, RINA noted a list of livelihood restoration actions that the Project is taking to compensate the delay in replacement of agricultural land such as through small livestock starter packages, nurseries and energy saving stoves. However, a footnote in the report reveals that these activities are all on hold: “It is important to note that most of these activities are currently on hold due to recent security issues.”^{182 183}

In a letter by Both ENDS, in April 2020, it indeed becomes clear that the land compensation issue was still not resolved in 2020 and that the land that was allocated for the village was of inferior quality so that other available land still had to be sought: “The resettled families, whose daily

176 See: <<https://milieudefensie.nl/actueel/report-fuelling-the-crisis-in-mozambique.pdf>> consulted on June 6, 2024.

177 WOO besluit 7 juli, 2023 Ministerie van Financiën, deelbesluit 2 deel 2a, Anadarko Resettlement Plan. Final Draft for Government Approval, 2016 nr. 1137860.

178 WOO besluit 7 juli, 2023 Ministerie van Financiën, , deelbesluit 2 deel 2a, Anadarko, ESHIA Summary And Update, 1137697.

179 WOO besluit 7 juli, 2023, Ministerie van Financiën, deelbesluit 2, deel 2a, Consolidated Resettlement Comment And Response Report. 1138584.

180 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, Notes Field Trip Mozambique, 1203646

181 Received through Italian Fol. RINA (2019). Environmental and Social Action plan. Received through Italian Fol. RINA

182 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019, p 63, footnote 6

183 Since TotalEnergies declared force majeure in April 2021, the compensation payments stopped completely, according to Justiça Ambiental, leaving people to survive on humanitarian aid in the wake of a full-blown insurgency.

lives have revolved around working the land all their lives, now have no land to grow crops for months.”¹⁸⁴ However, in ADSB’s proposal nothing is mentioned about the delays of the compensation measures due to the security situation and it concludes that the land issue is resolved. “At the end of 2019, this discussion [around the compensation of the land in Mondlane] ended and the project signed a new agreement with the Village.” [...] “the land is of better quality than the plots they first owned. This emerged from the studies conducted on the subject.”

Access to the sea

The issues around access to the sea had been flagged as a key point of community concerns ever since 2016, when almost half of 49 respondents who expressed concerns over impacts on their livelihoods referred specifically to impacts the Project will have on fishing opportunities and the communities’ access to marine resources.¹⁸⁵ To solve the problem, adequate bus transportation from the Replacement Village to the beach had been promised by the Project.¹⁸⁶ The bus was also mentioned in direct relation to the security of the communities in the CSR Proposal of ADSB. However, minutes of the second day of ADSB’s field visit in 2019, show that consulted NGO’s questioned the sustainability of the bus service with strong argumentation that communities should be resettled on the coastal line and not in the Replacement Village, “because we are not sure if and how long this service will in reality operate.”¹⁸⁷ Indeed, Both ENDS flagged this point to ADSB on April 2, 2020, stating that fishing communities from Milamba have been resettled far from the sea and have largely lost access to fishing grounds. “Although the project owner has arranged a bus for the fishermen, it does not run in coordination with the tide, resulting in fishermen having limited access to fishing.” In the Acceptance Proposal ADSB writes that it was the communities’ own choice to choose a village 6 km from the sea and that the Project is now in talks with the municipalities involved to resolve the bus issue.¹⁸⁸ The concrete issues around and immediate importance of this bus service are not flagged as essential in the proposal.

To conclude this section, people suffering long term impacts from the Project should have been provided with alternative resources to secure equivalent livelihood earning potential, through the supply of relevant equipment and inclusion in targeted Livelihood Programs reinforced where necessary with “transitional support in the form of cash and or food parcels.”¹⁸⁹ However, the reality turned out differently. Not only due to the deficient way in which information about concerns of affected people was collected and therefore potentially misrepresented, but also because of the

184 Letter from Both ENDS to Ministry of Foreign Affairs, Ministry of Finance and DIO, April 2, 2020.

185 WOO besluit 7 juli, 2023 Ministerie van Financiën, , deelbesluit 2 deel 2a, Anadarko Resettlement Plan. Final Draft for Government Approval, 2016 nr. 1137860.

186 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, Notes Field Trip Mozambique day 1, 1203646.

187 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, Notes Field Trip Mozambique day 2, 1203646.

188 WOO besluit 6 sept 2021, Ministerie van Financiën, Acceptatievoorstel Mozambique LNG Project, 871664.

189 WOO besluit 7 juli, 2023 Ministerie van Financiën, deelbesluit 2 deel 2a, Resettlement Plan, 1137861.

inability of the program to appropriately implement certain compensation measures on land and for access to the sea. Even though ADSB flagged some of these challenges in its Acceptance Proposal, several issues – including farmers’ access to replacement land and, for fishermen, and women gather shells on the coast, access to the sea – were presented as resolved in ADSB’s proposal. ADSB failed to mention that some livelihoods compensation solutions could not be implemented, partially due to the security situation.

Conclusion

By proposing to MinFin and FTDC to support the Project, ADSB ignored a few situational red flags that came up during its own visits and the information gathered throughout the due diligence process. This includes first, and foremost, the lack of accessibility to the Project area, which strongly impeded access to information and the potential monitoring of the security situation by consultants. It also includes contextual issues such as wealth distribution and youth unemployment contributing to the insurgents’ recruitment practices. ADSB presented several resettlement issues that communities faced as being resolved, failing to mention that some livelihoods compensation solutions could not be implemented, partially due to the ongoing security threats. It did not sufficiently explore the link between the Project on the violence and labelled this as non-existent throughout the process and in the Acceptance Proposal. Moreover, the Fol documentation shows a failure of ADSB, its consultants and the ministries to address the (non-international) armed conflict that was ongoing in Mozambique, which would have led to the need for heightened HRDD.

Fol documents show that while ADSB appears to have downplayed many of the warnings of key sources such as domestic and foreign NGO’s, journalists, reports from site visits and insights from the Dutch embassy in Maputo, it built its decision predominantly on the opinion of Total itself, the security consultant hired by Total, and the French Embassy. (The table below summarizes how the information provided by each of these actors comes back in the Acceptance Proposal.) Consequently, the due diligence process does not seem to include the non-continuation of the project - due to security reasons - as a real option. All the above portrays an assessment procedure in which stakeholders are trying to squeeze the pieces of the puzzle together, sometimes ignoring pieces that do not fit, leading to a approval process that was implemented to work towards approval.

Table 2: Overview of Sources available to ADSB and how they were used

Sources available	Information they provided	Use by ADSB in the Proposal or assessment
Total	Capacity of insurgents not strong enough, no link with or risk to the Project, army can manage the situation	Relied on considerably
The French Embassy	Capacity of insurgents not strong enough, no risk to the Project, army can manage the situation	Relied on considerably

Table 2: Overview of Sources available to ADSB and how they were used

Total's security Consultants	Capacity of insurgents not strong enough, no risk to the Project, army can manage the situation	Relied on considerably
Information gathered during site visits	Increased security threats, serious livelihood challenges faced by resettled, human rights violations by army, project induced in migration and social disruption	Not reflected in Acceptance Proposal.
RINA due diligence consultants	The Project to provide further protection against any ongoing anti-Project advocacy by NGOs. The potential risk of effects on both the Project and the local communities related to recent insurgent attacks in the project area should not be underestimated and community safety impacts have not been captured in management plan	Relied on considerably, especially on comments regarding protection against anti-project NGO's and identified community security concerns taken as "acceptable risk"
Lummus Technology	Conditions appear to be within the definition of Baseline Security threat	Not reflected in Acceptance Proposal
Dutch embassy in Maputo	A clear expansion of violence closer to project site, Mocimboa da Praia and Quissanga clearly was of interest to the insurgents, and the capacity of insurgents seriously increased.	Not relied on as ADSB was of the opinion to have better knowledge of the situation: "ADSB has a much more detailed knowledge of the project itself and what is going on in the region." ¹⁹⁰
DIO (MoFA)	The Mozambique army is not adequately trained and does not have the capacity to deal with the insurgents.	Not relied on. Other information taken as leading.
Both ENDS, Milieude-fensie and JA!	Showcased the effect of project activities on the security threat and on the communities.	Contradicted. "It does however give more the picture that it is not directly related to the project as Both ENDS would like us to admit"
News from Mozambique and from Dutch journalists	Journalists are under attack and being kidnapped, violence is seriously increasing, dozens of people were killed, the Mozambican army does not have enough capacity.	Mentioned as contextual element but not presented as decisive factor in Acceptance Proposal.

190 WoB besluit 6 september 2021, Ministerie van Financiën, Voorlegging, Bijlage 1 Beoordeling Van Milieu En Sociale Aspecten, p.108, 871843.

Chapter 5

Inconsistencies between external and internal communication by the Dutch ministries and ADSB

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a. Introduction

On several occasions between 2021 and 2023, the Dutch MinFin and MoFA spoke in public about the Project's ECI approval process. This happened mostly in response to Parliamentary questions about the Project details and the involvement of the Dutch state. Questions by MP's ranged from inquiries about the current security situation in Mozambique and around the Project, and the status of the approval of the ECI's, to what the ministries and ADSB knew and had known about the increased violence in Mozambique and in the vicinity of the Project site. MP's also raised questions about what ADSB had known about the attacks on Palma on March 24, 2021, a day before the ECI's were officially granted on March 25 and 26, 2020.

It is clear that the MP's were trying to get a grip on what was going on in Mozambique and that they were severely concerned about the human rights, climate and environmental impacts of the Project. At least 100 questions were asked by a broad range of political parties over a time span of three years. The discussion on Mozambique also featured in several Parliamentary debates and in a motion filed by Thijssen, Van Lee, Van der Raan and Teunissen on October 16, 2023.

In this section we analyse whether there are inconsistencies between what has been publicly communicated by the ministries to the public and MP's and what was assessed and discussed internally between ADSB, MoFA and MinFin. This analysis covers internal communications between ADSB, MoFA and MinFin up to June 2020, as the Fol documents from after that date are not yet publicly available. However, for this analysis we have also made use of information from non-Fol related public documents (such as Parliamentary questions, political debates and news articles) from after June 2020.

b. Inconsistencies in communication on security concerns by ADSB, the ministries and the Dutch Embassy

In Parliamentary questions from September 13, 2021, a month after the bloody attack on Palma, the State Secretary of MinFin at the time, Vijlbrief, and the Minister of FTDC, Kaag, were asked what was known about the security situation when the ECI's were approved. Vijlbrief answered: *“That the situation has developed differently is not in doubt, but was not foreseen based on the information available at the time.” [...] When the context of violence in the region appeared to expand after July 2020,*

the State's options for action were examined."¹⁹¹ He also ruled out reckless work from ADSB, stating that:

"I rule out reckless action by Atradius DSB. ADSB made the best possible risk assessment with the information available at the time. The situation in Mozambique worsened afterwards, which was not foreseen at the time."¹⁹²

The biggest inconsistency that emerges from Fol documents while comparing external versus internal communication on security issues, is that externally it is presented as if there were little concerns or doubts by the ministries and ADSB about the security risks. However, after studying the Fol documents it becomes clear that behind the scenes, a heated debate was in fact ongoing since at least March 2020. One of the main discussion points was how big the risk of the deteriorating security situation truly was. MoFA, MinFin, the Dutch Embassy in Maputo, and MoFA department DAF, at least at some point during the approval process, all shared serious concerns.

The analysis of Fol documents show that ADSB, MinFin and MoFA were well informed about the escalation of violence taking place around the Project area. Numerous reports of the increasing capacity of insurgents, the increase in violence and the lack of capacity of the Mozambique armed forces ended up on the desk of ADSB and the security situation was elaborately discussed during multiple calls and e-mail exchanges between the ministries, ADSB and the Dutch Embassy. Moreover, the Dutch embassy warned about the escalation of violence on May 19, 2020, in an alarming memo, stating that *"the security situation is deteriorating by the day, a risk that is underplayed in ADSB's underwriting proposal. [...] The security conclusion is summarily thin" [and] the description of negative trends is missing.*"¹⁹³ **The perspective of the Dutch embassy and the different concerns about the security situation are not reflected in any of the external communications by the ministries to Parliament.**

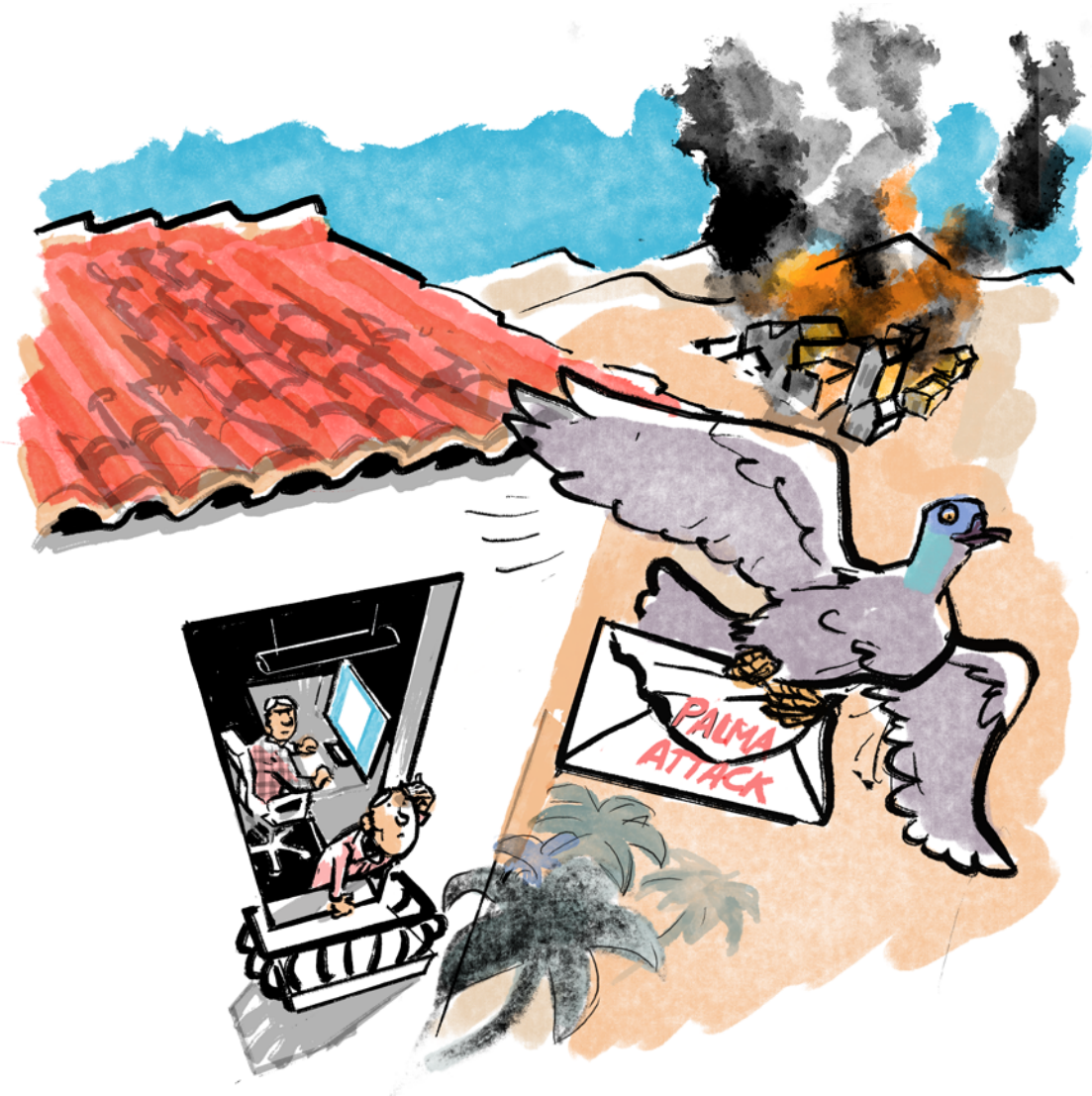
191 Parliamentary Answers to Teunissen en Van Raan by State Secretary Vijlbrief, Sep 13, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 4003

192 Parliamentary Answers to Teunissen en Van Raan by State Secretary Vijlbrief, Sep 13, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 4003

193 WoB besluit 6 september 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, Bijlagen p.2, 336977.

c. Unclarity about what ADSB and the ministries knew about the attacks on Palma on March 24, 2021, and whether there was still time to halt the ECI issuance before the ECI's were formally approved on March 25 and 26, 2021

In the same round of Parliamentary questions of September 2021, the question was raised by MP's what was known by the ministries about the attacks on Palma, because the Dutch formal granting of the ECI's was done during the days of the event. Vijlbrief and Kaag answered that: "Financial close took place on 24 March 2021, after which policies were automatically issued on 25 and 26 March. The consequences of the Palma attack only became apparent after policy issuance, over the weekend of 27 and 28 March, making that the withdrawal of coverage commitment or blocking



"Why send an e-mail?"

policy issuance was no longer possible".¹⁹⁴

It seems highly unlikely that nobody within the ministries, the Dutch Embassy or ADSB had heard about the details and severity of the attacks before 27 or 28 March, or even before 25 March. Al Jazeera¹⁹⁵ and The Africa Report¹⁹⁶ had already published about the attacks on March 24th. In addition, Al Jazeera¹⁹⁷ and the Guardian¹⁹⁸ published about the attacks on March 25th, and The Guardian published another news article about it on March 26th.¹⁹⁹ In addition, there was also a brief statement from the Mozambican Defence Ministry on Thursday Morning March 25th, which said "that terrorists attacked the town from three directions, and obliged residents to seek safety by fleeing into the nearby bush."²⁰⁰

As a matter of fact, current MinFin State Secretary Van Rij, received a question about this point during a Parliamentary debate on March 23, 2023. Contrary to what Vijlbrief and Kaag stated back in September 2021, Van Rij now said that ADSB received information about the attacks already on March 25th, 2021. This is relevant because, during the September 2021 question round, it was communicated that ADSB and the Dutch State, had they known about the attack, could have theoretically still pulled out or delayed the policy issuance during or immediately after the Palma attack.

