Mozambique Land Policy Development Case Study

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Report Summary

This case study has been produced in response to a request made to the Evidence on Demand Helpdesk. The objective of the request was to provide a detailed case study on the evolution of land policy in Mozambique and provide the reader with insights into what is viewed as one of Africa's most progressive land laws, recognising multiple forms of tenure.

Mozambique has experienced accelerated rates of growth over the past decade, averaging 7.2% per year, with projected growth rates of over 8%. However, this high growth rate has failed to translate into significant reductions in poverty and inequality has increased in almost all parts of the country.

While growth has been driven by capital-intensive projects, mainly in the extractives sector, agriculture is seen as an important foundation for economic development and there has been a high level of interest in acquiring large tracts of land for investment over the past six years. Mozambique is one the most land-abundant countries in Africa, with around 80 million hectares (has). Currently, only five million hectares are cultivated, mainly by smallholders under rain-fed, traditional systems, and only 3-5% of landholdings are formally registered.

Mozambique's 1997 Land Law recognises the rights attached to customary and long-term (10 years and over) occupation of land by communities and individuals without needing a formal title. However, concerns that tenure security is threatened by the trend in large-scale land acquisition have led to moves by the government and donors to increase the formal registration of landholdings and improve land information systems. This is backed by a long-term exercise funded by donors to strengthen community land rights by supporting land delimitation and the demarcation of specific areas utilised by producer associations, a step necessary for communities to be able to apply for formal community titles. Donors have also supported the promotion of innovative models of community-investor partnerships.

Donors are planning to continue to support improved land administration and management through land tenure regularisation and land-use planning, and by rolling out a land information management system nationwide. Other opportunities for donor support include: enhancing awareness of rights and responsibilities under the Land Law and Regulation, particularly for women; deepening ongoing efforts to develop effective mechanisms and fora to resolve land disputes; developing further opportunities for innovative community-investor partnerships; improving land policy/legal consultation mechanisms; strengthening current investment project review processes; and supporting monitoring of land allocation and project implementation. This would usefully be underpinned by the strengthened coordination of donor engagement on land.



SECTION 1 The Context

Mozambique's Independence in 1975 was followed by 17 years of war, which ended with the signing of the Peace Accord in October 1992. The war displaced millions of people, destroyed infrastructure and prevented investment in most sectors, particularly agriculture and mining. Reconstruction efforts were concentrated mainly on attracting foreign direct investment into the country's productive sectors, and restoring and improving the country's public infrastructure and services, funded by international aid.

Economic overview

Mozambique has achieved impressive growth rates for more than a decade and Mozambique's economy continues to grow strongly at rates above those of sub-Saharan Africa and developed economies. Annual growth has averaged 7.2% over the last decade; the economy grew 7.4% in real terms in 2012 with projected growth rates of 8.5% and 8.0% in 2013 and 2014 respectively (AfDB, 2013). The country's high economic growth rates have been driven largely by capital-intensive projects, particularly in extractive industries, raising concerns about the long-term sustainability of current growth rates (ibid).

This growth has not been translated into significantly lower poverty rates: although poverty has fallen from just over 70% of the population in 1997, more than 50% of the population still lives below the poverty line (Azzarri et al, undated). Growth over this period was concentrated in urban areas and in the south of Mozambique; inequality has increased, particularly between regions, and growth has been non-inclusive (with the exception of the area around Maputo).

Political overview

Mozambique's political landscape is dominated by one political party, Frelimo. While this has permitted political and electoral stability in the country, and there has been considerable progress in the process of consolidating democratic rights, it has raised concerns that the continued dominance of Frelimo has led to a strong overlap between party, state and the economic elite and a blurring of boundaries between state and private interests (Bertelsmann Stiftung, 2012). One area highlighted is private investment, where, in many cases, Frelimo's holding company, SPI, or Frelimo politicians have been involved in new investment projects (ibid).

Indications of social unrest have emerged over the past five years, particularly in urban areas, associated mainly with rises in food and transport prices (ibid; AfDB, 2012). On 5 February 2008, the increase in the price of transportation, following increased basic food prices, triggered riots in Maputo and other cities. On 1-2 September 2010, protests again escalated to full-scale riots after bread, electricity and water prices were increased simultaneously. The government reacted with plans to introduce temporary, targeted subsidies on bread and fuel. However, it was not possible to implement these effectively.

In 2013, there were outbreaks of armed conflict between the army and soldiers from Renamo (the main opposition party, which led the armed opposition during the war), which





have continued into 2014; Renamo boycotted the municipal elections in November 2013. The Mozambique Democratic Movement (MDM), the second main opposition party, has stepped into this gap to a certain extent, winning a much higher number of votes than expected in key areas of the country and posing a viable challenge to Frelimo. This has undermined the confidence of Frelimo and has been reflected in government reactions to civil society, including moves by the government towards curtailing freedom of speech.

