JA! Questions Total AGM 2021

These questions are on behalf of Justiça Ambiental/Friends of the Earth Mozambique.

The following questions are regarding the Mozambique LNG Project in Cabo Delgado Mozambique. Our organisation, works within and with communities directly affected by and within the Afungi park. They have been relocated to areas far from the sea and far from their farmlands, and have lost their livelihoods as a result. The consultation process was illegitimate, considering that at meetings, including those where we ourselves were present, people were unable to dissent for fear of reprisal from community leaders, and Total representatives were often accompanied by the military or police.

Question 1:

Community members from the communities directly surrounding and within the Afungi LNG Park, with whom we work, have told us that the only jobs they have received have been as cooks, cleaners, or construction workers, or other menial and short term jobs. Please could you clarify in detail:

* Why has this been the only employment given to people from the directly surrounding communities?
* The number of jobs that Mozambicans have been given since 2017
* How many are these people employed are from Cabo Delgado?
* What are the types of jobs people have received and are these long-term or temporary
* Has any skills training taken place for people from Cabo Delgado, and how many of these are from the communities now living within the Afungi LNG Park site

Question 2.1:

After Total declared ‘force majeure’, it has made it clear that it will not be fulfilling its payment obligations to contractors. According to Mozambique’s National petroleum institute: “With the temporary interruption of operations Total will be unable, during this period, to comply with contractual obligations and may also suspend or rescind more contracts with other suppliers of goods and/or services, depending on how long the interruption lasts”.[https://clubofmozambique.com/news/mozambique-total-declares-force-majeure-aim-report-190504/](https://clubofmozambique.com/news/mozambique-total-declares-force-majeure-aim-report-190504/)

Please detail:

* How many companies has Total cancelled contracts with when it declared “force Majeur”?
* How many of these companies are Mozambican?

Question 2.2

According to the United Nations Convention on Contracts for the International Sale of Goods (CISG) Article 79, in order for a company to suspend its contracts or fail to fulfil its payment obligations, the following conditions are required:
Total could not have foreseen the possibility of 'force majeur' when it signed its contract with the companies.

By 2019, it was very clear that the situation was bad - already it was impossible to travel by road because of attacks by insurgents.

Can Total confirm that when it signed its contract with the companies, which would have been in 2019 or later, that it did not foresee the possibility of a major increase in violence in the region?

Question 2.3:
According to the International Camber of commerce (ICC) as well as French Law (Paris Court of Appeal, 17 March 2016, 15/04263), the party asserting 'force majeur' (Total) must show that it is financially impossible for them to pay the contractors, and they cannot afford to or they would be in financial trouble.

Can Total confirm that it cannot afford to pay the contractors what was greed as per its contractual obligations?

Question 2.4:
According to the UN Guiding Principles on Business and Human Rights (UNGPBHR) and OECD Guidelines, cancelling work already in progress fails to comply with Total's due diligence requirements. In particular, it fails if it does not provide advance notice and consultation with workers' representatives. It has also failed its due diligence requirements by not ensuring that contractors and suppliers will not become insolvent were Total not to be able to pay.

* Can Total confirm that it held consultations with workers' representatives before declaring "force majeur"? What were the outcomes of these meetings?
* Can Total confirm that it ensured through its due diligence that its contractors and suppliers would not become insolvent were Total to claim 'force majeur'?
* If Total did not perform these duties, does Total acknowledge that it failed to fulfil its due diligence requirements?

Question 3:
Over 400 families in communities directly surrounding and within the Afungi LNG Park area have been receiving compensation from Total since 2019.

However, since total claimed force majeur, it has suspended these payments.

* Can Total explain why it no longer pays community members their compensation even though they are within the Afungi LNG and have agreements with Total for specific compensation payments?
* Can total confirm when it will begin compensation payments again and whether it will pay retrospectively for the months it has missed?
*Does Total believe that suddenly stopping these compensation payments is ethical, and if it believes it is unethical, why has it proceeded with this action?

**Question 4:**
Many media outlets as well as our organisation, Amnesty International and Human Rights Watch have detailed human rights violations by the Mozambican military against community members. We have corresponded with Total several times about the military extorting families for compensation money, committing violence and sexual assault or holding people hostage if they do not get it. We particularly communicated with Rob Garret, Director of Social Issues (Director de Disempenho Social). It is not possible that Total did not know about the situation faced by community members regarding compensation money.

* What action did Total take to ensure the safety of community members receiving compensation?
* What action did Total take to meet the requests of the community members regarding their compensation, as we wrote in the letters?
* Did Total at any point speak with the Mozambican government about the actions of its military on communities Total is financially responsible for?

**Question 5:**
550 families have been relocated by Total for the Afungi LNG Park. These communities of fishers and farmers have lost their livelihoods, but were promised by Total that they would receive land proportionate to what they initially had, and that fisherpeople would still have access to the sea. However this has not been the case. Fisherpeople, who usually work depending on the tides, are given one bus ride a day to the fishing village that Total has allocated them to (Salama). This, naturally is ineffective. The only people for whom this works are the women who collect mussels on the shore. Total is well aware of this problem, as we have corresponded with them several times about this. The land people have received have been ten times smaller that what they initially had. We can provide this correspondence if needed. The person we have corresponded with is Rob Garret, Director of Social Issues (Diretor de Disempenho Social). He has not responded to our last letter.

We also sent 20 letters of complaints of compensation issues on behalf of community members between June 2020 and this week. Only half of these letters were addressed.

* Why has Total not created a working and effective solution for fishing communities even though the consultation process began in 2017?
* Why has Total not created an effective solution for farmers and given them land the size of what they had before the relocation?
* When does Total plan to fix these problems and ensure that the people it has relocated have their livelihoods to the same or higher quality as before the relocations?
* Is Total satisfied with its relocation process considering that it has left community members in financial despair?

**Question 6:**
We have been present at community consultation meetings in 2020 where the army has accompanied Total employees to the meetings. We have photographs to prove it.
• Why is the army present at these meetings?
• Does Total believe its consultation process has been legitimate under these circumstances?

**Question 7:**
Total has said it will return to Mozambique at the AfricaFrance Conference in week of 17 May 2021, but with ensured security.

• Does Total plan on contracting private security companies in Cabo Delgado, and if so which companies?
• Will Total ensure the presence of French military troops in Cabo Delgado before it returns to work?
• How can Total be sure that the situation is safe to return, and when does it plan to return to Cabo Delgado?