Parliamentary question Teunissen and Van Raan: June 24, 2021:

Were there still opportunities on 25 and 26 March 2021 to stop, or at least delay, the policy issuance? Stop, or at least delay, so that it could be verified what the situation on the ground was and whether all conditions for the ECI were still in place?

194 Parliamentary Answers to Teunissen and Van Raan by State Secretary Vijlbrief, September 13, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 4003.

195 See <<https://www.aljazeera.com/news/2021/3/24/mozambique-armed-groups-attack-town-near-gas-projects>> consulted on June 6, 2024.

196 See <<https://www.theafricareport.com/75169/mozambique-fresh-attacks-on-palma-as-total-prepares-to-return-to-Ing-project/>> consulted on June 6, 2024.

197 See <<https://www.aljazeera.com/news/2021/3/25/fighting-in-town-near-mozambique-gas-hub-continues-for-second-day>> consulted on June 6, 2024.

198 See <<https://www.theguardian.com/world/2021/mar/25/fighting-rages-in-mozambique-close-to-totals-gas-project>> consulted on June 6, 2024

199 See <<https://www.theguardian.com/world/2021/mar/26/mozambique-180-workers-trapped-in-hotel-amid-insurgent-attack>> consulted on June 6, 2024.

200 See <<https://allafrica.com/stories/202103250913.html>> consulted on June 6, 2024.

Answer State Secretary Vijlbrief and Minister Kaag from September 13, 2021:

Theoretically, there was indeed the possibility of stopping or delaying policy issuance if project implementation was at risk. That a situation arose in the project environment that made project implementation impossible was not known to Atradius DSB or the State at the time. Indeed, the consequences of the attack on Palma did not become clear until the weekend of 27 and 28 March.

State Secretary Van Rij, March 23, 2023:

“There is an unfortunate coincidence, as on 24 March 2021 the security situation escalated severely due to an attack by violent extremists on the city of Palma, located near the project site. The first, unconfirmed signals about the attacks on that city reached the Dutch State and Atradius on 25 March 2021. During the weekend of 27 and 28 March, the seriousness of the situation in Palma and in the area only became clear and confirmed.”

Given the alarming security information to which ADSB and the ministries had access to, and the heated debates that had taken place in the approval phase in May/June 2020, it is surprising that the news of the Palma attack was not sufficient for ADSB and the ministries to immediately push the pause button on the ECI granting on March 24 or 25, at least until more information about the attack had been gathered. In his statement, Van Rij indicated that the scope and consequences of the Palma attack could not be overseen yet on the 25th. Yet, neither ADSB nor the ministries saw a reason to choose a careful approach and insist on the gathering of further information about the attack and pause the ECI granting for the time being. Instead, the ECI granting was approved immediately after the attack.

d. Inconsistencies in what was communicated about the capacity of the security forces and ignoring their role in human rights violations

During the Parliamentary debate of March 2023, MinFin State Secretary Van Rij stated that: “*At the time of deciding on issuing the coverage commitment in 2020 and subsequently on issuing the policy in 2021, the safety situation around the project was assessed as acceptable. This was partly due to a number of safety*

*mitigation measures taken by the project manager, TotalEnergies, and the Mozambican government.*²⁰¹ This message about the mitigation strategies is also shared as a key factor in the positive decision to support the project in Parliamentary questions in 2021.²⁰² However, the details of these mitigation measures remain unknown. Neither the people directly affected by the Project, nor the Organizations, have been granted access to Total's security plans.

In addition, the Minister of FTDC and State Secretary of MinFin, did not disclose that the mitigation measures were an important internal discussion point between the ministries and the Embassy. To determine whether these measures were sufficient, a big question mark was whether the Mozambican government and army had enough capacity to fight the insurgents. Through a memo from MoFA department DAF to the Minister of FTDC and MinFin State Secretary²⁰³ *in May 2020, it became clear, that "there are reports that in 2019, the government was supported, both with equipment and personnel, by Russia's Wagner Group. Russian casualties are also said to have occurred. Since early 2020, there have been reports of hiring the South African Van Dyck Advisory Group, which would also deploy helicopters (gunships).*"²⁰⁴ This participation of private military - which is a relevant detail in assessing the security forces' capacity - was only shared with Parliament after a concrete question was asked about it on May 28, 2021, after the ECI's were already issued. In DAF's May 2020 memo, it is also repeatedly mentioned that the security forces were not equipped to maintain the security situation. This weakness is repeated throughout Parliamentary answers in 2021 such as on April 16²⁰⁵ and May 28.²⁰⁶

Moreover, MP Van der Lee specifically asked about the role of the army in the human rights violations and violence, to which State Secretary Vijlbrief answered that the Netherlands was deeply concerned about this. Still, **there is no expressed concern about the fact that these same Mozambican security forces were in fact one of the key mitigation measures in place** and what consequences their weakened capacity or involvement in human rights violations could mean for the mitigation of violence risk.

Van Lee: What is your reaction to the findings of this report re-

201 Tweede Kamer der Staten Generaal, 2022-2023. Verslag Van Een Commissiedebat (Report on Commission Debate). Vastgesteld 23 maart 2023, 26 485 Maatschappelijk verantwoord ondernemen, nr 411.

202 Parliamentary Answers to Teunissen and Van Raan by State Secretary Vijlbrief, from 13 September, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 4003.

203 WoB besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, Memo to M and R: Rise in violent extremism in northern Mozambican province of Cabo Delgado, deelbesluit 2, 336975.

204 Idem.

205 Parliamentary Answers to VanRaen and Teunissen by State Secretary Vijlbrief and minister Kaag May 28, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 2469.

206 Parliamentary Answers to Van der Lee by State Secretary Vijlbrief, May 28, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 2945.

garding serious human rights violations in Cabo Delgado, not only by local jihadists, but also by the Mozambican army?

Vijlbrief: The Netherlands is deeply concerned by reports of large-scale human rights violations in Cabo Delgado and speaks out about them both towards the Mozambican authorities as well as within the EU.²⁰⁷

e. Representation of the capacity to continuously monitor the project and reassess for a continuation

Throughout 2021, in answers to Parliamentary questions, for example on February 12 and May 28, the FTDC Minister and MinFin State Secretary continued to refer to how closely the ministries and ADSB were monitoring the security situation in Mozambique: *“All agreements will be monitored during the term using an Environmental and Social Action Plan by an independent consultant and all parties involved in the project including Atradius DSB”*²⁰⁸ and *“the State and Atradius DSB are closely monitoring the situation and will act appropriately if possible within the terms of the policies and if the situation calls for it.”*²⁰⁹ And also in 2023, the State Secretary stated again: *“Environmental and social risks will be carefully assessed in line with international standards in the event of resumption. These must be mitigated or remedied. So we are really on top of that.”*²¹⁰

However, what is not mentioned is that – as appears from the released Fol documents – the information that ADSB received about security predominantly came from Total or actors that are either selected by Total or have a considerable interest in the Project moving forward. In addition, there is no mentioning of the fact that the designated consultant hired by the ECA’s, RINA – responsible for the monitoring – received its information from Total as well.²¹¹

This point is key in terms of risk mitigation, especially since the area was and is barely accessible to NGO’s and journalists, a fact repeated in Parliamentary answers on for example May 28, 2021: *“It remains difficult for journalists to visit the area. The security situation is poor. Mozambican journalists are particularly at risk when reporting on the conflict. There are fears that they may be seen by local authorities*

207 Parliamentary Answers to Van der Lee by State Secretary Vijlbrief, May 28, 2021, Aanhangel van de Handelingen 2020-2021, nr. 2945.

208 Parliamentary Answers to Van den Nieuwenhuijzen by State Secretary Vijlbrief, Feb 12, 2021, Aanhangel van de Handelingen 2020-2021, nr. 1670.

209 Parliamentary Answers to Van der Lee by State Secretary Vijlbrief, May 28, 2021, Aanhangel van de Handelingen 2020-2021, nr. 2945

210 Tweede Kamer der Staten Generaal, 2022-2023. Verslag Van Een Commissiedebat (Report on Commission Debate). Vastgesteld 23 maart 2023, 26 485 Maatschappelijk verantwoord ondernemen, nr 411.

211 Received through Italian Fol. RINA (2019). Final Environmental and Social Due Diligence Doc. No. P0000375-1-H4 Rev. 3 - November 2019.

as members of the violent extremists. Some journalists have been missing for ages after they were last seen in the presence of military personnel. Sporadically, foreign journalists manage to report or conduct interviews with locals.” This indicates that **it would have been close to impossible for the consultants to interview people on the ground and gather independent, reliable information.**

And indeed, in 2023, in the Parliamentary debate on March 23,²¹² it becomes clear that an evaluation of ADSB conducted by Steward Redqueen had concluded that monitoring is the Achilles heel of ADSB’s CSR-processes. In fact, the evaluation report stated that *“in terms of monitoring, it seems to have less stringent requirements compared to other ECAs”*.²¹³

MP Hammelbrug: “At the same time, that [CSR] evaluation also states very clearly that there is one Achilles’ heel in the whole system, namely monitoring. It is great if the plans are right and the promises are good, but it is also about the situation after an ECA is granted.”

MinFin State Secretary Van Rij: “I welcome this question. That is also exactly the point I just made. For that monitoring, you have to be on the ground. That’s what it’s all about. [in the Philippines] we have now put an independent consultant on it. [...] for the project in the Philippines last year, we have taken that decision as an additional safeguard.”²¹⁴

As was shared in Parliamentary answers on September 13, 2021, the Dutch State has demanded additional CSR-conditions before the possible restart of the Project, including a Remedial Environmental and Social Action Plan that meets the IMVO-standards for a potential resumption. In light of the re-assessment of the Project, it is key that Parliamentarians remain alert on the progress of these monitoring aspects in the case of Mozambique; whether the monitoring is indeed based on independent sources this time and what measures will need to be taken to ensure that there is presence on the ground to adequately assess security risks (which may include the hiring of a second opinion on the ground²¹⁵).

212 Tweede Kamer der Staten Generaal, 2022-2023. Verslag Van Een Commissiedebat (Report on Commission Debate). Vastgesteld 23 maart 2023, 26 485 Maatschappelijk verantwoord ondernemen, nr 411.

213 See Mvo-beleidsvaluatie van de ekv-faciliteit of January 2021, p. 17 <<https://open.overheid.nl/documenten/ronl-274b7f5a-ef76-4d69-add1-ae-558cda2b73/pdf>> consulted on June 6, 2024.

214 Idem.

215 As was done in the case of the granting of an ECI to Van Oord in relation to another controversial project, in the Philippines.

f. General miscommunication on the situation and status of the insurance policy

From Parliamentary questions that were answered on May 28, 2021, it can be concluded that there have been some discrepancies as to what different ministerial representatives have communicated about the legal status of the ECI's granted to Van Oord and SCB on 25 and 26 March 2021. For example, while the MinFin State Secretary, during a debate in November 2020 had still mentioned that the ECI's had already been issued, later in April 2021 a spokesperson from MinFin had mentioned to Dutch newspaper NRC that the decision to participate in the Project had not yet been made. When confronted with these contradicting statements, the MinFin State Secretary replied that:

“The thrust of the communication by the finance ministry in the NRC article may have caused some confusion. My comments in the November 2020 debate are correct: at the time, it had already been decided, as explained in question 9, to issue promises of cover. The cover undertakings issued on 1 July last were subsequently converted into policies as an automatic consequence of the sponsors achieving financial close on 24 March, see response to question 10. The NRC quotes a spokesperson for the Ministry of Finance. The intention here was not to say that a decision on coverage of the project had yet to be taken, but that it was not yet clear whether the situation that had arisen should affect the decision taken. Indeed, the insurance policies had already been issued at that time.”²¹⁶

In addition, in 2023, there remained numerous open questions about the Project ECI's, as MP Van Lee shared “not to be very satisfied with the answers around Mozambique yet and that a set of written questions remain unanswered.”²¹⁷

g. Inconsistencies in communication about the legal implications of the granting of the ECI's

From the documents released under the FoI requests, it appears that denying Van Oord and SCB the ECI's was never seriously considered. MoFA did at one point raise the question whether the approval could be delayed, and in a MoFA e-mail exchange from June 10, 2020 it is said that a rejection from Minister Kaag would have “negative consequences.” Since an explanation about this comment is missing in the FoI documents, **this leaves the question unanswered whether - from a legal and/or (geo)political point of view - the ministries ever had the chance to refuse Van Oord's and SCB's ECI request or withdraw the ECI's at any point in time.**

216 Parliamentary Answers to VanRaaij and Teunissen by State Secretary Vijlbrief and minister Kaag May 28, 2021, Aanhangsel van de Handelingen 2020-2021, nr. 2469.

217 Tweede Kamer der Staten-Generaal, 2022-2023. Verslag Van Een Commissiedebat (Report on Commission Debate). Vastgesteld 23 maart 2023, 26 485 Maatschappelijk verantwoord ondernemen, nr 411.

For the writing of this report, we did not have access to the legal documentation (such as underlying contracts) of the ECI's. This data is not publicly available, despite repeated requests from MP's who wish to assess the legal terms and conditions of the ECI's. This means that for this report it was impossible to assess whether or not the Dutch State had the contractual option to exit the Project (i) between ADSB's Acceptance Proposal of May 12, 2020, and the approvals of MinFin and FTDC in June 2020, (ii) between the approvals of the ministries and the actual granting of the ECI's in March 2021, (iii) between the Palma attack on 24 March 2021 until now. What does not help, is that the ministries have so far been unable to give a clear and unambiguous legal explanation about the contractual situation of the ECI's. Both MinFin and FTDC have been vague on this point. Firstly, it remains unclear whether the ministries actually wish to cut ties with the Project, as they have not taken a definitive position on this. Secondly, uncertainty also remains about whether they in fact can cut ties even if they would like to, or whether they are bound by contractual terms.

In April 2021, shortly after the Palma attack, Dutch MP's asked MinFin's State Secretary Vijlbrief what the consequences (of the Palma attack) would be for the granted ECI's and whether there was room to re-assess them. The State Secretary replied that *"the State and Atradius DSB are closely monitoring the situation and will act appropriately if possible, within the terms of the policies and if the situation calls for it."*²¹⁸

In June 2021, Dutch MP's raised the question whether a new analysis of the security, human rights and environmental situation, could lead to the withdrawal of the ECI's. In September 2021, MinFin State Secretary Vijlbrief answered that *"if the Remedial Environmental and Social Action Plan is not sufficient, the State will act as the situation demands. Whether a possible policy withdrawal will be among the options in that case, I cannot tell you at this stage, in order not to harm the State's negotiation perspective."*²¹⁹

In a more recent debate, of March 23, 2023, the current State Secretary of MinFin was questioned by MPs about the possibility to resume the Project with the Dutch State's ECI support. And about whether the ministries would be prepared to withdraw the ECI to Van Oord.²²⁰ The State Secretary indicated that: *"the government has thus also set as a condition for resumption that the LNG-project must meet all international standards, and that it must be ensured that adequate measures are taken in terms of safety and corporate social responsibility." And that "Withdrawal of issued policies is not possible, except in very exceptional cases, such as in cases of default, demonstrable negligence, or fraud. That is not the case with the project in Mozambique. The Netherlands, as I just said, did demand that the project in the event*

218 Parliamentary Answers to VanRaan and Teunissen by State Secretary Vijlbrief and minister Kaag May 28, 2021, Aanhangel van de Handelingen 2020-2021, nr. 2469.

219 Parliamentary Answers to MP's Van Raan and Teunissen by State Secretary Vijlbrief and minister Kaag May 28, 2021, Aanhangel van de Handelingen 2020-2021, nr. 2469.

220 Tweede Kamer der Staten Generaal, 2022-2023. Verslag Van Een Commissiedebat (Report on Commission Debate). Vastgesteld 23 maart 2023, 26 485 Maatschappelijk verantwoord ondernemen, nr 411

of resumption really has to meet international standards, and that it must be guaranteed that sufficient measures are taken in terms of security and corporate social responsibility.”

The MP's insisted once more, asking the State Secretary whether *“after all these abuses, beheadings and rapes, which have caused thousands of people to flee, shouldn't the Netherlands then withdraw aid, instead of saying: that project can continue?”*

The State Secretary answered that: *“Well, the project has been suspended. We have not said that the project can be continued. We have said under what conditions it could possibly be continued. But we are not at that point at all. We cannot simply withdraw that policy either. That has far-reaching legal consequences. Let's just be very honest: it's a very serious, sensitive, and also terrible situation, for the companies that wanted to invest there, but first and foremost, of course, for the people themselves. We are on top of it. The project has been shut down. We have not given approval for resumption. I indicated under what conditions that could possibly take place. I want to leave it at that because we cannot withdraw that policy.”*

State Secretary Van Rij confirmed this point once more through answers to Parliamentary questions on May 21, 2024, underlining that withdrawal of the ECI's is not possible:²²¹

“The government is not considering withdrawing export credit insurance for these projects. These projects have been (or in the case of the possible restart of the LNG project in Mozambique: will be) assessed against the prevailing ECI policy framework, including for environmental and social, financial and compliance risks, and on that basis, the issuance of a policy has been agreed.