General elections are to be held in October 2014 to elect a new President; the current president, Armando Guebuza, is coming to the end of the two mandates allowed by the Constitution. The presidential candidate selected is the current Minister of Defence, who has strong links to the extractives sector.

Main geographic and demographic features

Mozambique is one of the most land-abundant countries in Africa with around 80 million has of land, of which over three million have the potential for irrigation. A land zoning exercise undertaken in 2007 identified around seven million has as being available and suitable for agriculture, livestock and plantation forestry (MINAG, 2007), indicating substantial untapped potential. The remainder is land already under use or designated for other uses (see Box 1), namely:

- Areas with land titles and concessions that were already approved or under consideration; community areas or areas of partnerships between communities and private investors; itinerant agriculture and forestry, including fallow areas; and resettlement areas for people affected by recent floods.
- Ecologically sensitive areas, including conservation areas, mangroves, wetlands and exposed areas.

Mozambique's population was estimated at around 25.2 million in 2012, 51% of which are between 15 and 64 years old, and 45% are under 15 years of age (World Bank, 2013). The population is projected to grow at around 2% per annum between 2012 and 2025 (ibid).

37% of Mozambique's population lives in urban areas. An estimated 75% of urban residents live in unplanned informal settlements, many of which are without access to clean water or sanitation (USAID, 2011b).

Land holdings and distribution

Currently only around five million has of Mozambique's arable land are being cultivated, mostly by small-scale producers on rain-fed agriculture under traditional systems, with an average landholding for smallholders of 1.8 has. Only an estimated 3-5% of these landholdings are formally registered (Rose & Carrilho, 2012).

About 95% of the small- and medium-scale farms in Mozambique use no fertilisers or pesticides, 90% do not irrigate their crops, and 97% do not have access to credit. Fertiliser use per hectare is one-third of the average for all sub-Saharan African countries, which itself is much lower than other regions (World Bank, 2011). As a result, average agricultural yields are very low and cereal yields per rural capita have remained essentially steady over the past 10 years (Columbia University, 2011). Only 12% of producers use animal traction. There are very few medium-sized holdings, with landholdings tending to be small or very large (thousands of has).

Since 2006 there has been a surge of interest by foreign investors in acquiring large tracts of land, driven by an interest in biofuels, food crops and plantation forestry. By 2009, the





Government of Mozambique had received requests for 12 million has of state-owned land for biofuel feedstock production alone (Atanov, 2012).



SECTION 2

The Legal and Policy Framework for Land

Land Policy and Land Tenure

Since Mozambican independence in 1975, property in land has been vested in the state. Despite the political and economic shift to a multi-party system and market economy since the 1990 Constitution, this underlying principle has remained in place, and no land may be sold, mortgaged or otherwise alienated.

In 1995, a new National Land Policy (NLP) was approved, expressed in the Land Law of 1997 and its Regulation.¹ The policy aimed to establish a clear rights-based approach to guaranteeing land for Mozambicans and supporting rural community land rights while encouraging private investment in the country.²

Acquiring Land Use Rights

Currently, Mozambique's only legally recognised form of land tenure right is the *direito de uso e aproveitamento da terra* or DUAT – a state-granted land right. A DUAT can be acquired in three ways:

- Recognition of long-standing occupancy:
 - *Customary (traditional) occupation*: the occupation of land by individual persons and by local communities, in accordance with customary norms and practices, as long as these do not contradict the Constitution;
 - Good faith occupation: the occupation of land by individual national persons who have been using the land in good faith for at least ten years.
- Award on a concessionary basis of new rights to land, awarded with the authorisation of an application submitted by an individual or corporate person (renewable 50-year state leasehold):
 - Those requesting new rights must carry out a consultation with local communities to ensure that land is free or determine the conditions by which local rights are given up in favour of the newcomer;
 - Awarded rights must be registered;
 - Areas up to 1,000 has can be authorised by the provincial governor, while areas between 1,000 has. and 10,000 has have to be authorised by the Minister for Agriculture.
 - Applications for DUATs for areas of 10,000 has or over must be authorised by the Council of Ministers.

The rural poor obtain access to land mainly through customary and good faith occupation. While these acquired rights enjoy full legal recognition as being equivalent to the state

Law no. 19/97 of 1 October and its Regulation, approved by Decree no. 66/98 of 8 December.
Key principles of the policy are 'to ensure the rights of the Mozambican people over the land and other natural resources, and to promote investment in sustainable and equitable use of these resources'.





DUAT, they do not have to be registered unless circumstances demand. However, there have been some moves to formalise community rights in order to make them more robust, carried out by the donor-funded community land initiative (iTC – see Section 3).

Article 35 of the Land Law stipulates that communities can demarcate up to 100,000 has of land for application for a DUAT with authorisation from the provincial governor without needing approval from the Council of Ministers. In October 2007, this was changed by a circular issued by the National Directorate of Land and Forestry (DNTF), stating that all delimitations over 1,000 has had to have a development plan and had to be approved by the Minister of Agriculture or Council of Ministers in line with requirements for investors. This effectively halted community land delimitation. However, after a 'quiet campaign' from civil society and within the Ministry of Agriculture, combined with overt pressure from donors, this change was reversed in 2010 (Hanlon, 2011).