Withdrawal of issued policies is possible only in case of default, demonstrable negligence or fraud by the insured party. Violation of the policy conditions may, in extreme cases, affect the right to claim benefits under the policy. This situation is not the case for any of the aforementioned projects.”

Summarizing these remarks, **according to the MinFin State Secretary the Dutch State does not have any legal grounds to withdraw the ECI's, as none of the grounds for termination (default, demonstrable negligence, or fraud by the ECI recipients Van Oord and SCB) have occurred in his view.** However, at the same time the State Secretary claims that the Dutch State can set as a condition for resumption that the Project meets all international standards. There seems little logic to this reasoning, as it is unclear to whom the ministries can impose this condition (to Total or the recipients of the ECA's), and how the Dutch State can enforce its will in case its demands are simply ignored, considering that according to MinFin the Dutch State has no legal grounds to withdraw. In other words, does the Dutch State truly have any leverage to influence (let alone delay or block) the restart of the Project? Or does it in fact have no say at all since it already granted the ECI's in

²²¹ See Parliamentary Answers to MP Hirsch by State Secretary Van Rij May 21, 2024 <<https://zoek.officielebekendmakingen.nl/ah-tk-20232024-1786.html>> consulted on June 6, 2024.

March 2021 and has no legal grounds to change this?

By failing to – so far – provide full clarity about the possibilities to stop its support for the Project, it remains unclear whether there is a way out for the Dutch State. This also begs another question, namely why it is apparently common practice for the Dutch State to be contractually paralyzed in case a project is developed in an increasingly dangerous or hostile environment. This point was also raised by MP's during the same debate of March 2023: *“with Mozambique, we cannot withdraw support because that can only be done in exceptional cases. I hear the same thing now about the Philippines, where mangroves have been destroyed and people have been evicted from their homes. Then I do wonder what the red line is for the Secretary of State. At what point do we then withdraw that support? Because I think we have already crossed that red line now.”* And: *“shouldn't it be possible to withdraw a policy in case things are really very wrong with a project? The State Secretary now says that that is not possible, but shouldn't that actually be something that should be possible?”*

The State Secretary replied that: *“With the current policy, it is not possible, but I understand the question very well: if that were to occur again in a future situation, shouldn't you include a clause about it in your policy? Please give me a moment to assess this, because there are legal sides to it. I can start promising you all kinds of things now ... But I understand this question very well: an exceptional situation, what do you put in a policy and what not? So, I will gladly come back to that in writing as well.”*

As to this last question, back in November 2021 the former State Secretary Vijlbrief indicated that a termination clause is already included in the existing ECI policies:

“such a clause/article is present in all cover undertakings provided by Atradius DSB issued promises of cover. This clause aims to prevent a policy having to be issued if, after issuance of the undertaking of cover, it becomes clear that unacceptable environmental and social impacts, including serious human rights violations are associated with the performance of the project.”²²²

Apart from it not being disclosed to the public, the problem with the existing withdrawal clause is that according to the MinFin State Secretary negative effects that have occurred beyond the influence of the project itself, are not covered by this clause. For the Project in Mozambique this would mean that the clause can only be invoked in case it is evidenced that – for example – the impact from the violence in general and the Palma attack specifically, can be associated with the performance of the Project. Although Total's alleged negligence during the Palma attack might be

²²² Parliamentary Answers to Van der Lee by State Secretary Vijlbrief, November 29, 2021, Aangangsel van de Handelingen 2020-2021.

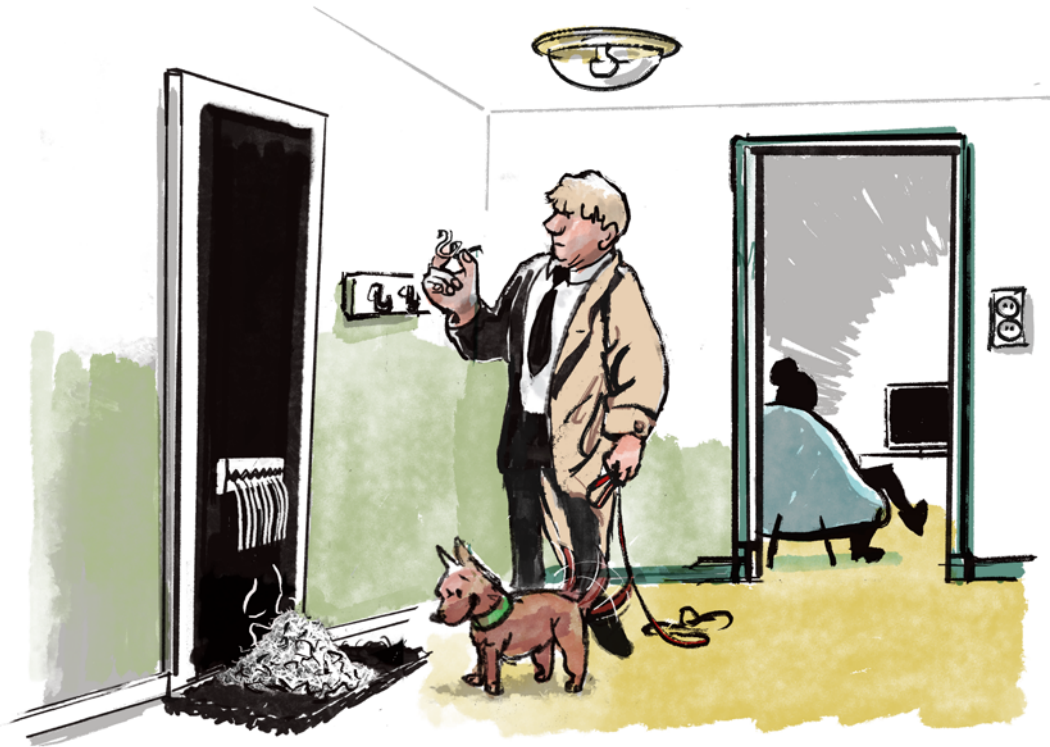
a good basis for withdrawal if this negligence is indeed proven, in general the exit clause appears to provide for a very high threshold and heavy burden of proof to ADSB and the Dutch State if they wish to withdraw an ECI.

Chapter 6

Summary of the FOI process

Chapter 6: Summary of the Fol process

This final chapter presents an overview of the Fol process which led to the obtaining of the studied documents. Freedom of Information acts generally recognise that the information governments hold is a public resource. According to the Dutch Government this “openness is important for democracy in our country.”²²³ The general rule is therefore that public access to information should be prompt and at the lowest reasonable cost, which is why the Dutch government must usually respond to Fol requests within 4-6 weeks.²²⁴ Considering the obstacles Both ENDS and Milieudefensie faced in obtaining information about the Mozambique LNG project and the time and effort they have had to put into this process, it was decided that a description of the request process deserves specific attention in this report.



“Honey, did you do another Fol request?”

223 See <<https://www.rijksoverheid.nl/onderwerpen/wet-open-overheid-woo>> consulted on June 6, 2024.

224 See <<https://www.rijksoverheid.nl/onderwerpen/wet-open-overheid-woo/vraag-en-antwoord/wat-gebeurt-er-nadat-ik-een-woo-verzoek-heb-ingediend#:~:text=De%20overheid%20moet%20binnen%204,organisatie%20afspraken%20met%20u%20maken>> Consulted on June 6, 2024.

Due to the earlier discussed controversies surrounding the Project, and the involvement of Dutch State and private actors with the Project, civil society organizations in the Netherlands filed several Freedom of Information requests with ADSB and the Dutch MinFin and MoFA between 2020 and 2023. One of the aims of the Fol requests was to obtain further insight into the process leading up to the approval of the ECI's by ADSB to Van Oord and SCB in June 2020. This was when the IC members²²⁵ internally approved Van Oord's and SBC's ECI requests and made their coverage commitment to grant the ECI's. More than eight months later, on March 25 and 26 March, 2021, the ECI's to Van Oord and SCB were officially issued. Based on communications from State Secretary Vijlbrief,²²⁶ the insurance policies were granted automatically after the Financial Close of the Project,²²⁷ which Vijlbrief says to have happened on March 24, 2021, the date on which the Palma attacks started. We have not been able to verify through independent sources to confirm that the Financial Close was in fact planned to take place on the 24th. But, in any case, the moment of the ECI issuance and alleged timing of Financial Close are remarkable, as these events all happened around the days of the attack, when news about the horrific events had been made public via news articles.²²⁸

Local and international NGO's have expressed concerns related to the Project on several occasions in the years leading up to the decision and the Dutch organizations Both ENDS and Milieudefensie have conducted a dialogue with ADSB and the responsible ministries. ADSB's reaction to the concerns has repeatedly been that the identified risks would be either mitigated or remedied and that agreements as to how the Project's risks would be mitigated and remedied were agreed upon in an Environmental and Social Action Plan ("ESAP"). The Organizations requested ADSB and the ministries to disclose this ESAP to affected communities and CSO's in Mozambique, but this was refused by ADSB and MinFin in October 2020 due to legal restrictions.²²⁹ To get access to this information, the Organizations, together also with SOMO and Friends of the Earth Europe, decided to file the first Freedom of Information requests in December 2020. However, to date the ESAP has not been released.

The process of obtaining the requested information under the Fol requests from ADSB, MinFin and MoFA proved to be challenging and complex. Although large batches of information have been released by the involved ministries to date, a substantial part of the requested documents – particularly internal communications and documents from shortly before and after the Palma attack

225 ADSB, MinFin and MoFA.

226 See MinFin's Answers to Parliamentary Questions from September 13, 2021. Accessible via <<https://zoek.officielebekendmakingen.nl/ah-tk-20202021-4004.html>> consulted on June 6, 2024.

227 The term Financial Close is typically used to describe the moment on which all the necessary preparations, funding and contracts are in place to authorize and start the construction of a project. However, the exact meaning of this term depends on how it has been defined in the Project agreements. Those agreements however, are not publicly accessible and were also not part of the documents released under the Fol requests.

228 See for example <<https://www.aljazeera.com/news/2021/3/25/fighting-in-town-near-mozambique-gas-hub-continues-for-second-day>> consulted on June 6, 2024.

229 This has been confirmed to us by the Organizations and is evidenced by an e-mail from MinFin to the Organizations (with ADSB in cc) of October 27, 2020.

in March 2021, and around the granting of the ECI's to Van Oord and SBC in March 2021 – is yet to be released. In addition, the Organizations encountered severe delays and many obstacles along the way.

Records shared with us by the Organizations show that the ministries repeatedly failed to follow-up on the Fol requests in a timely and complete manner. The ministries demonstrated a lack of efficiency throughout the follow-up phases of the Fol requests, which led to unjustifiable delays and forced the Organizations to constantly chase representatives of the ministries and to – on several occasions – even take legal steps to enforce the ministries' obligations under the Dutch Fol Act.

We were granted access to all the Fol documents and correspondence related to the various Fol requests in the possession of the Organizations. To date, the ministries have made 6 separate (partial) decisions through which documents consisting of approximately 9500 pages were released:

- Freedom of Information decision of September 6, 2021, from MinFin;²³⁰
- Freedom of Information decision of September 6, 2021, from MoFA;²³¹
- Freedom of Information decision on objection of March 28, 2022, from MoFA;²³²
- Freedom of Information first partial decision on objection of February 7, 2023 from MinFin;²³³
- Freedom of Information second partial decision on objection of July 7, 2023 from MinFin;²³⁴
- Freedom of Information decision of February 14, 2024, from MoFA.²³⁵

In this chapter we have highlighted some key findings about the Fol processes that the Organizations, together with SOMO and Friends of the Earth Europe, initiated. In Annex A, a more detailed timeline of events related to the Fol requests can be found, which visualizes the huge amount of work that the Organizations had to do to obtain relevant Project related information from the involved ministries.

The Organizations submitted their first round of Fol requests to MoFA ("Fol request 1A"), MinFin ("Fol request 1B"), and ADSB ("Fol request 1C") early December 2020. In these three separate Fol

230 See <<https://www.rijksoverheid.nl/documenten/wob-verzoeken/2021/09/06/bsluit-op-wob-verzoek-over-mozambique-Ing-project>> consulted on June 6, 2024.

231 See <<https://www.rijksoverheid.nl/documenten/wob-verzoeken/2021/09/06/bsluit-wob-verzoek-exportkredietverzekering-mozambique-Ing-project>> consulted on June 6, 2024.

232 See <<https://www.rijksoverheid.nl/documenten/wob-verzoeken/2022/03/28/bslissing-op-bezwaar-op-wob-verzoek-over-exportkredietverzekering-mozambique-Ing-project>> consulted on June 6, 2024.

233 See <<https://www.rijksoverheid.nl/documenten/woo-besluiten/2023/02/08/eerste-deelbesluit-bezwaar-mozambique-Ing-project>> consulted on June 6, 2024.

234 See <<https://www.rijksoverheid.nl/documenten/woo-besluiten/2023/07/07/2e-deelbesluit-op-bezwaarschrift-wob-verzoek-Ing-project-mozambique>> consulted on June 6, 2024.

235 See <<https://www.rijksoverheid.nl/documenten/woo-besluiten/2024/02/14/bsluit-op-woo-verzoek-over-atradius-dutch-state-business-en-mozambique-Ing>> consulted on June 6, 2024.

requests, the respective ministries and ADSB, were asked to – in short – release all available documents and other records, minutes of consultations, and correspondence between the ministries, ADSB and any third parties linked to the assessment of the Project and the ECI requests. The Fol request 1C was not pursued by the Organizations after ADSB informed the Organizations that – in its view – ADSB operates as an independent company and is therefore not governed by the Dutch Freedom of Information act. The Organizations therefore decided to focus on the ministries and the follow-up of the Fol request 1A and 1B.

Under Dutch administrative law, administrative bodies like MoFA and MinFin have four weeks to decide on a Fol request. Under the former Fol act (replaced by the current Fol Act in May 2021), administrative bodies had the possibility to extend this term by four weeks. It means that the standard term to decide on Fol request 1A and 1B, in principle ended early February 2021. This deadline was not met, and despite several promises done by the ministries to the Organizations, by the end of June 2021 both ministries had still failed to take a decision on the Fol requests 1A and 1B. The Organizations declared the ministries in default, and on July 20, 2021, lodged an appeal before the Amsterdam court against MinFin for not timely reacting to the Fol 1B. The reason for not involving MoFA in this first court appeal at that time was that MinFin appeared to possess the most (relevant) information related to the Project. The Amsterdam court ruled in the Organizations' favour on August 20, 2021, and ordered MinFin to decide on the Fol request 1B within 14 days.²³⁶

It took MinFin and MoFA until September 6, 2021 – more than seven months after the filing of Fol requests 1A, 1B and 1C, and only after MinFin's first court order – to take a decision on the Fol requests 1A and 1B and to publicly release a first set of Project related documents. The release of the documents happened three days later than the court had ordered. As a consequence, MinFin forfeited a first penalty payment (owed to the Organizations) of EUR 300,-.

The Fol documents released by the ministries on September 6, 2021²³⁷ constituted only a partial selection of the documents requested under the Fol requests 1A and 1B. Also, large sections of the released documents had been lacquered away by the ministries for different reasons. Due to the incompleteness of the documents, the Organizations decided to make use of their right to present an objection with the ministries against both decisions. The Organizations presented their objections to the ministries on November 11 and 12, 2021, arguing among others that relevant information was withheld without proper justification. Again, both ministries failed to decide on the objections within the maximum term allowed under the Dutch Fol Act. Therefore, early February 2022, the Organizations presented default notices to MinFin and MoFA. Three weeks later, the ministries had still not decided on the objections. The Organizations therefore decided to file a second

²³⁶ See decision of the Amsterdam court of 20 August 2021 – case number AMS 21/3809.

²³⁷ See decision of Ministry of Foreign Affairs via <<https://open.overheid.nl/Details/ronl-fa0bac32-1c8b-423c-be96-6df593aca889/1?hit=4&text=Mozambique%20LNG&organisatie=mnre1013#panel-tekst>> consulted on June 6, 2024.

appeal with the Amsterdam court against MinFin, and a first appeal against MoFA. Early June 2022, the Amsterdam court ordered MinFin to decide on the presented objection within 14 days, on pain of a penalty of EUR 100,- per day, with a maximum of EUR 15,000,-. Subsequently, on November 1, 2022, the Amsterdam court also ordered MoFA to make a new decision within eight weeks. MoFA did so on March 28, 2022 releasing additional documents to the Organizations.

More than eight months after the Amsterdam court order of June 2022, in February 2023 MinFin issued a first partial decision as a response to the Organizations' objection of November 2021. Part two and part three of the decision remained pending, which meant that the MinFin decision was still incomplete, and that MinFin therefore remained in default. Meanwhile, also in February, the Organizations filed their third appeal with the Amsterdam court against MinFin, because MinFin had failed to release part 2 and part 3 of the Organizations' objection. On May 2, 2023 the Amsterdam court ordered MinFin to release part 2 and part 3 of the decision to the Objection 1B within two weeks, on pain of a penalty of EUR 250, - per day, with a maximum penalty of EUR 37.500,-. On July 7, 2023, MinFin released part 2 of its decision on the Organizations' objections. This was now nearly one year and nine months after the Organizations had filed the objection with MinFin. Part 3 of the decision, however, remains pending until today while on 16 August 2023, the Organizations also filed another appeal with the Amsterdam court against MinFin, due to incompleteness of the second part of MinFin's decision to the Organizations' objection.

Meanwhile, **nearly three years had passed since the filing of the Fol** requests 1A, 1B and 1C. In September 2023, the Organizations therefore decided to file new Fol requests with Finance ("Fol request 2B") and Foreign Affairs ("FOI request 2A"), this time asking for Project related documents and communications from after December 2020. The documents and communications of this period is of importance because it covers the days surrounding the Palma attack on 24 March 2024, and the formal granting of the ECI's by ADSB to Van Oord and SCB on or around 25 March 2024. The internal communication and information shared among ADSB and the ministries around these events are crucial to understand why - despite the terrorist attack on and around the Project site and the rest of Mozambique - ADSB and the Dutch State still went ahead with the ECI issuance. MoFA decided on the Fol request 2A on February 14, 2024, releasing 6MB of new data. To date, MinFin has not yet decided on the Fol request 2B.

A total of EUR 52.500,- in penalties have so far been forfeited by MinFin for failing to (timely) decide on the different Fol requests and objections filed by the Organizations. In the meantime, more penalties are accumulating at the time of writing of this report, as MinFin is still in default to make a decision on the Fol request 2B (a penalty of EUR 100,- per day, with a maximum of EUR 15.000,- has started to accumulate since 31 January 2024) and on the Objection 1B (a penalty of EUR 250,- per day, with a maximum of EUR 50.000,- has started to accumulate since 7 February 2024).

Chapter 7

Conclusions and recommendations

Chapter 7. Conclusions and recommendations

Key findings

In the first six chapters we have aimed to identify whether there were weaknesses in the process that ADSB and the Dutch ministries implemented in providing ECI-support to the Project, based on FoI documents obtained by Both ENDS and Milieudefensie. Even though not all relevant documentation around the decision-making process of the Project has been released so far, we can draw several important conclusions about the approval process that ADSB, MinFin and MoFA followed. We have listed these conclusions in this last chapter and present several recommendations which follow from our conclusions.

1. Based on our analysis of internal communications between ADSB, MinFin and MoFA from early 2020 to mid-June 2020, it appears that the approval process of the ECI granting to Van Oord and its financier SCB was implemented to work towards approval, leaving little space for rejection of the ECI requests. Since shortly after the discovery of the gas fields in 2011, the Dutch State has been interested in the business opportunities which the discovery created. The Dutch State's interest in the project consists of Dutch financial trade benefits and (to some degree) the opportunity to provide economic benefits to Mozambique and the local population. The Dutch State and Dutch corporations have therefore tried to engage in the Mozambican gas extraction business for years; long before the approval of Van Oord's and SCB's ECI in 2020. ADSB and the Dutch State's preparedness to reject Van Oord's and SCB's ECI requests, appears to have been slim since the ECI requests were first presented.
2. There are several findings that support this conclusion: (i) a rejection could have had negative (business and geopolitical) consequences. Total was counting on the Dutch support and put high pressure on ADSB to support the project. In the meantime, ADSB was one of the last ECA's to grant its approval. Withdrawal of ADSB would have meant that Van Oord would have to look for other options and could also affect the decision of other ECA's involved with the Project. (ii) The possibility to delay or reject the granting of the ECI the project was never seriously considered by ADSB or MinFin, while MoFA only discussed this option superficially. (iii) The due diligence process of ECA's does not seem to include non-continuation due to an insecure situation as an option. These elements led to an unrealistic process during which the IC members tried to squeeze the pieces of the puzzle together, sometimes ignoring pieces that did not fit.
3. It remains unclear if, and (if so) under which conditions the Dutch State can contractually cut ties with the Project and terminate the ECI's granted to Van Oord and SCB. The ministries claim to have assessed the legal possibilities and have stated that there is insufficient contractual liberty for the Dutch State to withdraw the ECI's. The ministries have not shared the contract

terms with Dutch Parliament Members, making it difficult to assess the actual conditions. However, aside from exploring contractual or other legal avenues, the Dutch State can use its political leverage, by insisting to Total and the other States and ECA's that are backing the Project through ECI's, that the Project shall not be resumed under the current circumstances.

4. In 2020 and 2023 Both ENDS, SOMO, and Friends of the Earth Europe have filed several FoI requests with ADSB, MinFin and MoFA. But throughout these processes they have faced (and are still facing) all possible barriers in their attempts to obtain relevant information about the Dutch State's involvement with the Project. The organizations have had to deal with extreme delays, attempts from MinFin and MoFA to omit relevant information, unjustified censorship, legal proceedings, and non-compliance with court orders. The penalties paid by MinFin and MoFA (from public funds) to the Organizations amount to approximately EUR 52,000 to date. The resistance of governments to release information about the Project is also visible in Italy and to some extent in the UK. In May 2023, the Italian Supreme Administrative Court rejected the Italian ECA's (SACE) appeal against the Administrative Court's ruling of May 2022, which had recognised the Italian NGO ReCommon's right to get access to internal documents related to the evaluation and financing of the Project. Despite the Court order, the requested documents have still not been released.
5. In its Acceptance Proposal to MinFin and MoFA, ADSB painted a picture of the security situation which did not reflect the reality on the ground. The situation in Cabo Delgado has been classified by the Geneva Academy as a non-international armed conflict between the Al-Shabab armed group and the Mozambican military forces, but neither ADSB, MinFin nor MoFA refer to the conflict as such. There was more than enough information available to ADSB about the conflict, increasing violence, limited capacity of the Mozambican military (which required assistance from private contractors to try to control the insurgents) and increasing capacity of the insurgents. FoI documents reveal that employees of ADSB had been concerned about the situation on the ground. When ADSB representatives visited the Project area in early December 2018, for safety reasons they had to fly to the site by helicopter. Moreover, they were equipped with bullet-proof vests, ADSB later told Both ENDS staff.
6. In general, ADSB left out and downplayed important information around the security situation and social challenges, including the crackdown on journalists, the lack of access to information for monitoring purposes, and the issue of unfair wealth distribution and youth unemployment being a contributing factor to the recruitment of youth by the insurgents. ADSB also made it seem as if several resettlement issues – such as farmers' lack of access to replacement land and limited access to the sea for fishermen and women – had been resolved. In doing so, it ignored that some livelihoods compensation solutions were not yet implemented, due to the security threats. Finally, ADSB insufficiently covered the human rights issues around the military pres-

ence in the communities.

7. ADSB appears to have built its decision predominantly on the information provided by Total and consultants who had an interest in receiving the Dutch State's approval. Meanwhile it ignored red flags raised by the Dutch Embassy, international and local NGOs, news media, and left out information gathered during its own site visits. The FoI documents also show that the Dutch Embassy's insights and opinion were overruled when the formal decision to approve the coverage of the ECI's was made in June 2020. The Embassy was the only party that continued to be pessimistic about the Project even after an important call with Total on May 28, 2020, during which concerns about the security situation around the Project were discussed. According to the Proximities report and based on the FoI documents - the Dutch Embassy was very dissatisfied with the process and how their input was integrated in the approval process. Finally, in its analysis, ADSB used a narrow security focus (also confirmed by Proximities) because its financial department uses the question whether "security risks jeopardise loan repayment" as a starting point, instead of assessing the applicable risks from a Corporate Social Responsibility ("CSR") perspective.
8. MinFin and MoFA misrepresented the positive decision on the granting of the ECI's as having involved little concerns or doubts about the security situation. They made it seem as if the risks had always been considered acceptable. From the obtained FoI documents however, it is evident that a debate has taken place between both ministries about the acceptability of the level of risk and security threats since at least March 2020. The focus of the debate was to get an understanding of how much of a risk the deteriorating security situation truly was. MoFA, MinFin, and the Dutch Embassy all had serious concerns at some point during the approval process. These concerns were not communicated externally.
9. Before a conference call between ADSB, MinFin, FTDC Total, Total's security advisor ADIT, Total's financier Société Générale, the French Embassy, and the Dutch Embassy on May 28, 2020, MoFA and MinFin had serious doubts about the security situation and the effect the raging violence might have on the Project and the local population. After the call, MinFin changed its mind, mostly based on promises from Total, and the reassuring input from the French Embassy in support of Total and the Project. MoFA still had doubts, but under pressure of MinFin, which tried to convince MoFA and even influence the content of MoFA's advice to FTDC Minister Kaag, they decided to approve the ECI request as well.
10. Journalists, the Dutch Embassy in Maputo, Both ENDS and Milieudefensie have all flagged the possible link between the gas projects and the conflict to ADSB and the Dutch ministries on several occasions. However, FoI documents show that ADSB expressly rejects the view that the civilian unrest and armed conflict is in any way linked to gas extraction activities. ADSB denies

that the jihadist insurgency began out of local people's displeasure at the neglect of Cabo Delgado despite major western gas extraction investments in the province. ADSB did not sufficiently analyse the possible link between the project and the violence, but instead described this link as non-existent without providing evidence, despite the existence of reports suggesting otherwise.

11. The official granting of the ECI's took place on March 25, 2021, shortly after the insurgent attack on Palma. In their answers to Parliamentary questions from September 2021, FTDC and MinFin stated that the consequences of the Palma attack did not become clear to the ministries until the weekend of March 27 and 28, 2021. And that the ministries therefore did not have the chance to prevent the official issuance of the ECI's. Contrary to this statement, in a Parliamentary debate in 2023 the current MinFin State Secretary Van Rij stated that ADSB received its first information about the attacks already on March 25, 2021. This is relevant because ADSB and the Dutch State could have theoretically still pulled out or delayed the policy issuance between the moment of the Palma attack and the formal ECI issuance. Given the alarming security information to which ADSB and the ministries had access, and the heated debates that had taken place in the approval phase, it is surprising that the news of the Palma attack was not sufficient for ADSB and the ministries to immediately push the pause button on the ECI granting on March 24 or 25, at least until more information about the attack had been gathered.
12. ADSB's "ex post" disclosure of Category A-projects is of limited use and falls short in terms of transparency due to the limited details that can be found on the disclosure certificates.
13. The Project monitoring plan that was proposed by ADSB as being a key tool for keeping a close eye on security risks in Mozambique appears to have been inadequate for that purpose. First, ADSB itself has limited visibility over the Project site and reality on the ground, being based in the Netherlands, as also underlined by the Proximities report. Second, its hired due diligence consultants received most of their information from Total. Third, the context in Cabo Delgado in terms of press freedom does not allow for sufficient independent information to reach the public. It remains unclear from the FoI documents how either ADSB or its consultants had planned (or are planning) to go on monitoring visits to assess the security of the project in such a repressed setting.

Conclusion

The security and human rights risks of the LNG Project in Mozambique were assessed inadequately. Many of the anticipated risks materialised, leading to at least 2.500 deaths and 800.000 refugees in the province of Cabo Delgado. The inadequacy of the assessment is confirmed not only by this research, but also by the Proximities and Uprights reports. The Dutch ministries also acknowledged that the assessment was flawed. State Secretary Vijlbrief concluded that: “the situation unfortunately developed differently than estimated at the time. As a result, several risks actually occurred and manifested themselves. A due diligence process for an insurance remains, after all, a risk analysis.” The “acceptable risk” that was posed, in this case clearly transformed into an “unacceptable risk”.

Due to the current force majeure situation ADSB, MinFin and FTDC now have the opportunity to re-assess the situation on the basis of complete and factual picture of the reality on the ground. The Dutch State should seize this opportunity and assess contractual ways out and use its political influence to ensure that the well-being and remedying of the affected people of Cabo Delgado is prioritized over corporate interests. There is no reason to believe that solely re-assessing the Project against international standards will produce any reliable results if crucial information is ignored or downplayed as was done the first time around. To prevent a focus on the trivial, in the form of a paper exercise existing of more reports, more social action plans, and more cherry-picking of information intended to lead to the re-approval of the Project, an approval process requires meaningful consultation with affected communities, reliance on independent sources of information that have security knowledge and are present on the ground.

Considering the ongoing safety concerns in Cabo Delgado and Total’s alleged incapacity to adequately respond to a potential new attack, a re-assessment of the security situation is likely to show that the safety of the people on and around the Project site still cannot be guaranteed. If indeed the case, in our view this should lead to the conclusion that the security risk is not acceptable. If security considerations are given the highest priority, it is difficult to argue that the Project is in the best interest of the local population when the people continue to be at serious risk.

The French Public Prosecutor has announced that it has opened a preliminary investigation into Total’s reaction to the Palma attack. This decision follows the civil complaint filed against Total in October 2023 by survivors and relatives of victims of the jihadist attack. Total is being investigated for negligence and indirect manslaughter. Although ADSB has apparently already started a re-evaluation of the Project, in our view the Dutch State and ADSB should take a step back and first consider whether they can continue to rely on security information provided by a company that is being investigated for allegations of negligence. Secondly, they need to seriously examine how responsible it is to keep backing a project that is being developed amid a non-international armed

conflict. This time, instead of focussing on rearranging the deckchairs of a sinking ship, it is essential that ADSB and the Dutch State first start paying attention to the iceberg ahead.

Recommendations

Despite the humanitarian crisis and ongoing conflict, there are signs that Total is considering to officially restart the development of the Project in 2024. ADSB has started a re-evaluation of the Project, despite promises to the Organizations that they would not do so before the force majeure was lifted. Against this context, below we present several recommendations to the Dutch Members of Parliament, MinFin, MoFA, ADSB, and NGO's and CSO's interested in the Dutch State's support to the Project.

To Dutch Parliamentarians:

1. Demand full transparency from ADSB and the involved Ministries full transparency about the (re-) assessment, including but not limited to the safety and security aspects of the Project.
2. Continue to ask critical questions to the Minister of FTDC and MinFin State Secretary, who are responsible for the Dutch ECI support to the Project. It is key that those monitoring the re-assessment processes (i) realize that the armed conflict continues to date and key drivers of the conflict remain unaddressed, (ii) consider that The French Public Prosecutor has opened a preliminary investigation into Total's actions during the Palma attack, (iii) identify the sources that are used by ADSB to obtain security information and advice and verify their independence, (iv) express to the ministries that information coming from the ground should not be overlooked, (v) realize that re-assessing the Project against international standards again by simply updating the information that was already available before, will not lead to new results or a reasonable conclusion.
3. Ensure and monitor compliance with the motion filed by Thijssen, Van Lee, Van der Raan and Teunissen on October 16, 2023, requesting the Dutch State to delay a decision on providing ECI's for the Project until the outcome of the reassessment process is clear and has been discussed in the Dutch House of Representatives.
4. Monitor and ensure that Total is not influencing the reassessment process of the ECI. Require that ADSB is transparent about any contact with Total during the process.
5. Ensure that a clause outlining the legal possibilities to terminate an ECI are included in any future contracts.
6. Ensure that the reassessment process is not concluded before the civil investigation against Total by the French prosecutor is closed and the findings are made public

To ADSB and the Dutch State (MinFin, MoFA and FTDC) regarding the Mozambique project:

1. Provide full disclosure on what was known about the Palma attack when the ECI's to Van Oord and SBC were issued in March 2021, shortly after the attack. Explain to the public why the ECI's were issued so soon after the attack, and why no action was undertaken to immediately stop or

delay the issuance when you found out about the attack.

2. Explore the possibilities of a responsible withdrawal from the Project. There are international standards available on what constitutes a responsible exit.
3. Ensure that withdrawal from the Project is considered as a possible outcome of the re-assessment. Avoid ignoring or downplaying red flags that are relevant for a reasonable decision and to work towards a green light at all cost.
4. Do not finalize the reassessment process before the civil investigation against Total by the French prosecutor is concluded and the findings are made public.
5. Investigate indications that the social unrest and armed conflict are linked to the Project. We underline that the French Public Prosecutor has opened a preliminary investigation into Total's reaction to the Palma attack and it is being investigated for negligence and indirect manslaughter, which begs the question whether Total's past promises about adequate security can be blindly relied upon.
6. Ensure compliance with the motion filed by Thijssen, Van Lee, Van der Raan and Teunissen on October 16, 2023, requesting the government to delay a decision on providing ECI's for the Project until the outcome of the reassessment process is clear and has been discussed in the Dutch House of Representatives.
7. Follow the recommendations provided by Milieudefensie, Both ENDS and Uprights to meet with Dutch and international and local NGOs to discuss the situation around the Project. Provide a safe space for those conversations, for example facilitated by the Dutch Embassy. Ensure that these meetings are not organised and controlled by the Project's leader Total or its consultants.
8. Ensure that the insights and opinion of the Dutch Embassy are considered as an important source of information and not as a secondary source.
9. Incorporate the conclusions drawn in the Proximities reports in your decision-making around the next steps of the Project.
10. In line with the recommendation of Uprights to Total, ensure that the Human Rights Due Diligence process is conducted with a conflict-sensitive lens considering that an armed conflict is an important part of the Project's context. This given requires a heightened degree of due diligence, for which international guidelines have been created.