Box 1 Mozambique's Moratorium on Large-scale Land Allocations and Land Zoning

In response to rising concerns about the substantial areas of land being requested by investors and the lack of information about the availability, location and use of land for investment projects, in October 2007 the government declared a temporary freezing of authorisations of large-scale land requests (10,000 has and above). This moratorium was aimed at providing breathing space for the government to gather information on what land was already allocated and occupied, and what land was suitable for agricultural, livestock and forestry production of the land deemed available through a land zoning exercise at a scale of 1:1,000,000. This freeze lasted until May 2008, when the initial land zoning exercise was completed.

The first part of the exercise identified land not considered available for new projects. This included: (i) Land already under use or designated for other uses, namely areas with land titles and concessions that were already approved or under consideration for activities such as agriculture, forestry, game farms, eco-tourism, aquaculture, mining, and mining prospecting; community areas or areas of partnerships between communities and private investors; slash-and-burn, itinerant agriculture and forestry, including fallow areas; resettlement areas for people affected by recent floods. (ii) Ecologically sensitive areas, including conservation areas, mangroves, wetlands and exposed areas.

After excluding these areas, the zoning exercise identified just under seven million has of land deemed available for large-scale projects. Of this area, 3.78 million has were judged to be suitable for agriculture, livestock and forestry on the basis of existing soil suitability maps and rainfall data from the 1980s.

The government subsequently launched a more detailed zoning exercise at a scale of 1:250.000 in key provinces characterised by more investment interest and activity.

(Source: Locke, 2009b)

With the heightened interest in large-scale land acquisition by international investors, concerns have also been raised about the need to ensure that community consultations are carried out in a thorough, participative and unrushed manner, and that communities are fully aware of the impact of ceding their rights to such investors. There has been widespread criticism of consultations carried out to date for being 'superficial, conducted without sufficient preparation or representation on the part of the community, not incorporated into legal agreements and not followed up' (DFID, 2013a, p39).





Without adequate consultation and the legitimacy that this confers on investments, there can be significant risks to planned investment projects, for example violence and damage to property. It can also intensify intra-community conflicts and undermine tenure security (ibid; Norfolk & Compton, 2012).

Transferring Land Use Rights

Land rights can be transferred between third parties, but only when linked to the sale or transfer of physical assets standing on the land. The Constitution recognises the right to private property and that any improvements and constructions made on, or to, land over which a private person or firm has a DUAT are the private assets of that person or firm. These assets can be bought and sold, while the underlying DUAT is administratively transferred to the new asset owner, subject to authorisation by the government. While the sale and purchase of land is illegal, in reality, there is an active land market (Tanner, 2008; DFID, 2013b).

The 1998 Rural Land Law Regulations provide rules for the acquisition and transfer of use rights. The process for identifying and recording the rights of local communities and good-faith occupants is governed by the 2000 Technical Annex to the Land Law Regulations (Norfolk & Tanner, 2007).

The 2006 Urban Land Regulations apply to existing areas of towns and villages and to areas subject to an urbanisation plan. The regulations govern the preparation of land use plans, access to urban land, rights and obligations of owners of buildings and DUAT holders, and transfer and registration of rights (GoM Urban Land Regulations, 2006 in USAID, 2011b).

Women's Land Use Rights³

In principle, women have equal land rights under law through Mozambique's Constitution, the 1997 Land Law and the 2004 Family Code. Together, these establish equal rights to property, both within and outside community-held land, and to the sharing of marital assets (for common law and registered marriages), including land.

However, certain laws still do not fully ensure equal and non-discriminatory treatment and need to be revised, e.g. the Inheritance Law, which gives priority to parents of the deceased over the rights of the widow.

In practice, customary law tends to dominate as women are often unfamiliar with their rights under formal laws and unable to enforce their rights effectively. A lack of education, financial resources and mobility constrain their ability to approach lawyers or use the formal court system.

While customary tenure systems have traditionally ensured that women obtain access to land, even if they lack control over it, and retain their rights in the event of widowhood, customary law and practices give men primary rights over land and favour male inheritance. Men often control any surplus production and income earned from the land. Moreover, women's access to land has become increasingly insecure, as young widows of the HIV/AIDS pandemic are vulnerable to eviction from their marital homes by relatives claiming their land, particularly if their children are not old enough to inherit. Increasing land values have intensified competition for land and rules that once offered some protection to women's interests are beginning to erode.

³ This section draws on Knox & Tanner, 2011; Kaarhus & Martins, 2012.





Land and Investment Legislation for Large-scale Land Acquisition

While nationals have unrestricted land use rights, foreign individuals and entities must have local residence and an approved investment plan to acquire land. Companies wishing to benefit from investment incentives offered under Mozambican law have to submit their investment project to the national investment promotion centre (CPI) for evaluation.

Current government philosophy is orientated towards a simple rationing model, where a limited resource has some ranking of priority uses (e.g. water for human consumption and maintaining the minimum ecological flow of rivers takes priority over all other uses); the resource is then allocated on a 'first-come, first-served' basis.

Strengthening the Link between Land Allocation and Investment Authorisation

Until 2007, the process for evaluating land title requests and the evaluation of investment proposals linked to these requests were quite separate. The land title process concentrated mainly on the administrative steps laid down by the Land Law and its Regulation, while investment proposals were evaluated by the CPI. The main point of connection between the two processes was the technical evaluation (*parecer*) that the relevant sectorial Ministry was required to produce, stating whether or not the Ministry was in favour of the project and land title request. However, no model or template was established for these *pareceres*.

As a consequence of the surge in expressions of interest for large tracts of land, the government made two changes to the project review procedure. Firstly, it tightened the link between the processes for awarding land titles and approving investment proposals. Whereas previously a proposal for a large-scale investment project could be approved by the Council of Ministers independently of the land process, since 2007 investment and land requests have had to be submitted together to the Council of Ministers, with the two processes being launched simultaneously.⁴ In addition, the provincial governor has had to submit an evaluation of both the land request and investment project.

Secondly, at the end of 2008, the Council of Ministers approved the introduction of Investment Guidelines (Resolution 70/2008). Applied to large-scale projects (defined as more than 10,000 has), these guidelines brought together existing legislation that governs land acquisition and investment proposal approval and made sure that the information required by law is presented. While these guidelines have strengthened the evaluation process, there are still several outstanding issues, including continued room for interpretation by investors about the type of variables and level of detail required, and a lack of guidance on the assessment of the technical and financial capacity of the project proponents and the technical efficiency indicators.

Monitoring as a Safeguard

Both the land and investment legislation contain some safeguards that enable the government to reverse authorisation of unviable projects that have been given the go-ahead, either in the conditions laid down for converting provisional DUATs to definitive titles or via the time limit established for initiating the implementation of an investment project.⁵

⁵ In principle, an investor has 120 days after being notified of project authorisation to start implementing the project (Article 19(1) of the Regulation of the Investment Law). If this time



⁴ Circular no. 009/DNTF/07 of 16 October 2007, on the basis of the 'necessity and urgency to impose common procedures in relation to some subjects relating to the processing (*tramitação*) of steps to obtain DUATs, with the objective of greater institutional efficiency and due synchronisation with the Law and Regulation [of the Land Law]'.



However, the capacity of the state to monitor investment projects and land title use is extremely weak, so this safeguard measure has, in most cases, failed to operate as a fallback option. Audits of DUATs in three provinces (Manica, Sofala and Tete) between 2008 and 2012 revealed that, on average, the number of DUATs audited every year were fewer than the number of DUATs issued; a significant portion of the area under the larger DUATs were only partially used or not used at all; even where DUATs have been found not to have been used after a certain period, they were often not cancelled, although this is subject to wide provincial variations (DFID, 2013a, p31).

Land Law and Mining Law

The Mining Law establishes the precedence of mining activities over any other economic activity 'wherever economic and social benefits related to these operations are higher'.⁶ This has raised some concerns, particularly in Mozambique's mining-dominated province, Tete. Angónia, one of the country's richest districts in terms of agricultural potential, contains many identified potential coal deposits, a large area of which is already licenced for prospection and eventual mining.

Areas in different parts of the country can be designated as having potential for mining even if the land is subject to existing land use rights. If land in such an area is declared for a mining concession, or a mining certificate is issued on that land, the mining concession will be given priority and the existing land user will be resettled with 'fair and reasonable indemnity'.⁷

In the case of provinces such as Tete, this has resulted in the resettlement of large numbers of people who have been displaced from their original land holdings, often in areas with less productive soils and poor access to infrastructure and markets (Mosca & Selemane, 2012). In the wake of violent protests in 2012 against previous resettlements, which threatened to derail mining investments, Mozambique issued a regulation whereby companies need to prove that their resettlement areas provide the necessary infrastructure and give people proper and sufficient space to pursue economic activities such as farming.⁸

Institutional Framework

The National Directorate of Land and Forestry (DNTF) of the Ministry of Agriculture has responsibility for land administration and cadastre. DNTF holds and organises the national land cadastre records and is responsible for processing applications for DUATs for areas of 1,000 has and over.

DNTF works through a variety of provincial and district services. For rural land, the general cadastre services issue DUAT documents while municipal cadastre services issue DUAT documents for urban areas. The Provincial Geography and Cadastre Services (SPGC) of the Provincial Directorate of Agriculture (DPA) have primary operational responsibility for rural land (Norfolk & Tanner, 2007).

limit is surpassed, authorisation is cancelled, unless the investor deposits 5% of the total investment value, up to a maximum of US\$500,000, as a sign of good faith (Article 19(2) of the Regulation of the Investment Law). A deposit extends the time limit for an additional 120 days (Article 19(4) of the Regulation of the Investment Law).