To ADSB and the Dutch State (MinFin, MoFA and FTDC) regarding the ECI process more generally:

1. Find a way to integrate informed criticism into your processes: do not automatically eliminate criticism of NGO's believing that they are trying to harm your reputation or frustrate the Project. Treat NGO's as potential partners as to the gathering of relevant information on the ground.
2. Provide full transparency and a clear and unambiguous explanation about the legal and political options to withdraw an ECI in case a Dutch ECA-supported project is highly problematic is linked to severe human rights and security risks. If current contracts do not allow for a with-

drawal, create this option for future projects and be transparent to the public about potential improvements on this point.

3. Reassess the legal implications of an ECI approval and issuance, making a clear distinction between the legal implications of an approved ECI (“dekkingsstoezegging”) and an officially issued ECI (“polisverstrekking”). Disclose the outcome of this reassessment to the public in a clear and unambiguous manner.
4. Improve the disclosure of approved and issued ECI’s for Category A and B projects. Communicate transparently about the status of the ECI so NGO’s can monitor high risk projects. For disclosure and transparency purposes, create a special website or other platform with a description of “complex cases”. This will allow CSO’s and NGO’s that are in contact with communities affected by ECA supported projects to monitor progress and provide feedback on potential risks.

To civil society and NGO’s:

1. Closely monitor ADSB’s and the Dutch State’s re-assessment of the Project, and make sure that information from the ground is shared with the public.
2. Monitor and ensure that Total is not influencing the reassessment process of the ECI. Require that ADSB is transparent about any contact with Total during the process.
3. Insist on the disclosure of more details about ADSB’s and the Dutch State’s legal withdrawal options.
4. Insist on a full disclosure of what ADSB and the Dutch State knew about the Palma attack when the ECI’s to Van Oord and SBC were issued in March 2021, shortly after the attack. Either through direct dialogue with ADSB and the involved ministries, or via additional Fol requests.
5. Advocate for improvement of the Fol process in general, to ensure that Dutch ministries comply with their obligations under the Dutch Fol Act. Continue the pending Fol requests related to the Project in order to obtain internal communications and other documentation related to decision-making process of these ECI’s, and focus on obtaining internal communications shortly before, during and after the time of the Palma attack.
6. Coordinate with counterparts in the United Kingdom and Italy (and possibly other countries which have granted ECI support to the Project too) about Fol requests and potential court cases initiated in their countries.
7. Continue to document links between the Project and human rights violations, if needed with the assistance of academia and journalists. According to Parliamentary questions, the Dutch ECA now provides two opportunities to withdraw an ECI: 1) “Withdrawal of issued policies is not possible except in very exceptional cases, such as default, demonstrable negligence or fraud.”²³⁸ And 2) a clause to avoid the need to issue a policy if, after issuance of the commitment of cover, it becomes clear that there are unacceptable environmental and social impacts,

238 Tweede Kamer der Staten Generaal, 2022-2023. Verslag Van Een Commissiedebat (Report on Commission Debate). Vastgesteld 23 maart 2023, 26 485 Maatschappelijk verantwoord ondernemen, nr 411.

including serious human rights violations associated with the implementation of the project. Effects that occur outside the responsibility and sphere of influence of the project are not within the scope of this clause."²³⁹ Documenting possible causal links between the project and the conflict and/or serious human rights violations is key to repair the systemic failure of Dutch policies to protect people and the environment.

239 Parliamentary Answers to MP Van der Lee by State Secretary Vijlbrief, Nov 29, 2021, Aangangsel van de Handelingen 2020-2021.

Annex A

Timeline Fol requests

Annex A - Timeline Fol requests

Date	Action
December 4, 2020	Fol request sent to the Ministry of Foreign Affairs ("MoFA") by Both ENDS, SOMO, Milieudéfense and Friends of the Earth Europe (the "Organizations"), requesting the release of any documentation related to ADSB's involvement with the Project ("Fol request 1A").
December 7, 2020	Fol request sent to the Ministry of Finance ("MinFin") by the Organizations, requesting the release of any documentation related to ADSB's involvement with the Project ("Fol request 1B").
December 7, 2020	Fol request sent to ADSB by the Organizations, requesting the release of any documentation related to ADSB's involvement with the Project ("Fol request 1C").
December 11, 2020	E-mail/Letter from MinFin to the Organizations with adjournment of the deadline to follow-up on Fol request 1B. The new deadline for MinFin to react to the Fol request 1B is adjourned to 1 February 2021.
December 17, 2020	MinFin contacts Both ENDS Director with request to specify Fol request of 7 December 2020.
December 21, 2020	MoFA confirms receipt of the Fol request 1A by letter and adjourns the deadline to follow-up on Fol request 1A with four weeks.
January 5, 2021	E-mail contact Organizations with MoFA to confirm adjournment until 1 February 2021 to deliver the documents requested under the Fol request 1A.
January 20, 2021	E-mail from MoFA to the Organizations confirming its understanding that MinFin and ADSB have received similar Fol requests, and that MinFin and ADSB have offered the organizations to discuss the Fol. Based on this, MoFA indicates that it wishes to await the outcome of said discussion before processing the Fol request 1A.
February 1, 2021	E-mail from MoFA to Organizations indicating that it has decided to rely on the follow-up to the Fol requests by MinFin (even though this is a separate procedure), indicating that all Fol requests are based on documents that are primarily in the hands of MinFin and ADSB.
February 2, 2021	E-mail from Organizations to MoFA indicating that they see no reason why MoFA should rely on follow-up from MinFin and ADSB. Organizations request MoFA to proceed with their own follow-up of the Fol request 1A and to create a document inventory list, considering that the Fol request 1A should be considered as a separate request from the Fol requests 1B and 1C.
February 5, 2020	E-mail from MoFA to Organizations confirming that MoFA will discuss the Fol request 1A follow-up internally and start the process of creating an inventory list. At this point nearly three months have passed since the Fol request 1A was submitted to MoFA.
February 9, 2021	Call between Organizations, MinFin and ADSB to discuss the Fol requests 1B and 1C.
February 10, 2021	E-mail from MinFin to Organizations summarizing what was discussed during the call of February 9, 2021. MinFin proposes two options on how to grant the Organizations access to the documents requested under Fol request 1B and 1C: (A) either the Organizations can obtain access after the signing of a Non-Disclosure Agreement (which would not be considered as a formal Fol decision from MinFin), or (B) upon the specific instructions from the Organizations as to which documents they wish to obtain with priority through a first batch of documents, to be shared with the Organizations prior to the final Fol decision.
February 11, 2021	E-mail from the Organizations to MinFin indicating that the Organizations will get back shortly to the proposal made by MinFin the day before.

February 18, 2021	E-mail from MoFA to Organizations with an inventory list of the Fol's "core" documents, containing three documents. MoFA requests organizations if they agree with MoFA releasing only documents number 2 and 3 of this list only, because document 1 is already on the inventory list of ADSB/MinFin.
February 22, 2021	E-mail from the Organizations to MoFA asking whether MoFA's reference to "core" documents means that there are also other (non-core) documents in MoFA's position that might be relevant for the Fol request 1A (in which case the Organizations would also like to see an inventory list of such "non-core" documents). The Organizations also express that - even though it is also on the inventory list of ADSB - they would also like document number 1 to be part of MoFA's Fol decision.
February 22, 2021	E-mail from MoFA to Organizations indicating that - in addition to the earlier mentioned three documents - there indeed exist other documents related to the Project, for example related to internal communications.
February 22, 2021	E-mail from the Organizations to MinFin confirming that the Organizations wish to go for option B and continue the official Fol route for the Fol requests 1B and 1C. The Organizations share a selection of documents from the inventory list that in the view of the Organizations have priority for the time being. The selection includes for example communications between MinFin and the Dutch embassy in Mozambique and several environmental and social reports related to the Project. In addition, the Organizations indicate that certain documents they requested to MinFin do not appear on the inventory list. These include for example ADSB's formal acceptance proposal of the Project to MinFin and MoFA from May 2020, and communications between ADSB and the ministries about such proposal.
February 23, 2021	E-mail Organizations to MoFA confirming that the Organizations are also interested in the additional documents mentioned by MoFA in its e-mail of February 22, 2021. Organizations also underlines the urgency to release a first batch of the requested documents under Fol request 1A as soon as possible.
February 26, 2021	E-mail from MoFA to Organizations confirming that an Fol decision for a first batch of documents will follow as soon as possible. MoFA indicates that a (first) decision under the Fol request 1A should follow soon.
March 18, 2021	E-mail from Organizations to MoFA asking for a status update on decision to Fol request 1A.
March 18, 2021	E-mail from MoFA to Organizations indicating that the assessment of the release of the first batch of documents (consisting of 2 "core" documents) took longer than expected. The expectation now is that the documents will be released early next week.
March 23, 2021	E-mail from MinFin to the Organizations apologizing for the delay. MinFin indicates that the first documents have been assessed. MinFin expects to finish the rest of its assessment in two weeks, after which the documents will be shared with involved third parties to share their views on the documents selected for release.
March 31, 2021	E-mail from MoFA to Organizations with status update about the Fol decision to the Fol request 1A. MoFA expects to make a decision later this week or next week.
April 9, 2021	E-mail from MoFA to Organizations, requesting for a call to discuss the Fol request 1A.
April 12, 2021	E-mail from Organizations to MoFA confirming phone number and availability.
April 14, 2021	E-mail from MinFin to Organizations indicating that there has been another delay since 23 March 2021 and that the views from third parties will be requested shortly.
April 14, 2021	E-mail from Organizations to MinFin asking for the reason of the continuous delays.
April 14, 2021	Call between Both ENDS and MoFA about Fol request 1A.

April 28, 2021	E-mail from MoFA to the Organizations referring to what was discussed during the call of 14 April 2021. MoFA wishes to combine its Fol decision with the decision of MinFin. A new timeline is proposed, and the ultimate deadline for MoFA to decide on the Fol request 1A is fixed to 11 June 2021.
May 11, 2021	Both ENDS and Milieudedefensie send a letter to MoFA expressing their surprise to hear that ADSB did grant an insurance to Van Oord after MoFA had earlier informed the Organizations that no insurance had been granted yet. Organizations request the release of additional documents about the Project.
May 11, 2021	Both ENDS and Milieudedefensie also send a letter to MinFin expressing surprise to hear that ADSB did grant an insurance to Van Oord after ministries had earlier informed the Organizations that no insurance had been granted yet. Organizations request the release of additional documents about the Project.
May 25, 2021	E-mail from MinFin to Organizations with a status update, indicating that decision to the Fol request 1B is currently being written. Considering the additional information request done on May 11 2021, MinFin suggests to first release the already pending batch and to then discuss possible additional information.
June 8, 2021	E-mail from MinFin to Organizations, informing that the review by third parties process is taking longer than expected and that there will be a delay of another two weeks (given that the deadline was on 11 June 2021) before MinFin's decision to the Fol request 1B can be issued.
June 28, 2021	Call between Both ENDS and MinFin regarding the reason behind the ongoing delay with MinFin's decision to the Fol request 1B. Both ENDS indicates that it can no longer wait and that the documents need to be released as soon as possible.
June 29, 2021	E-mail and regular mail from the Organizations to MinFin, MoFA and ADSB, declaring MoFA and MinFin in default for failing to timely follow-up on the Fol requests 1A, B and C. Ministries and ADSB are urged to decide on the Fol request 1A, B and C within two weeks.
July 8, 2021	E-mail from ADSB to the Organizations indicating that in its view ADSB is not bound by the Dutch Fol Act because in its view ADSB is not an administrative body and does not operate under ministerial responsibility.
July 16, 2021	E-mail from MinFin to the Organizations, confirming receipt of the default notice.
July 20, 2021	Organizations, from now on supported by an external counsel, file an appeal before the Amsterdam court against MinFin for failing to make a decision on the Fol request 1B within two weeks after notice of default (sent on 29 June 2021).
August 20, 2021	Amsterdam court rules in favor of the Organizations and orders MinFin to make a decision on Fol request 1B within two weeks, on pain of a penalty of EUR 100,- per day, with a maximum of EUR 15.000,-.
September 6, 2021	MoFA makes first partial decision on Fol request 1A (the "Decision 1A part 1") and releases two documents: a memo from the Dutch embassy in Maputo of May 19, 2020 and the positive advice of DIO (a department of MoFA) to the Minister of Foreign Trade and Development Cooperation of May 29, 2020.
September 6, 2021	MinFin makes a first partial decision on Fol request 1B (the "Decision 1B part 1") and releases about 60MB's in documentation. The decision is made three days too late, meaning that MinFin is ordered to pay a penalty of EUR 300,- (EUR 100,- per day) to the Organizations.
October 15, 2021	With the support of their external counsel, the Organizations file a pro-forma objection with MoFA against MoFA's decision to the Fol request 1A of 6 September 2021.
October 15, 2021	Organizations file a pro-forma objection with MinFin against MinFin's decision to the Fol request 1B of 6 September 2021.
October 22, 2021	MinFin confirms receipt of the Organizations' pro-forma objection against MinFin's decision to the Fol request 1B of 6 September 2021.

November 11, 2021	Organizations file grounds of objection with MinFin to substantiate their objection against the decision of 6 September 2021 of MinFin. A.o., the Organizations argue that MinFin has performed an incomplete document search (the "Objection 1B").
November 12, 2021	Organizations file grounds of objection with MoFA to substantiate their objection against the decision of 6 September 2021 of MoFA. A.o., the Organizations argue that MoFA has deleted too much information in the released documents (the "Objection 1A").
December 17, 2021	Hearing MinFin and MoFA with Organizations in relation to the Fol requests 1A and B and the objections lodged by the Organizations with MinFin and MoFA on 11 and 12 November 2021.
January 25, 2022	MinFin expresses via e-mail to Both ENDS that MinFin has insufficient insight in the number of available documents as requested under the Fol request 1B of 7 December 2020.
January 25, 2022	MoFA extends the term to decide on the Objection 1A.
February 4, 2022	Organizations present a second notice of default to MinFin, this time due to MinFin's failure to timely decide on the Objection 1B.
February 7, 2022	Organizations present a second notice of default to MoFA, this time due to MoFA's failure to timely decide on the Objection 1A.
February 22, 2022	Organizations file their second appeal with the court of Amsterdam against MinFin, for not timely reacting to notice of default sent on 4 February 2022 in relation to the Objection 1B.
February 23, 2022	Organizations file their first appeal with the court of Amsterdam against MoFA, for not timely reacting to notice of default sent on 7 February 2022 in relation to the Objection 1A.
March 28, 2022	MoFA makes a decision on Objection 1A and publishes a second partial decision on Fol request 1A (the "Decision 1A part 2").
June 9, 2022	Court of Amsterdam concludes that MinFin has been in default for not making a timely decision on the Objection 1B. MinFin is ordered to make a decision on the Objection 1B within two weeks, on pain of a penalty of EUR 100,- per day, with a maximum of EUR 15,000,-.
November 1, 2022	Court of Amsterdam orders MoFa to make a new decision on the Objection 1B within 8 weeks.
February 8, 2023	More than eight months after the Amsterdam court order of June 1, 2022, MinFin issues first partial decision as a response to the Objection 1B ("Decision to Objection 1B part 1"). Part two and part three of the decision remain pending, which means that the decision is not complete, and that MinFin therefore remains in default.
February 9, 2023	Organizations file their third appeal with the Amsterdam court against MinFin, because MinFin has remained in default of the obligation to release part 2 and part 3 of the decision to the Objection 1B.
May 2, 2023	Amsterdam court orders MinFin to release part 2 and part 3 of the decision to the Objection 1B within two weeks, on pain of a penalty of EUR 250,- per day, with a maximum of EUR 37.500,-.
July 7, 2023	MinFin releases part 2 of its decision on Objection 1B ("Decision to Objection 1B part 2"), nearly one year and nine months after the Organizations filed the Objection 1B with MinFin. Part 3 of the decision on Objection 1B remains pending.
August 16, 2023	Organizations file pro-forma appeal with MinFin against the Decision to Objection 1B part 2.
September 5, 2023	Organizations file a new Fol request with MinFin, requesting information from MinFin about the Project from the period after when the Fol request 1B was filed (the "Fol request 2B").

September 6, 2023	Organizations present a new Fol request to MoFA, requesting information from MoFA about the Project from the period after the Fol request 1A was filed (the "Fol request 2A").
September 25, 2023	Organizations file grounds of their appeal with MinFin against the Decision to Objection 1B part 2, a.o. because according to the Organizations Decision to Objection 1B part 2 is incomplete.
October 9, 2023	MinFin confirms receipt of the Fol request 2B and adjourns the term to decide on the request with four weeks. MinFin states that 'due to limited capacity in relation to the workload' it could not be ruled out that the processing time of the application would take longer than the legal decision period.
October 16, 2023	MoFA informs the Organizations that it has not finished its assessment of the documents yet, but does not commit to a new deadline.
Oct 18, 2023	Organizations send e-mail to MoFA asking for a concrete and reasonable planning for Fol request 2A.
Oct 18, 2023	Organizations ask MinFin to give a concrete and reasonable planning for decision on Fol request 2B.
Oct 19, 2023	MoFA informs Organizations that no reasonable estimation can be made to decide on Fol request 2A.
October 23, 2023	Organizations receive no response to their message to MinFin of 18 October 2023 and present notice of default to MinFin, because MinFin failed to timely decide on the Fol request 2B.
November 7, 2023	For the third time, the Organizations file an appeal with the Amsterdam court against MinFin, now due to MinFin's failure to timely decide on the Fol request 2B.
November 7, 2023	For the second time, Organizations file an appeal with the Amsterdam court against MoFA, now due to MoFA's failure to timely decide on the Fol request 2A.
November 14, 2023	Organizations file their fourth appeal with the Amsterdam court against MinFin, due to the fact that MinFin's Decision to Objection 1B is not complete yet. Part 3 is still missing. EUR 52.500 in penalties have now been forfeited by MinFin, and there is still no prospect of complete decision-making.
January 17, 2024	Amsterdam court orders MinFin to make a decision on the Fol request 2B within two weeks, on pain of a penalty of EUR 100,- per day, with a maximum of EUR 15.000,-
January 24, 2024	Amsterdam court orders MinFin to complete its Decision to Objection 1B within two weeks, on pain of a penalty of EUR 250,- per day, with a maximum of EUR 50.000,-
February 14, 2024	MoFA makes decision on Fol request 2A and releases new documents.
February 23, 2024	Amsterdam court orders MoFA to make a decision on the Fol request 2A within four weeks, on pain of a penalty of EUR 100,- per day, with a maximum of EUR 15.000,- However, in the meantime MoFA had already decided on the Fol request 2A on 14 February 2024.
May 2024	A total of EUR 52.500,- in penalties have so far been forfeited by MinFin for failing to (timely) decide on the different Fol requests and objections filed by the Organizations. In the meantime, more penalties are accumulating at the time of writing of this report, as MinFin is still in default to make a decision on the Fol request 2B (a penalty of EUR 100,- per day, with a maximum of EUR 15.000,- has started to accumulate since 31 January 2024) and on the Objection 1B (a penalty of EUR 250,- per day, with a maximum of EUR 50.000,- has started to accumulate since 7 February 2024).

Annex B

How Decisions are Made:

**A Chronological Presentation of
Dutch State Security Considerations
ahead of Approving the
Mozambique LNG ECA**

Annex B - How Decisions are Made: A Chronological Presentation of Dutch State Security Considerations ahead of Approving the Mozambique LNG ECA

2017-2020: ADSB receives multiple reports on increased violent incidents in the Cabo Delgado region, but little questions are asked about this by the Ministries.	
In May 2017, Anadarko shares a security brief with ADSB in relation to a site-visit ADSB is planning to the Project in June. The report notes security risks, civil unrest and terrorist threats, although mentions that they are not likely to happen.	<i>“There is an underlying threat from terrorism. Attacks although extremely unlikely in Cabo Delgado could be indiscriminate and have the potential to occur in places frequented by expatriates and foreign travellers.”¹</i>
On 3 July 2017 ADSB employee shares a summary of site visit done between 18 and 23 June with colleague. A colleague makes a positive conclusion about the visit particularly about how excited the local population seems to be about this project.	<i>“Thank you [...] If I understand correctly then: 1 Being worked neatly according to standards 2 Population cannot wait for project to start 3 Population accepts resettlement 4 There are no major material negative CSR issues at the moment Is my understanding correct?”²</i>
On July 4th, 2017, ADSB receives an email after a visit to Mozambique between June 18-23rd about fact that «nuances» about resettlement and negative CSR issues were not in the field report and are better shared verbally.	<i>“Hello [...] In principle you are right. However, there are still some considerable nuances to this visit that are difficult to capture in such a report.”³</i>
On November 14th, 2017, information reaches ADSB through the FTDC travel advise that violent incidents have occurred in Cabo Delgado that led to casualties. ADSB communicates internally by email that the location is 1.5-hour drive from the project site and that this means that a site visit in the near future does not seem feasible.	<i>“In the vicinity of the town of Mocimhoa in the province of Cabo Delgado, there were incidents in October 2017 between armed civilians and the police There were casualties. This is the place you fly into when you go to the project site. For the time being, no site visit it seems to me. The project itself is 1.5 hours away by car. I will inquire with Foreign Affairs though in case they start getting more concrete about that site visit.”⁴</i>
In December 2018, ADSB makes a visit to the project area. This must be done by helicopter because the situation on the ground has become too unsafe.	<i>“In December 2018, we visited Pemba and took a helicopter flight over the project area due to the unsettled situation in the area.”⁵</i>
On January 21, 2019, ADSB receives a report about the security situation around the Anadarko project with confidential content (but the report may be forwarded to the State).	<i>“See attached a report we recently received regarding the security situation around the Areal Anadarko project. contents are confidential and cannot be used externally, aside from to State, in connection with the transaction.”⁶</i>

1 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203607

2 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203082

3 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203082

4 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203086

5 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1203660

6 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203077

<p>On Feb 11th, 2019, Both ENDS sends a letter to Atradius voicing its complaints and highlighting the development of the gas infrastructure in the Cabo Delgado area contributes to raise tensions in the region and a crackdown on freedom of expression and demonstrations by residents of Palma to suspend project activities until violence stopped.</p>	<p><i>“The last attacks have been the closest to where the gas developments take place since the start of the insurgency in 2017. In the current context, the development of the gas infrastructure in the Cabo Delgado area contributes to raise tensions in the region and puts communities and civil society at risk.”</i></p> <p><i>“In the past months, we have observed a crackdown on freedom of expression in Mozambique, especially in relation to the situation in Cabo Delgado and the gas developments.”</i></p> <p><i>“On January 13th, 2019 over 200 residents of Palma demonstrated to demand the suspension of all work connected to the gas project until the attacks are stopped effectively. The protest was met with intimidation of the military force to stop the protesters from continuing”⁷</i></p>
<p>On February 26, 2019, ADSB receives notice of attacks 20 kilometers from the construction site and special security measures by Anadarko. The article also says that the UK advises against travel to Cabo Delgado. On this date, ADSB also receives another report called “Special Report: The Militant Threat to Mozambique’s Natural Gas Sector” (1203175)</p>	<p><i>“Gunmen kill Anadarko contractor in Mozambique. The US oil and gas company on Friday said it understood there had been two related attacks that occurred on the road from Mocimboa da Praia to Afungi at approximately 5 pm local time. “The safety security and well-being of our people is always the top priority and therefore the construction site remains on lock-down, and we will not discuss specific security measures.”</i></p> <p><i>“Info on the UK Government’s website shows that Foreign and Commonwealth Office FCO has advised against all but essential travel to the districts of Nangade Quissanga Ibo Macomia Mocimboa da Praia and Palma in Cabo Delgado province due to an increase in attacks by groups with links to Islamic extremism.” “There are reports of an increased security presence in the region including roadblocks and there are regular clashes between insurgents armed vigilante groups and Mozambican security forces.”⁸</i></p>
<p>On April 30, 2019, ADSB formally announces to be processing a category A project in Mozambique</p>	
<p>On May 14th, 2019, a CAR analysis was sent to MinFin by ADSB which includes a standard analysis with additional focus on the political security risks. Political instability and militant groups are considered a risk but are concluded not to be able to affect gas projects as they lack capacity to form a real threat.</p> <p>It is stated explicitly that forced relocation of farmers and the loss of their source of income for fishermen due to the development of the gas fields have further fuelled discontent in recent years.</p>	<p><i>“These are public finances in particular the debt position, the external financier and political security risks. With regard to the latter, it specifically concerns the security situation in the Northeast of the country and the elections.”⁹</i></p> <p><i>“Particularly in the North of the country, where the security situation is weak, the impact of the second hurricane could worsen the situation. Nevertheless, the militant group operating here is not expected to be able to jeopardise the development of the gas projects Several sources give as their reason that this group lacks the capacity to do so.”¹⁰</i></p> <p><i>“It is the region with the most poverty and where there is already a weak and deteriorating security situation. Forced relocation of farmers and the loss of their source of income for fishermen due to the development of the gas fields have further fuelled discontent in recent years. The impact of Hurricane Kenneth may lead to more unrest and violence, especially in this region Although the oil and gas companies involved in the gas projects have made donations to mitigate the negative impact of the hurricane, this will not provide a structural solution to the discontent in this region.”¹¹</i></p>

7 Letter Both Ends to ADSB, re “Escalating violence in the region where gas developments take place, Cabo Delgado, Mozambique”, Feb 11th, 2019

8 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203117

9 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203767

10 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203767

11 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203767

<p>On July 3, 2019, ADSB visits the Anadarko site and describes in its fieldtrip notes that insurgents have been active around Pemba and 11 abductions of women and children have been reported. They partially attribute the increase of violence to better reporting. It also describes that "Environmental Resources Management (ERM) -the consultancy that monitored the biodiversity aspects - ended their contract with Anadarko due to safety reasons.</p>	<p><i>"Insurgents have been active in the wide area from Pemba to the border of Tanzania but most active on the roads between Pemba and Mocimba de Praia Attacking trucks with foods but also 11 abductions have been reported These are generally women and children who have to cook for the insurgents. The number of incidents seemed to have increased on the slides presented but this can be partly attributed to the better reporting since the project works started."</i>¹²</p> <p><i>"ERM have stopped their monitoring contract with Anadarko due to safety reasons Now Anadarko has directly hired the ERM consultant as part of Anadarko's team and she will be the biological monitoring."</i>¹³</p>
<p>On September 11th, 2019, ADSB internally shares a news bulletin by Open University's Joseph Hanlon, describing the insurgent attack and calling it "an apparent escalation of the Cabo Delgado war". Subsequent multiple news articles by the same author describing the increases in violence are received by ADSB until at least April 2020.</p>	<p><i>"Insurgents attack town and military camp killing 9. In an apparent escalation of die Cabo Delgado war insurgents attacked a town and paramilitary camp killing 7 members of the riot police and burning an armoured car and two other vehicles The attack was on Quiterajo town in the north of Macomia district near die coast and Mocimboa da Praia district."</i>¹⁴</p>
<p>On October 2, 2019, ADSB internally shares a news bulletin by Open University, describing guerrilla type attack in Mocimboa during which houses are burned down and people are kidnapped.</p>	<p><i>"Insurgents attacked the village of Antadora, Mocimboa da Praia district this afternoon (1 October). Between 3 and 5 pm the guerrillas burned houses and kidnapped some people. There were no deaths our correspondents report. The village of Antadora is located on the main road giving access to the districts of Mueda, Mocimboa da Praia and Palma.</i></p> <p><i>This is the tenth attack in Cabo Delgado province and the fourth in Mocimboa da Praia since the start of the election campaign."</i>¹⁵</p>
<p>News bulletin of 31 January 2020 by Open University's Joseph Hanlon speaking about exacalation of the war and ineffective military responses</p>	<p><i>"A series of attacks in Bilibiza, Quissanga district Wednesday and Thursday mark an escalation of the war. Bilibiza is just 60 Km from Pemba and is the farthest south in Cabo Delgado that insurgents have hit. It was a large attack, and the military did not respond. And it hit government schools linked to religious groups."</i></p> <p><i>"The week-long march of a large number of insurgents across parts of Cabo Delgado shows how ineffective the military has been in responding to the new civil war."</i>¹⁶</p>
<p>On February 1st, Exxon Mobil and Total asked Mozambique government to send additional troops for security</p>	<p><i>"Exxon Mobil Corp and Total have asked Mozambique to send more troops to guard their operations in the far north after a surge of attacks by Islamist militants, an industry source and two security consultants said. The area is also the centre of an Islamist insurgency that has killed hundreds since 2017. Fighters have destroyed villages, clashed with soldiers and often beheaded captives." One of the security consultants said there were around 500 troops in the region and the companies wanted another 300. An industry source with knowledge of the situation and another security consultant said more security had been requested but did not provide numbers. One of the security consultants said the oil and gas companies were no longer satisfied with the security provided and were requesting more support in response to a changing threat."</i>¹⁷</p>

12 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203646

13 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203646

14 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 1, nr. 1203110

15 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203109

16 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203160

17 See <<https://www.reuters.com/article/idUSKBN1ZV3HK/>> Consulted May 14, 2024

<p>News bulletin of 18 February 2020 by Open University's Joseph Hanlon stating that the civil war is expanding.</p>	<p><i>"The civil war in Cabo Delgado is expanding with government portraying the war as foreign backed and needing foreign military assistance and restrictions on media."</i></p> <p><i>"Three new attacks show the spread of the Cabo Delgado civil war."</i> ¹⁸</p>
<p>News bulletin of 27 February 2020 by Open University's Joseph Hanlon explaining how the civil war evolved and linking the insurgency also to foreign company involvement.</p>	<p>"Setting out the origins and evolution of the war we show:</p> <ul style="list-style-type: none"> + The antecedents of the war go back decades. and that there are a very large number of external and internal actors and contexts. + Externally, Cabo Delgado has been a playground for a wide range of religious missionaries, global natural resources companies, and traders in legal and illegal commodities. World Bank and IMF policies have set the development strategy. + Internally, poverty and inequality are growing Greed and corruption have exacerbated the inequalities and caused a growing discontent especially from marginalised young people. + External and internal actors work together The local elite internal works with the natural resource companies and illegal traders (external). But at a lower level some people respond to the crisis of poverty and inequality by looking to religious leaders and sects for an explanation and solution while religious leaders (both internal and external) try to interpret the doctrines and teachings as a solution to these crises in order to recruit followers. Religion is presented as an answer to a development crisis. + The distrust of local elites is greater than many realise and there is a history of violence from cholera riots two decades ago to last weekend's mass invasion of ruby mines Following this history it is less surprising that marginalised young people will join a violent group pledged to redress inequality. <p>This leads to the conclusion that the growing civil war does not have a military solution. Civil war is fed by grievances which must be resolved to end support for insurgents. But external factors must also be controlled to end the war, and it needs to be remembered that external factors are not just foreign Islamic militants, but also natural resource companies and illegal traders." ¹⁹</p>
<p>April - May 2020: Dutch Ministry of Foreign Affairs and Ministry of Finance gradually have serious concerns about the security situation in Mozambique and the business case of the LNG project.</p>	
<p>Between March and April ADSB receives multiple news articles by Open University's Joseph Hanlon with headlines such as:</p> <p>"War intensifying near Mocimboa da Praia and Bilibiza " (march 17th , 2020)</p> <p>"Massacres by both sides and press restrictions" (April 27, 2020) which reported on April 27th that insurgent groups are evolving, have great capacity and the army does not have the capacity to defeat them.</p>	<p><i>"Reports are confused and sometimes conflicting which is exacerbated by die increasingly severe limitations on the press. Palma community radio journalist Ibraimo Mbamco has been missing since he was taken apparently by die military on 7 April. There are growing fears that he has been disappeared by the military."</i> ²⁰</p> <p><i>"Cited by Radio Mozambique (21 Apr) the spokesperson for the General Command of the Mozambican police Orlando Mudmnanane said insurgents "cruelly and indiscriminately shot dead 52 youths in the village of Xitaxi. He said that in their attempt to recruit young people to their ranks they encountered resistance and reacted by murdering those who refused to join"</i> ²¹</p> <p><i>"Dozens of government soldiers were killed in the Mocimboa attack says the CEEI report in what is perhaps the most candid analysis of government failures to be made by a public institution It argues that the insurgent group proved that it is evolving and that it has a great capacity to quickly adapt its tactics operating modes and military targets yet the government is failing to win over the population and the military has neither the equipment nor the leadership to defeat the insurgents."</i> ²²</p>

18 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203159

19 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203158

20 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203151

21 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203151

22 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr.1203151

<p>Dutch newspaper NRC publishes that Total recalls its ships after jihadists seized the coastal town of Mocimboa da Praia in March 2020.</p>	<p>"Total recalled its ships after jihadists seized the coastal town of Mocimboa da Praia in March"</p>
<p>ADSB has a telephone meeting with the NL embassy in Maputo about security, the elections and active CSOs.²³</p>	
<p>On April 1st, 2020, an internal email was sent within ADSB that they were phoned by the Dutch FTDC (BHOS) because he expects a lot of resistance internally on the CSR issues.</p> <p>On April 2nd a report was sent to BHOS with a response by ADSB that points to a sharp increase in incidents, the presence of Russian and American mercenaries, and that the insurgents are gaining capacity and support from Kenya, Tanzania, and Somalia".</p>	<p>ADSB: "I got a call from BHOS this afternoon about Moz LNG. He wants to manage the decision-making process well within BHOS because he expects a lot of resistance internally on the CSR issues. Especially the role and views of NGOs have the attention within BHOS he told me. [...]"</p> <p>Very good that xx is already making contact. Hopefully this [response] will take the BHOS stinger out of this story."²⁴</p> <p>ADSB: "Regular incidents take place in the province where the project is being built. The security situation is especially weak in the north-eastern part of the country province of Cabo Delgado During 2019 and 2020, the number of terrorist attacks increased sharply"²⁵</p> <p>"Several countries Russia and the US are therefore calling on the International Community to jointly secure the area. According to reports, US and Russian mercenaries are already operating to secure their interests presence of Islamic groups is causing increasing violence Increasingly, supporters are being attracting supporters from abroad mainly from Kenya Tanzania and Somalia"²⁶</p> <p>"However, it is difficult to get a good overview of the current situation in the region. The Dutch embassy in Mozambique indicates that due to the unpredictability of the situation the region is hardly accessible Moreover, there is little openness for journalists, as a result of which news only comes out sparsely"²⁷</p> <p>"To protect the project and its employees, several measures have now been laid down in the 'Community Security Management Plan' Some of the measures have already been implemented the rest are still in the planning stage Firstly, the immediate project site is secured nearshore and onshore. There are fences and military security. There will also be a wall around the immediate project site and a "low security fence" which will also protect the immediately surrounding villages are protected from attacks"</p> <p>"Attention is also being paid to the wider project area where bus services for the workers are running. This is because the communities feel that they are insufficiently protected. This is partly caused by the lack of communication from the government This is partly being taken care of by the project. An intensified police presence is also planned Finally, the transport routes to the project are being secured There are checkpoints and surveillance in place"²⁸</p>