- ⁶ No 2 of article. 43 of Law no. 14/2002, of June 26 (Mining Law).
- ⁷ No 4 of article. 43 of Law no. 14/2002, of June 26 (Mining Law).

⁸ Regulation for the Resettlement Resulting from Economic Activities 2012, approved by Decree No. 31/2012 of 8 August.





Although there has been an emphasis on decentralisation and deconcentration, enshrined in the Law of Local State Institutions (LOLE) in reality, the provincial and district government cadastral services are judged to still be operating far below their potential, due mainly to a lack of technical capacity (DFID, 2013b). In addition, the district has only a minor role in issuing DUATs and monitoring investment projects that have been given DUATs, despite the district being identified as the 'pole of development and planning' (ibid).

Land Disputes and Settlement Procedures

Land disputes in rural and urban areas arise mainly over boundaries, inheritance and intrafamily rights and land transactions (CTC, 2003; Unruh, 2001; Hendricks & Meagher, 2007; Kanji et al, 2005). Boundary disputes in rural areas can be caused where local government and investors fail to recognise the extent of community land holdings and uses.

Mozambique has a combination of informal and formal means and procedures for settling land-related disputes:

- **Informal mediation and conciliation processes** led by elders, traditional leaders, neighbourhood heads, district officials and many NGOs, which are most commonly used to resolve disputes among the population.
- The **formal court system**, which includes an administrative court (to hear challenges to state administrative actions), district courts, provincial courts and a supreme court. The formal court system suffers from a lack of qualified judges and skilled administrative personnel, inadequate facilities and equipment, and lengthy and expensive procedures. A study of the role of the judiciary in resolving land conflicts concluded that the judiciary 'rarely plays a role in relation to the actual cause of conflict and tends to intervene only where the conflict has led to a criminal act' (DFID, 2013a, p39).
- Mozambique also has a system of about 1,600 **community courts** that have evolved separately from the formal court system, staffed by elected community members. No training is required to be a member, and community courts apply a local and often highly individual and inconsistent blend of formal law, customary law and other principles. There is no established link between community courts and the formal judicial system (Hendricks & Meagher 2007; Ikdahl et al, 2005).





Donor engagement in Mozambique's land sector: current and potential

Donor engagement in Mozambique's land sector

This section presents the main areas of donor engagement in Mozambique's land sector.

Millennium Change Corporation (MCC) Land Tenure Services Project⁹

In 2009, the MCC provided more than US\$61 million to fund a five-year project to establish more efficient and secure access to land by 'improving the policy framework; upgrading land information systems and services; helping beneficiaries meet immediate needs for registered land rights; and providing better access to land for investment' (MCC, 2013; USAID, 2011a). The project comprised three mutually reinforcing activity areas (MCC, 2013; HTSPE-VA, 2013):

- Policy Monitoring: supporting policy review and monitoring with an aim of achieving an improved regulatory and legal environment;
- Capacity Building: building the institutional capacity to implement policies and to provide quality public land-related services by investing in human and information resources through training at the national and local level, including for cadastral personnel in eight target municipalities,¹⁰ four provincial offices, and 12 district offices;
- Site-specific: facilitating access to land use by helping individuals and businesses with clear information on land rights and access and with registering their grants-of-land use, with land use/cover inventory mapping in target municipalities and districts.

Six main activities were carried out over the course of the project under these three pillars, including:

- 1. Support for a national process to assess and monitor implementation of land policy and legislation.
- 2. Institutional strengthening of land administration at the national level, with support provided to national institutions, primarily the DNTF, CENACARTA (Mapping Centre) and INFATEC (Vocational Training Institute).
- 3. Institutional strengthening and support to provincial cadastral offices in the northern provinces.

¹⁰ Subsequently, the number of municipalities supported was increased to 10 through the inclusion of Metangula in Niassa Province and of Montepuez Municipality within Montepuez district, although with a lesser level of support compared to the eight primary municipalities.



⁹ This section draws on information from the MCC website, the final project report (HTSPE-VA 2013) and personal communication with the project team leader. The reader is referred to the <u>MCC website</u> and the <u>USAID website</u> for further details of lessons learned. While this project has already closed, it forms the backdrop to current support programmes so is presented first in this section.



- 4. Support to cadastral development in the municipalities of the northern provinces.
- 5. Support for land use mapping and resource inventory.
- 6. Support for developing the land information management system (LIMS).

Policy, the law and regulations

The MCC was keen that the Mozambican government change land use right transfer procedures: a condition laid down in the MCC Compact documents between the US and Mozambique stated that the Mozambican government would adopt revised legislation and administrative procedures that allowed land use rights to be transferred without undue delay or risk. The project focused attention on the possibilities of loosening restrictions on the transferability of rural DUATs and addressing issues that could reduce the cost and time for surveys as a pre-requisite for issuing DUATs.

In 2013, a *comunicado* was issued by the DNTF simplifying procedures for transferring rural DUATs to fulfil the MCC's condition; in reality, it falls short of the MCC's requirement. However, the political environment in Mozambique is not currently conducive to loosening transfer restrictions (Rose, *personal communication*). The consolidation and expansion of the LIMS and its potential for increasing transparency could support a more open debate on transferability by making data about land ownership and transferability public. However, only a limited amount of information from LIMS has been made publicly available so far.

Policy and Legal Support

The project also foresaw the creation of a consultative land body as a way to further land reform initiatives. The *Forum de Consultas sobre Terra* (FCT in Portuguese, also referred to as the Land Consultative Forum (LCF)) was established by a government decree in October 2010.

The LCF comprises representatives from government and civil society and aims to provide an opportunity to discuss land policy issues and reach consensus on desired reforms, steered by a consultative group organised by the DNTF, the so-called *Grupo de Reflexão*. The project supported the forum by providing background papers and policy briefs as requested on a series of policy issues, including the transferability of land use rights, particularly in rural/district areas; a review of the model for community consultation (reflecting a concern that the current model may not adequately safeguard the interests of communities during applications for land rights by developers within community lands); and land use planning processes and methods. In the December 2013 session of the LCF, the transferability regulation was approved with the decision that it should be revised and sent to the Council of Ministers for approval before the next LCF in 2014 (Tiago De Valladares Pacheco, *personal communiation*).

While the LCF met several times at the national and regional level, there was a concern that it had limited civil society participation, had no effective decision-making capacity, was overly ceremonial at times, and had scripted conclusions and agendas (HTSPE-VA, 2013, pxxxv-xxxvi). It was felt that smaller, more frequent and more focused events at the national and regional level might have been more effective. However, the LCF is seen as the only forum that currently exists where stakeholders can jointly discuss significant land issues with senior government officials.

Land tenure regularisation (LTR)

The LTR undertaken under the project enabled the registration of more than 200,000 parcels (municipal and district combined), the delivery of more than 144,000 DUAT titles into the hands of municipal residents, and the delivery of more than 10,000 DUAT titles into the hands of rural/district residents. 12% of all DUATs were co-titled and another 35% issued to women as single title holders.





Land use mapping

The project produced 20 land use and cover maps (in eight municipalities and 12 districts) with each district receiving a set of maps at 1:50,000 scale, both printed on paper and also delivered in digital form, together with an explanatory report which included statistics generated from the mapping. Land use mapping in the municipalities followed a similar pattern.

Land information management system (LIMS)

At the close of the project, a newly designed and implemented LIMS was up and running at 12 target sites in the north (eight municipalities and four SPGCs) and at the DNTF. The LIMS stores pre-existing digital data and new data generated by the LTR process on DUATs and other formal documents and reports required by the cadastral services, plus information on processes of land administration, e.g. applications for DUATs and LTR procedures. This system works independently of offices having access to an internet link and has the flexibility to be extended or modified after the end of the project.

While LIMS has improved the availability of information, it needs to be transformed into a multi-purpose cadastre, incorporating information from other sectors, such as mining, tourism, water and forestry to be able to function properly as a national land cadastre. In addition, a decision will need to be taken as to which institution will take charge of the single national cadastre to enable reforms to be implemented effectively.

At the end of the project, a follow-on contract was being negotiated between the DNTF and the firm that designed the LIMS, with Dutch and Swedish funding, to provide the necessary support and sustainability for the new system.

Training and capacity building

Training was provided to DNTF and SPGC staff, as well as community land committee members and parasurveyors' activities in: LTR and LIMS; land use mapping; and communication and public education.

GESTERRA

GESTERRA (Capacity Building for Land Management and Administration in Mozambique) is a programme designed to provide continued support for some of the activities launched by the MCC programme. Support has been pledged by the Embassy of the Royal Kingdom of the Netherlands in Maputo and the Swedish Embassy. The programme has two components (MINAG, 2013; DFID, 2013a):

- Improving land management: providing technical support to the Reflection Group of the LCF and strengthening the extension of LCF activity to the provincial and local level; linking land delimitation, land tenure regularisation and land use planning activities with local-level planning and development processes, and investment promotion services (ibid).
- Consolidating land administration and building the national land cadastre: expanding the delivery of land administration services by implementing the LIMS in 10 provinces and eight municipalities; developing methodologies and skills for land tenure regularisation in priority areas; and strengthening the capacity of DNTF.





The Mozambique Community Land Initiative (iTC)¹¹

The Community Land Initiative (iTC) was established in 2006 in the provinces of Manica, Gaza and Cabo Delgado as a pilot programme funded by a group of six European donors led by DFID and including Netherlands Co-operation, Swedish SIDA, Irish Aid, Swiss Cooperation and DANIDA.

iTC aims to secure the land rights of rural communities by supporting land delimitation and demarcation of specific areas utilised by producer associations, a step necessary for communities to be able to apply for formal community titles (Quan et al, 2013). It also assists beneficiaries to establish income-generation and development projects in the areas secured in partnership with public and private investment projects.