23 WOO besluit 6 sept 2021, Ministerie van Financiën, nr. 885680

24 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr. 1203107

25 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr. 1203740

26 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr. 1203740

27 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr. 1203740

28 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, nr. 1203740

<p>On April 7th, 2020, the environmental and social assessment for the Mozambique project was finalized based on Van Oord and Besix. Communication within FTDC reveals that the economic part or business case of the LNG project was still considered the biggest risk according to ADSB which was partially supported by FTDC.</p>	<p>ADSB: <i>“Herewith the completed environmental and social assessment for the Mozambique project. It was a big job, I assumed for now that we are dealing with Van Oord and Besix as NL exporters.”</i></p> <p>FTDC: <i>“The economic part is (at least according to Atradius, and not entirely unjustifiably in my opinion) the biggest risk, with a halved oil price and its direct effect on the price of gas. And therefore, on the project’s business case.”</i>²⁹</p>
<p>On April 9th, 2020, FTDC asks ADSB to indicate where the Post (the Embassy) can play a linking role in security and livelihood restoration. They also flag concerns that the Mozambique government has less control over project area due to the remoteness and that the Embassy cannot be certain about the causes of the conflict, but that it is possible that the project contributes to the root cause.</p>	<p><i>“The security risk is increasing rather than decreasing over the coming period in the region. At the same time, the area does become more contiguous with the authorities. The post, however, cannot state with strong certainty the causes of the violence’</i></p> <p><i>“The projects can contribute to root causes of the problems”</i>³⁰</p>
<p>On April 15th, 2020, FTDC receives a reply from the Centro de Integridade Publica (CIP) in Mozambique expressing worries about the resettlement process and questions about the company’s social license. It is advised that the state must monitor the process as a way of protecting the communities. (The Dutch translation of this response was lacquered away but the Portuguese text was left unlacquered in the FoI request.)</p>	<p><i>“The resettlement in Palma, in the province of Cabo Delgado, to make way for the construction of the gas exploration project currently led by Total is taking place in an effective, open and transparent manner. Despite these encouraging results, the state must monitor the process as a way of protecting the communities. It is recommended that the illegalities that continue to jeopardise the quality of the land occupation process by the project be remedied, keeping the state in an illegal position and tarnishing the company’s social licence.”</i>³¹</p>
<p>On April 30th, a Joseph Hanlon (Open University) newsletter is circulated within ADSB that insurgents had moved towards Pemba and have taken control of the only paved road north from Pemba to gas fields.</p> <p>In the forwarding message an ADSB staff member states to find it terrible for the people living in Pemba but concludes that this shows that the violence is not related to the project.</p>	<p><i>“Insurgent groups moved south toward Pemba on Monday- Wednesday 27-29 April, but were stopped by the army and mercenaries. They did however attack and burn villages.”</i></p> <p><i>“Insurgent control of N380 Insurgents now operates regularly along this route exercising a form of semi control over the Unguia Macomia stretch of the road according to Intelype 30 April. Unguia is the junction with the road from Montepuez to the west and Bilibiza and Quisanga to the east The N380 is die only paved road north from Pemba to the gas fields in Palma”</i>³²</p> <p><i>“Thank you very much for forwarding this information. It is of course terrible for the country and those people living towards Pemba that the terrorists are moving on into the country. It does however give more the picture that it is not directly related to the project as Both Ends would like us to admit”</i>³³</p>

29 WOO besluit, 28 march, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336947

30 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 2, 1203141

31 WOO besluit, 28 maart, 2022 Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 337032

32 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr.1203100

33 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr.1203100

<p>On May 6th, an article titled “How jihadists are conquering northern Mozambique at breakneck speed” by Dutch journalist appears in newspaper NRC.</p>	<p>“Since a cyclone raged over Mozambique last year and led to food shortages, jihadists have been gaining ground. In the name of IS, they are carrying out mass massacres”³⁴</p> <p>“Domestic and foreign journalists denied access to the area to investigate the root causes of the conflict in northern Mozambique 17 human rights organisations complained of “intimidation” of journalists and civil society organisations in a fire letter to the president They wrote the letter after radio journalist Ibraimo Abu Mbaruco disappeared without a trace on 7 April”³⁵</p>
<p>On May 12th, the final Proposal and Environmental and Social Assessment (“Bijlage 1-Beoordeling Van Milieu en Sociale Aspecten) is presented to the IC in which environmental and social risk is concluded to be acceptable.</p> <p>Under PS 4 Public health public safety, the violence is mentioned and a focus in response is on monitoring how secure the populations feels.</p>	<p>“It is concluded that the negative environmental and social impacts can be mitigated to an acceptable level by measures and that the project will be able to meet international standards at the time construction starts, On this basis, the environmental and social risk posed by the present transaction is assessed as acceptable”³⁶</p> <p>“Security in the area is a major concern for more than 25 years, terrorist groups have been raiding neighbouring villages and transports. This violence obviously affects the implementation of the project, but that is described in the financial submission.” “ADSB is aware of this and sees the importance of intensive management and proper monitoring of the security forces by the project coupled with a well-functioning stakeholder consultation process and a mature local grievance mechanism In addition, we expect regular feedback from the lenders’ consultant monitoring visits as to how secure the local population feels”³⁷</p>
<p>13 May, 2020, coordinated attacks in Cabo Delgado, Mocimboa under attack and electricity cut.</p>	<p>“Mocimboa has been under attack since Tuesday and electricity and mobile phone service in Mocimboa da Praia have been cut”³⁸</p>

34 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr.1139982

35 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr.1139982

36 WOO besluit 6 sep, 2021, Ministerie van Financiën, Voorlegging, Bijlage 1, BEOORDELING VAN MILIEU EN SOCIALE ASPECTEN, nr. 871843

37 WOO besluit 6 sep, 2021, Ministerie van Financiën Voorlegging, Bijlage 1, BEOORDELING VAN MILIEU EN SOCIALE ASPECTEN, nr. 871843

38 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr.1203148)

May 19th-May 28th: A clear difference of opinion between Atradius DSB and the embassy in Maputo emerges. The Ministry of Finance and Ministry of Foreign Affairs indicated that they cannot give a positive opinion before there is an unambiguous picture of the security situation.

On May 19th, information reaches the 'Directie Internationaal Ondernemen - Directeur-generaal Buitenlandse Economische Betrekkingen' (DIO) at the FTDC that violence is increasing and they are directly advised by the Dutch Embassy to consider the worsened security situation, while having received a separate memo on increase in violence from DAF (memo with reference Min-BuZa.2020.5242-15). Information includes:

- Clear expansion of violence closer to project site
- Mocimboa da Praia and Quissanga clearly of interest to the insurgents
- Capacity of insurgents seriously increased.
- Affiliation with Islamic State and insurgents raised the ISIS flag.

It is also indicated that the costs of the project will go up due to this security situation.

*"The Embassy advises DIO to more explicitly include the deteriorating security situation and associated political downside risks for the LNG project in Mozambique (with Van Oord's involvement) in its consideration of whether or not to agree to the granting of this ECA."*³⁹

*"The embassy and DAF also point to the major security risks in the area, which have been rapidly increasing in recent months, and which could also have a negative impact on the region's potential for inclusive development."*⁴⁰

"Capacity of insurgents seriously increased. In March a helicopter of mercenaries employed by the government was taken out off the air." "Mocimboa da Praia is clearly of interest to the insurgents. In March the town was occupied. The army failed to recapture it and were only able to re-enter the town after the insurgents voluntarily left. The file seems to describe it as an incident. The same applies to Quissanga"

"In the first four months of 2020, the number of violent attacks has increased by 300 to the same period in 2019 Up to 24 April, 101 violent incidents have been reported in 2020 Of the 285 deaths, there were 200 civilians." "The negative trend on the safety front continues, putting an increasing stamp on the potential development and growth of LNG projects. LNG projects remain potentially a gamechanger, but have become a lot more uncertain."

*"At the same time, costs, due to measures to cope with the security situation and also the impact of climate change, are going up."*⁴¹

On May 19th, in the assessment of the Dutch embassy in Maputo, it is mentioned that there is no guarantee that the project will not be attacked in the future. In this assessment it also acknowledges that ADSB did not highlight security and other aspects sufficiently.

Embassy: *"The fact that the project has not been attacked so far is not a good guarantee for future. On top of that, the project has to incur significant costs for Security"*

Embassy: *"Indeed, the security situation is deteriorating by the day, a risk that is underplayed in ADSB's underwriting proposal"*

Embassy: *"The security conclusion is summarily thin" and "Description of negative trend is missing."*⁴²

39 WOO besluit, 6 sept, 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, nr. 336977

40 WOO besluit, 6 sept, 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, BZ0002

41 WOO besluit, 6 sept, 2021 Ministerie van Buitenlandse Zaken, deelbesluit 1, nr. 336977

42 WOO besluit, 6 sept, 2021 Ministerie van Buitenlandse Zaken, deelbesluit 1, nr. 336977

<p>On May 20th, a first IC meeting is held with ADSB, FTDC (DIO), and MinFin (Exportkredietverzekeringen en investeringsgaranties) and in which questions from the Ministries were answered. Ministry of Finance is satisfied with the proposition because everything is well addressed through mitigation measures. DIO shares the assessment of the Dutch Embassy about the increased violence and professionalism of the insurgents.</p>	<p>MinFin to ADSB; “Overall very satisfied with the submission There is a lot at stake but basically everything is well addressed and either mapped out via mitigation measures or monitoring”⁴³</p> <p>FTDC ahead of conversation: FTDC: “In tomorrow’s discussion, we would ~also like to emphasize the security situation in the northeast of Mozambique and its impact on the project and project environment. We are receiving reports from the post that the security situation is deteriorating by the day and the negative trend in the security area continues. In the first four months of 2020, the number of violent attacks increased by 300 compared to the same period in 2019”⁴⁴</p> <p>“Concerning the security situation, someone from ADSB indicated that the violence occurred away from the project. In response, an employee of the DIO shared the appreciation of the embassy in Maputo regarding the increase in violence and the increased professionalism of the execution of extremist attacks. This was an analysis that the representatives of the Atradius DSB agreed with.”⁴⁵</p> <p>ADSB: “There is no uniformity on the causes of the violence. there is jihadism smuggling routes crime tribal conflict and hopelessness of the population at play. There is no evidence that the project would increase violence”.⁴⁶</p> <p>“Both the Ministry of Finance and Ministry of Foreign Affairs indicated at the end of the interview that they could not give a positive opinion before there was an unambiguous picture of the security situation”⁴⁷</p>
<p>On 22 May, at the request of the Minister for Foreign Trade and Development Cooperation, the Sub Saharan Africa Directorate of the Ministry of Foreign Affairs sends a memo to R and M on the security situation in Cabo Delgado and the contribution the Netherlands could make to improving the situation.</p>	<p>“Regarding the security situation, the Sub-Saharan Africa Directorate spoke in the memo of an explosive increase in violent incidents In the first four months of 2020 compared to the same period in 2019”⁴⁸</p>
<p>On May 22nd, FTDC sends an email to ADSB expressing their concerns about the worsening security situation. They state this the most unfavourable time to make a commitment and wonders whether contractually there is room for delay as they think contractors/operators don’t want to get into this kind of situation either.</p>	<p>FTDC: “Monday morning [probably] at 11h there will be a call with the post about the security situation. As already indicated we are receiving various signals from the post but also internally from FTDC that the situation is very bad and getting worse.”</p> <p>“What concerns us is that now is a most unfavourable time to make a DT commitment and our question is how are/are these kinds of security situations addressed in the various contracts? Surely contractors/ operators don’t want to get into this kind of situation either. Are there any conditions for this anywhere? Is there room for delay until there is also more clarity on the developing security situation? When is it even for contractors a no go situation? And also if the commitments have been issued even after financial close and the situation continues to deteriorate or becomes untenable what situation then arises?”⁴⁹</p>

43 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1203120

44 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr.1094580

45 Proximities, (2023). Rapport Onafhankelijke Review naar de Beoordeling van de Veiligheidssituatie bij de Exportkredietverzekering (ekv) Verstrekking Voor het LNG project in Mozambique, p.21. <https://open.overheid.nl/documenten/d362dffa-4459-4ffb-942e-9197ec03017d/file>

46 Proximities, (2023). p.21.

47 Proximities, (2023). p.21.

48 Proximities, (2023). p.22

49 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1203174

<p>Directly after on May 22nd, ADSB sends an email to its technical consultants, Lummus Technology and legal consultants, White and Case, about the news from the Embassy on worsening security, to ask a technical and legal DD advise on how the current security situation falls within the 'baseline security threat' agreed with CCS JV. Questions are also asked about issues with swapping of staff due to direct security threats.</p> <p>That same day ADSB sends an analysis of the Security impacts by van Oord to FTDC (attachment no in FOI) (1203098)</p>	<p>ADSB: <i>"In our last credit committee we got challenged on the security situation on and near the project. Our embassy apparently is of the impression that recently the security situation near the project has worsened in a way which might directly impact the project."</i></p> <p>ADSB: <i>"We recall 512⁵⁰ referring to a 'baseline security threat' agreed with CCS JV following the early 2019 attack."</i></p> <p><i>"What is the Lummus opinion on the security threat for the Offshore EPCI contractor. Would e.g the swapping of crews be more difficult due to the Project airport being unavailable due to direct security threats around the airport and project site?"</i></p> <p><i>"Lummus states in its March 2020 report "CCS JV is noting in its monthly reports that security issues outside of the DUAT and transportation of workers to site are a concern. These conditions appear to be within the definition of Baseline Security threat"-Have you seen additional more recent monthly reports and or is it possible to get an update in relation to this statement?"⁵⁰</i></p>
<p>A memo is written to R (the Minister of BHOS) by DIO on May 22nd, showing that Cabo Delgado is a priority area for NL both in terms of development and business goals. The security situation is putting a lot of pressure on these targets.</p>	<p><i>"Reason: Increase in violent incidents in Cabo Delgado and request from R to be further informed about the situation."</i></p> <p><i>"Since late 2017, there have been violent (terrorist) attacks in several districts within the province. These are estimated to have left more than 1,100 dead, including 700 civilians. Atrocious methods used during the attacks include decapitation, mutilation, abduction and burning down homes. Insurgents first communicated in March via a video message that they are affiliated to the so-called Central African Province of Islamic State (ISCAP)."</i></p> <p><i>"Because of the violence, the international community hardly has access to the area. There are fears of a possible spill-over of insecurity to other areas in Mozambique and the region."</i></p> <p><i>"Possible deployment through the Office of Counter-Terrorism (UNOCT) is being explored, e.g. in drafting a national CT strategy or to strengthen the analytical capacity of the intelligence services."</i></p> <p><i>"The first four months of 2020 showed an explosive increase in violence, compared to the same period in 2019; 101 violent incidents through 24 April. In March, the insurgents (temporarily) took two cities. They also shot a military helicopter out of the sky and hijacked a patrol ship and two French cargo ships (belonging to Total)."</i></p> <p><i>"More than 170,000 are estimated to be displaced as a result of the cyclone and/or violence. Due to the unsafe situation, as many as 80 per cent of the displaced are inaccessible to relief organisations."</i></p> <p><i>"Cabo Delgado is 2,500 km from Maputo. Governance in the province is weak. Army and police are present but inadequately trained and equipped."</i></p> <p><i>"There are increasing reports of army crackdowns in local communities and human rights violations. Journalists are sometimes dealt with harshly or "disappear"."</i></p> <p><i>"Cabo Delgado is a priority area in the NL multi-year country strategy for Mozambique. NL OS programmes in the province focus on water, food security, health, youth employment and private sector development. Implementation partners are SNV, TechnoServe, UNFPA, IOM and local water companies. The committed amount is about EUR 22 m In over 4 years. Due to the poor security situation, these programmes are under pressure."⁵¹</i></p>

50 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1203113

51 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336975

<p>On 25 May 2020, it is established that information is still insufficient for FTDC to assess the ECA-risk, also the Ministry of Finance expresses this concern. More information is being requested from other ECAs and a second IC meeting meeting is planned that day to discuss the security situation between MinFin, BHOS, Atradius with the Dutch Embassy.</p>	<p><i>“The most difficult thing, of course, is that the information on the situation is still inadequate to really make an assessment. We have also just had a separate chat with MinFIN, who (now) also share the concerns.”</i></p> <p><i>“We would like to ask ADSB to also check on the basis of which considerations the other ECA’s arrived at their positive assessment, and that they also check with [XX] who have yet to decide) what their position is.”</i>⁵²</p> <p><i>“We would also like the discussion tomorrow to focus specifically on the security situation in the northeast of Mozambique and its impact on the project and project environment.”</i>⁵³</p>
<p>Between May 20 and 25, ADSB contacts Van Oord for more information about the security situation and van Oord replies it is complex and there is a great need for independent information.</p>	<p><i>“Following the Insurance Committee meeting held on 20 May, Atradius DSB contacted Van Oord between 20 and 25 May2020 During this contact, Atradius DSB inquired about the status of their operations, the precautionary measures taken and the company’s assessment of the safety situation. May, Atradius DSB shared Van Oord’s answers with the other members of the Insurance Committee Concerning the safety situation, Van Oord replied that the local situation was complex and that the information from the media was difficult to verify. The importance of accurate and unambiguous information was explicitly mentioned”</i>⁵⁴</p>
<p>On 26 May, ADSB says in an email that the info from its security analysis is not materially different from the embassy’s assessment and therefore sees no reason to change the advice to the IC but acknowledges that IC members need more information and clarification.</p>	<p>ADSB: <i>“we note that the post’s information on the security situation in Mozambique does not, and in any case does not materially, differ from the information available to us and which we used for the security risk analysis in the submission”</i>⁵⁵</p>
<p>On May 27th, ADSB puts slightly more pressure by saying that other ECAs have received their final credit approval (incl. ministerial approval).»</p>	<p><i>“We have confirmation from our colleagues (10)(2g) that they too have received their final credit approval (incl. ministerial approval)”</i>⁵⁶</p>
<p>A meeting is then being planned for May 28th with the Embassies of the Netherlands and France, ADSB, ADIT, and Total to provide additional explanation of the security strategy. FTDC invites the Embassy to join as they have the best insight into the situation. Questions leading up to this meeting differ between institutions, FTDC’s key worries are about the capacity of the armed groups, MinFin wants to know more about the capacity of the army and the Embassy wants to know more about what the project’s responsibilities are for the security of people living there.</p>	<p>FTDC: <i>“Main questions/concerns from our side are mainly on the lack of information on the size/impact/growth of the active groups: -size and strength of the group (e.g. how big are they and how fast are they growing?) -goal, ambition and background of the group (e.g. what exactly do they want / have in mind? are the LNG projects a goal? how could you remove the causes?).”</i>⁵⁷</p> <p>FTDC: <i>“Good of you [the embassy] to join the ADIT call on Thursday. Very important for us that you are there, you have the most insight into the situation there and ultimately your weighing of the situation is crucial in final advice to R”</i>⁵⁸</p> <p><i>“Total offered to invite a representative of the French Embassy possibly the military attaché in Maputo to be invited to the call. That seemed like a good additional angle”</i>⁵⁹</p>

52 WOO besluit, 28 maart, 2022 Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336953

53 WOO besluit, 28 maart, 2022 Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336948

54 Proximities, (2023). p.23

55 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336948

56 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336898

57 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336898

58 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336948

59 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1094580

A decisive moment: An online meeting with Total, ADIT and the Dutch and French Embassy on May 28th, 2020, changes hearts and minds

On May 28th, 2020 a third IC meeting takes place at 2pm to provide additional detail on the security strategy. Present: ADIT a consultancy firm that will provide updates on the security situation to ECAs during the construction phase of the project.