It is being implemented as a donor contract project by a consortium of agencies led by KPMG Mozambique and including NRI (University of Greenwich UK), and from 2011, the Mozambican NGO *Centro Terra Viva* (CTV). This consortium oversees the planning, finance, supervision and monitoring of community-based land projects.

In 2009, iTC was expanded, with funding from MCC, to Nampula, Niassa and Zambézia provinces in northern Mozambique. The European donor-funded programme was later extended until 2014 with additional coverage of Sofala and Tete provinces.

In addition to scaling up coverage, the aim of the current phase is to improve and consolidate iTC technical approaches and management systems for handover to an independent and sustainable national foundation. This transition is currently in the planning stage but has the explicit support of the Ministry of Agriculture: in the last LCF the Minister of Agriculture endorsed and pledged his commitment to present the iTC foundation request for approval at the next Council of Ministers' session.

Individual donor support – the example of Norway

Norway provides support to four main organisations on land-related issues: Norwegian People's Aid (NPA); the UN Food and Agricultural Organisation with Mozambique's Legal and Judicial Training Centre (CFJJ); the Cooperative League of the United States (CLUSA); and Forum Mulher (a Mozambican feminist civil society organisation) (Kaarhus & Martins, 2012):

- NPA works through partner organisations in Mozambican civil society to provide information about the land law in order to have women's equal rights implemented or to secure land rights through community land delimitations.
- CLUSA works as a central actor in supporting smallholder agriculture in central/northern Mozambique. As an implementing organisation, it has received Norwegian support for promotion of soya bean production in Gurue District in Zambézia Province. A land formalisation component under this project has aimed to legalise 600 DUATs. So far 167 men and 120 women have gone through the formalisation process.
- At the national level, Forum Mulher advocates and lobbies for the strengthening of women's access to and control of land.

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See Quan et al, 2013 for a full description.



ProSavana

There has been a lot of publicity around Japan's involvement in ProSavana, a trilateral cooperation arrangement between Brazil, Japan and Mozambique. It aims to transform parts of the area running along the Nacala Corridor in northern Mozambique into highly productive agricultural land while improving food security. ProSavana is inspired by Brazil's Cerrado Development Programme (PRODECER), a programme that received Japanese support from the late 1970s to the 1990s, and is claimed to be responsible for turning Brazil's vast tropical savannah belt into a breadbasket and a world-leading soya bean-producing region (Cabral et al, 2012).

ProSavana has three main components: (i) the improvement of research and extension capabilities for the agricultural development of the Nacala Corridor, focusing particularly on strengthening the institutional capacity of Mozambique's Agrarian Research Institute; (ii) the implementation of pilot projects for small and commercial growers; and (iii) the design of an integrated agro-industrial master plan for the development of the Nacala corridor, looking at agricultural production and productivity, and broader issues, such as infrastructure and markets.

There are concerns that ProSavana will lead to the transfer of substantial areas of land from existing smallholders to large Brazilian firms. Mozambican and Japanese civil society organisations have publicised these concerns and Japan has suspended investments pending an investigation.

CFJJ – FAO support

A judicial and legal capacity-building project began in 2001 with funding from the Netherlands (channelled through FAO) and implemented via Mozambique's Legal and Judicial Training Centre (CFJJ) of the Ministry of Justice (FAO, 2011; FAO, undated). The project ran through until 2012 and was aimed at training and building the capacity of civil society organisations involved in land rights advocacy, provincial cadastral bodies and decentralised district authorities (judges, magistrates, public prosecutors, police and officials in economic sectors, including investment promotion agencies).

Training focused on state policies and laws relating to tenure, rights and access to land and natural resources. There was a focus on training paralegals and district officers, particularly in promoting economic and social development of rural districts. The trained paralegals perform important roles at the provincial and district level to inform populations about legal rights and to assist in conflict resolution. FAO has worked to strengthen the gender component in the training, especially for paralegals, provided through short courses organised in collaboration with CFJJ (Kaarhus & Martins, 2012).

In its last phase, the project included a second component aimed at linking land administration and management more closely with rural development, working with the National Directorate for Promoting Rural Development (DNPDR), which has been under the Ministry of State Administration since February 2010. The DNPDR component focuses on the economic use of land and related laws as tools for achieving a model of rural development in which communities participate actively as stakeholders in the planning and implementation of the investment processes in order to protect their rights and enhance their livelihoods.

Community-investor Partnerships

Another project (ProParcerias) at DNPDR, funded by the Netherlands and IFAD, that is coming to an end, aims to promote new community-investor partnerships (FAO, 2011).