Total - the project sponsor
The French embassy in Maputo (possibly the military attaché)
Societe Generale - the agent of the ECA funding
The Dutch Embassy
ADSB
Dutch Ministry of Finance
Dutch Ministry of Foreign Affairs

Key points from notes:

No concrete answer from Total on whether there is a project attack scenario, but they state to have a lot of experience with this French embassy appears positive about the project and about Total's approach.

ADIT: "ADIT specialises in compliance and security Mr [] s i ^ e presents what is currently going on. There is a religious aspect at play in the violence present ADIT has seen a religious radicalisation between 2010 and 2015 led by Salafist sheikhs. A spike in the amount of attacks was in March 2020"⁶⁰

"[social investment and community development programmes] gives a picture of what Total brings to the community on the ground with the project The violence has to be seen in combination with these developments it cannot be seen as separate from each other"

"The slide shows the security philosophy for the project 1st layer is the industrial zone and is surrounded by a fence and watchtowers and protected by the army Layer 2 is the community zone here the army is permanently present with patrols Layer 3 consists of logistic routes that will be used by the project Along these routes posts are located and patrolled"" CCS JV^ and CMC^ have been hired for the security of the project These parties work together with the army and work is in progress to further improve the cooperation Next slide gives overview of protection of the camp and current security deployment. An MoU with the ministry of detention has been drawn up and signed MOU phase 2 is almost complete With this, the number of soldiers will go from 500 to 850 with possibility of expansion to 1500"

French Embassy: "The insurgents have largely evolved the amount of attacks in recent months have expanded and increased interest from IS has been observed. Also an increased response of government resources in response to this | 5 1 2 e 6 sep | He supports the number of 8 attacks on average per month [as posed by Total]. There have also been attacks in Tanzania of which at least one can be linked to the insurgents however with no clear evidence Possibly Tanzania has some rapport with the groups. Some are moving south towards Pemba but government forces are providing pushback there so it cannot spread there".

"The NL embassy says their sources cite that the attacks go beyond Cabo Delgado""

Total: "Many people in the region are frustrated with the political leadership after the re-election but it is not expected to play a significant role. The attackers have no clear funding no political support which will keep their clout within limits anyway."

"asks on the point about unclear motivation of the attackers whether scenarios are used is there, for example, a project attack scenario? 5 i 2 e indicates Total has historically experienced much more dangerous country regions for their operations"

"With regard to the French embassy, Mozambique was very interesting. Now with Total there, this region has very much increased in attention. Total's approach is good and as long as the project remains well managed, this is expected to have a positive effect on the development of future attacks. The MOU should also contribute to the community. With layer 3, this MOU is also beneficial for the inhabitants of the region. There is currently no sign that the project has been specifically targeted."

"Finance understands that French military personnel will soon be added to the security of the project and asks whether there is a policy to counter violence by local government forces against the population. FTDC Adds that it has also heard stories of abuses by the military against civilians."

"The project is important for the community. The project is not responsible for security in the country that is a national issue"⁶¹

60 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1094575

61 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1094575

<p>The notes of the fourth IC committee meeting on May 28th at 4pm following the call with Total indicate that: MinFin is reassured by a committed serious party that can manage security risks. FTDC has questions and concerns about effects outside the project area and cannot give final answer. Embassy has multiple questions marks and takes a more pessimistic view. Opinion to be submitted to BHOS minister. Finance indicates that they can now make their advice more complete because of the meeting earlier.</p> <p>Advice from the French and Total has helped MinFin in that aspect, as it showed that the differences in information from ADSB versus from the post reveals a difference in the way of assessing certain security risks. Deadline to decide is set at June 3rd, FTDC is not entirely sure if it can meet this deadline. Only ADSB and UKEF have not yet taken a decision.</p>	<p><i>“Finance says it got a very good impression that there is a serious party involved in the project that can properly manage the security aspects.”</i>⁶²</p> <p><i>“FTDC does still have questions regarding impacts outside the project area. It is an uncertain factor how that will develop in the future The NL embassy has many question marks about that and are more pessimistic about it BZ will submit the advice for approval to the minister of BHOS.”</i></p> <p><i>“ADSB responds to FTDC’s point about the position of the NL embassy and indicates that it understands that the embassy is looking at the policy and vision from the Netherlands regarding whole country Mozambique and Atradius to the credit and political risk around the project in relation to the financing and fabrication policies that difference of perspective should be clear.”</i></p> <p><i>“FTDC asks Finance to what extent they take into account the preliminary reservation of FTDCs position on security. Finance replies that BZ’s position will be mentioned in the advice to the State Secretary. FTDC asks Finance why it will now give a positive advice whereas it did so last Monday after the postal call still stood at ‘no advice.’”</i></p> <p><i>“Finance indicates that they can now make their advice more complete because of the meeting earlier today. Last week at Finance it was already clear that this case is an insurable risk. MilSoc was also amply clarified then. The information from the NL embassy was reason for the then negative attitude because the whole thing was still elusive for Finance and they have now received more interpretation. E.g. advice from the French and Total has helped in that aspect, as it showed that the earlier noted differences in information from ADSB versus from the post is not about difference of views but difference in the way of assessing certain security risks where the embassy focuses on Mozambique as a whole and ADSB the project focuses on the project and the project environment.”</i></p> <p><i>“To this, ADSB says it has promised to be ready to sign on 3 June but that this is not a firm date. Finance thinks it can meet it, FTDC has some hope that this can be done but stresses the importance of careful decision-making.”</i></p> <p><i>“Meanwhile, only ADSB and UKEF have not yet taken a decision. Once all ECAs have given approval, the clock starts running for Financial Closing effective loan and policy issuance.”</i>⁶³</p>
<p>An hour after the call on May 28th, someone from Total is starting to put some pressure on the closing of the deal by email to ADSB, MinFin and FTDC calling it “a landmark financing” and reiterating that other ECAs have signed off already.</p>	<p>Total: <i>“Please find attached Total Code of Conduct, a Briefing Paper on Human Rights and a link for more content: Total/ethics/Exemplary Behavior. On 26 May, Council of Ministers has approved the Moz LNG Project Finance. As all the other ECAs/ AfDB have now also approved the transaction, we very much look forward to the approval of Atradius participation. This will enable the closing of what will remain as a landmark financing.”</i>⁶⁴</p>
<p>A few hours after the call FTDC staff shares not to understand why the business case still stands, and is riddled as to why ADSB is so positive about the business case of the project, the security situation aside.</p>	<p>FTDC: <i>“Aside from the political detriment risk due to the security situation and other serious issues, I can’t quite get to this business case (but acknowledge that I don’t have ADSB’s financial project info). IEA’s Sustainable Development Scenario is invoked, but that is from six months ago (from before covid-19) and it seems strong to me that IEA would reproduce this scenario now, because the situation is too unclear (I speak to them weekly). A mystery to me why ADSB is so positive.”</i>⁶⁵</p>

62 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1094575

63 WOO besluit 7 feb 2023, Ministerie van Financiën, deelbesluit 1 deel 3, nr. 1094575

64 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336899

65 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr.414665

<p>On May 28th, the Dutch Embassy insists on including more explicitly the impact of the project on the local situation into the final memo by DIO that would go to the minister. The Embassy shares feeling of not being heard in the process.</p>	<p><i>“After reading the memo, the embassy insisted on inserting more explicitly the impact of the project on the local situation specifically the possible negative impact of the physical security measures on inclusive economic growth in the region. On the basis of these suggestions, the Directorate of International Entrepreneurship wrote a final text and delegated it with the embassy staff. ... Some embassy staff did not find the adjustments in the final memo sufficient. As a response to the final memo, there was talk of inadequate appreciation of the seriousness of the local security situation.”</i></p> <p><i>“A similar feeling of not being heard properly emerged more often during conversations between Proximities and embassy staff One embassy staff member indicated, for example, that the International Business Administration did not fully appreciate the embassy’s information position when writing the memo According to this staff member, the relevant colleagues at the embassy also felt a great deal of pressure to complete the submission.”</i>⁶⁶</p>
<p>May 29-June 2020: The decision by the Dutch Ministries and DIO to support in spite of concerns and Conversations with R (the Minister of BHOS)</p>	
<p>On May 29th, in spite of worries and not being able to predict how the security situation will develop, DIO and Finance (ECA department) both draft a memo in which they reach a positive advise on the loan because safety risks were considered acceptable thanks to extensive security measures on and around the project site led by Total and the Mozambican government, which included: Deployment of 500-850 additional soldiers Agreement with the Mozambique government on «good conduct of the army» and where there are human rights violations the project will report publicly on them. In this way an attempt will be made to exert a positive influence on the situation Construction of an airstrip on the project site</p> <p>Finance has no reason to doubt the capacity of the project and the Mozambican security forces to ensure the safety of the project.</p> <p>FTDC write that the companies involved consider the safety risks of the project acceptable despite the increase in violence. It is also mentioned that, as far as is known, the project site was not a target of the insurgencies in the region. Explicitly mentioned, however, is that it cannot be ruled out that this will eventually be the case.</p>	<p>Memo of Finance: <i>“On this subject, attention is given to the fact [that the project] has implemented a well-functioning system to mitigate safely-held risks. After listing the safety measures taken, the memo [of Finance, ECA department] cites TotalEnergies’ experience with projects in high-risk areas.”</i>⁶⁷</p> <p>Memo of FTDC: <i>“This [the development] does carry risks because of weak government capacity and the lack of attention to Cabo Delgado to date from the same government.”</i>⁶⁸</p> <p><i>“The security situation outside the project site in the Cabo Delgado region is worrying and deteriorating.”</i> <i>“However, the industry concerned assesses these security risks as acceptable partly due to extensive security measures on and around the project site led by Total and the Mozambican government.”</i></p> <p>DIO: <i>“In March, insurgents managed to violently temporarily occupy the towns of Mocimboa da Praia and Quissanga. Mocimboa da Praiais about 60 km from the project. The Mozambican national police and armed forces were unable to end the occupation.”</i></p> <p>DIO: <i>Although the project area does not appear to be a target of the attacks for the time being (so far, government institutions and residential areas have been attacked), two incidents are known to have directly affected the project.”</i></p> <p><i>“The project itself, led by Total, can largely mitigate these risks of insecurity by taking strict(re)security measures, for example by constructing an airstrip on the project site for the benefit of logistics and tightening security within and around the project area (in the communities and supply roads). Something the Mozambican government has also complied with by deploying 500-850 additional soldiers (as part of an MoU between GoM and the project). However, it is currently impossible to predict how the security situation will develop further.”</i></p> <p><i>“DIO and the Ministry of Finance have reviewed the submission. Based on your policy responsibility for the ECA, DIO comes to a positive opinion.”</i>⁶⁹</p> <p><i>“The memo from the Ministry of Foreign Affairs mentions that the deployment of the Mozambican armed forces for the security of the project may mean that their limited capacity will not benefit the people of Mozambique. This risk is not elaborated upon further, however, and can therefore only be regarded as an observation.”</i>⁷⁰</p>

66 Proximities, (2023), p.25

67 Proximities (2023), p. 26

68 WOO besluit, 6 sept, 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, BZ0002

69 WOO besluit, 6 sept, 2021, Ministerie van Buitenlandse Zaken, deelbesluit 1, BZ0002

70 Proximities (2023), p. 39

<p>In meeting Notes for meeting with R on June 11th, (the Minister of BHOS, Kaag) it is flagged that the security situation is gravely worrying and worsening since a few months. It cannot be excluded that also the project will become a target. But the management of risks according to ADSB is exemplary.</p> <p>There is note of the State not being obliged to agree, but legal action may follow by the insured.</p> <p>Also, it is noted that there is great pressure from the lead sponsor Total to approve as soon as possible. Only UKEP has also not yet approved. R appears to have expressed worries about the project.</p> <p>DIO brings core arguments on their positive opinion: it meets EkZ conditions (financial risk acceptable, IMVO policy, fossil allowed) and MVO action plan is «very good».</p>	<p><i>“The security situation in Cabo Delgado is of great concern and the situation has deteriorated in recent months” It cannot be ruled out that the project could eventually be targeted by insurgents”⁷¹</i></p> <p><i>“ADSB judges that the project is a good example of how to deal with IMVO risks, specifically in the area of human rights, in such complex projects.”</i></p> <p><i>“The security situation in CD affects, but is not the project’s responsibility.”</i></p> <p><i>“The annotation addresses the concerns that R has (based on the feedback and the questions we received from you about this earlier this week).”</i></p> <p><i>“There is no legal framework obliging the state to accept transactions. However, the basic principle is that any application for which the risks are acceptable and there is budget space will be honoured.” That said, if an application is rejected on unclear grounds, prospective insureds can defend themselves against it through a complaint or legal proceedings.”</i></p> <p><i>“Great pressure from main sponsor Total on ADSB to decide as soon as possible given that at the end of June, the current financing commitments with the 15 financiers/banks involved (total amount of loans amounts/ (10)(1c) will expire and then new negotiations with the banks will be necessary and thus an uncertain situation will arise for the entire project. Total will want to avoid this situation looking for alternatives to ADSB.”⁷²</i></p>
<p>On June 17th, Minister Kaag agrees with the ADSB proposal and on July 1st, the coverage is awarded to Van Oord. The final acceptance concerns the explicit mention that the embassy in Maputo did not give a positive opinion regarding the security situation.</p>	<p><i>“On 17 June 2020, the Ministry of Finance sent a letter to Atradius DSB in which the State agreed to the underwriting proposal presented and the associated insurance documentation. Based on this agreement, a commitment of cover for the issuance of a policy is made.”</i></p> <p><i>“The difference between the internal memo and the final acceptance concerns the explicit mention that the embassy in Maputo did not give a positive opinion regarding the security situation”⁷³</i></p>
<p>On 21 July 2020 Total presents an E&S Update and notes that an attempted attack on Mocimboa do Praia occurred, which could be avoided thanks to the support of a private military contractor and the Dyck Advisory Group. There are worries over the humanitarian situation and an increased amount of displaced people.</p>	<p><i>“The 27 6 attack in MDP followed the similar pattern of larger scale attacks conducted by militants in which their intended target is Host Government Security Forces HGSF and governmental buildings persons associated followed by a claim to credit from Islamic State Central African Province”</i></p> <p><i>“Unlike 23 3 MDP attack the militants were met with strong resistance from HGSF personnel within the town who aided by Private Military Contractor PMC Dyck Advisory Group DAG were able to repel the attackers forcing them to flee”</i></p> <p><i>“Humanitarian concerns remain extant. Increased internally displaced persons within PAL-MA MUEDA and PEMBA.”⁷⁴</i></p>

71 WOO besluit, 28 maart, 2022 Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336851

72 WOO besluit, 28 maart, 2022, Ministerie van Buitenlandse Zaken, deelbesluit 2, nr. 336851

73 Proximities, (2023) p. 27

74 WOO besluit WOO besluit 7 juli 2023, Ministerie van Financiën, deelbesluit 1, nr. 885683