While there have been some experiences in setting up community-investor partnerships from other sectors, notably tourism, these are based on project-specific arrangements and there are no examples from the agricultural sector. ProParcerias is an attempt to identify and pilot some approaches and legal instruments that will permit the establishment of sustainable community/investor partnerships in rural areas, in which communities contribute unused land as a legally constituted group that holds the use rights to this land (IFAD & GLTN, undated).

Such partnerships, if successful, could allow large-scale investment in land while also securing, enhancing and diversifying local livelihoods. Lessons learned will be set out in a manual of guidelines for such partnerships.

Box 2 The Trajectory of a Community-investor Partnership: Covane Community Lodge

Starting in 2002, with the support of donors (Helvetas and USAID), a community-based tourism project was established with two communities in southern Mozambique – Canhane and Cubo. It began by delimiting the two community areas to formalise their boundaries and and draft a land use plan to identify the site of a community-run tourism lodge, the Covane Community Lodge.

While the communities learned valuable planning and management skills in running the project, as Helvetas decided to reduce its support over time, the communities felt that they needed additional support to manage and market the lodge effectively. The communities participated in a formal tender process to select a private investor to inject new investment and marketing skills into the project, with support from the African Safari Lodge Foundation and Technoserve.

The communities brought their DUAT and knowledge of the area to the partnership, as well as enabling access to financial support from the Ford Foundation, the World Bank IFC and the Government Tourism Fund.

The investor brings management and marketing skills with a commitment to increase income over a twenty-year period, with returns detailed in the contract document drawn up between the two parties. As part of the agreement, the investor has commitments to employ and build the capacity of community members, and shares revenue from the lodge with the communities.

(Source: Knox & Tanner, 2011a)

Entry points for donor engagement

There are opportunities for donors to extend and build on current initiatives of support to different stakeholders in the land sector, either through adding support through GESTERRA or funding specific activities, including:

- Enhance awareness of rights and responsibilities under the Land Law and Regulation, particularly for women. Implementing the rights available under Mozambique's formal legal framework on the ground requires that all community members have the knowledge and tools they need to uphold the rights of all, including women; ensuring that women have affordable access to redress and the ability to help reshape discriminatory customary practices will further assist this process (Knox & Tanner, 2011a; Kaarhus & Martins, 2012).
- Support and deepen ongoing efforts to develop effective mechanisms and fora to resolve land disputes; for example, by assessing the community court system and



options for strengthening the informal system and linking it to the formal system (USAID, 2011).

- Develop further opportunities for innovative community-investor partnerships by strengthening communities' ability to understand the Land Law and the rights it affords them including the right to have their land delimited and be consulted when investors seek to use their land and the value of their land and natural resources and the benefits for which they can negotiate if they decide to transfer land rights to an investor (Knox & Tanner, 2011a). Donors could also support communities to be aware of the range of options for legal relationships with investors, draft legal contracts, strengthen their organisational structures, engage in business planning, and deliver on agreements. This could be mirrored by equivalent capacity building of local government officials to enable them to understand how to promote and develop a positive, dynamic and interactive process between local people and the private sector.
- Improve land policy/legal consultation mechanisms, through strengthening the LCF to aim for a more focused and agile forum for discussing issues, with greater participation from civil society. A review of initiatives to improve transparency in different sectors indicates that such consultation needs to engage CSOs at an early stage in multi-stakeholder fora (Locke & Henley, 2013; Seufert & Suárez, 2012). CSOs can contribute to defining the scope and aim of discussions on policy, the type of information that needs to be provided for discussions and analysis, and any changes that need to be made to the existing legal, policy and institutional framework to promote more transparent and effective land governance and administration. CSOs also play a vital role in helping to ensure that governments and companies remain on track to deliver on agreed commitments. The LCF may also provide the best forum for deciding how to implement the Voluntary Guidelines on Responsible Governance of Tenure.

Strengthen current project review processes; for example, building government capacity to undertake project review (Locke, 2009a), including:

- due diligence on investors requesting large pieces of land; and
- benchmarking project parameters (such as projected yields) against national and international references.

A useful input could be to provide support to establish databases within Mozambique and/or access external databases with information on companies (including their reputation, and technical and financial capacity) and national and international benchmarks for project parameters. Additionally, donors could support the provision of supplementary training in project analysis training and/or dissemination of a manual on practical project analysis in developing countries. This could include introductory training on the role of project analysis and the basic tools involved, and more in-depth training courses directed at relevant technical staff, with input from specialists in analysis of projects from different sectors. It would also be beneficial to target local entrepreneurs to provide them with the basis for understanding project proposals from foreign investors and make them more active and informed partners in the process.

- Support monitoring of land allocation and project implementation. In particular, regular monitoring of best practices in the implementation and impact of large-scale projects and the publication of results could also be used to establish minimum thresholds and raise the bar on standards for projects subsequently submitted.
- Strengthen coordination of donor engagement. Many donors are moving to support land administration; the six donors involved in iTC have decided to create a G6 land donor group that might be enlarged if other donors decide to become more involved in the land sector (Tiago De Valladares Pacheco, *personal communication*).





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