

**LAND REFORM AND POVERTY ALLEVIATION IN
MOZAMBIQUE**

**PAPER FOR THE SOUTHERN AFRICAN REGIONAL POVERTY
NETWORK, HUMAN SCIENCES RESEARCH COUNCIL**

Simon Norfolk

simon.norfolk@teledata.mz

Harold Liversage

harold_liversage@teledata.mz

Contents

INTRODUCTION	1
POVERTY ALLEVIATION AND LAND REFORM IN MOZAMBIQUE.....	1
THE DEVELOPMENT OF CONTEMPORARY LAND RIGHTS POLICY IN MOZAMBIQUE	2
LAND AND POVERTY ALLEVIATION PLANNING IN MOZAMBIQUE	6
LAND REFORM IN ZAMBÉZIA PROVINCE: SOME LESSONS LEARNED AND KEY CHALLENGES FOR THE FUTURE.....	8
Provincial context	8
Institutional responsibility for land registration – Government capacity and the role of civil society.....	8
Dealing with the backlog of concession applications.....	11
Community consultations.....	12
The delimitation of community land rights	13
Cost of land registration	17
Development of systems and procedures for land registration	17
Information and land use planning at provincial, district and local level.....	18
Collection of land taxes	18
Government bias and lack of political will	19
STRATEGIC OPTIONS FOR FURTHER SUPPORT TO LAND REFORM PROCESSES AND THE ALLEVIATION OF POVERTY	19
Key elements of a land programme focussed on poverty alleviation:	19
Short to medium term proposals for realizing the vision:	20
Possible actions by Government:	20
The role of donors:	21

INTRODUCTION

The aim of this paper is to provide a brief overview of the policy background to the land reform process in Mozambique and offer a very generalised assessment of the extent to which this reform is improving the livelihoods of Mozambican rural people.

The generalisations made here are on the basis of the experience of one project directly supporting implementation of the new land rights legislation. The Zambézia Agricultural Development Project (ZADP) operates in the province of Zambézia, one of the poorest and most densely populated provinces in the country. As a project with three components (agricultural support, a rural micro-credit scheme and a land tenure component) it was designed to bring together complementary elements for the alleviation of rural poverty.

The paper focuses on the experiences of the land component of this project, which functions as a partnership between World Vision (UK), the provincial government land services (SPGC) and an NGO, The Association for Rural Mutual Help (ORAM). It does not attempt to review the impact of the other components of the ZADP nor to evaluate the implementation of the land component of the project. Rather, we have looked at the extent to which the objective of the new land tenure policy in alleviating poverty has been realised and have concentrated on the contextual, practical and conceptual challenges that have faced a provincial programme of land tenure reform.

POVERTY ALLEVIATION AND LAND REFORM IN MOZAMBIQUE

There are 3 key elements of the contemporary land reform programme in Mozambique that are designed to contribute to poverty alleviation objectives. These are as follows:

1. Strengthening of land tenure security for family sector producers.

The use of land as a productive resource is recognized as forming an integral part of the rural poor's survival strategies. In Mozambique, land and natural resource use by rural communities occupies a central position in their livelihoods, probably to a far greater extent than most other rural communities in the southern African region. By strengthening security of tenure for family sector producers it is hoped that people will invest more in the land that they already occupy, feel safe in extending the present areas used for production, feel able to defend their use of land from encroachment by private interests and will hence be able to produce more and get easier access to credit. It is recognised that a range of other inputs would also be required and that land tenure security in itself will not necessarily lead to increased economic activity and poverty reduction.

2. Encouraging investment in the rural economy through the granting of private land concessions.

This is, to some extent, a return to the pre-independence system and in Zambézia has manifested a revival of old colonial concessions. By allowing private land concessions it is hoped that there will be increased investment in production and employment creation in the rural areas. Part of the programme of granting concessions involves the generation of a tax base in land rentals to the state, at various levels, to ensure future sustainability of the land management system.

3. Establishment of partnerships between investors and rural communities.

This is the crucial element for bringing together the two elements mentioned above. By encouraging partnerships it is hoped that land tenure security of both communities and investors will be strengthened, mutually beneficial relationships will develop, leading to a better environment for investment by both outside investors and rural communities.

These key elements are expressed within the policy and legislation developed during the late 1990s. In the next section we examine the process of policy and legislative development and the subsequent translation of these into the planning and programming instruments of central government.

THE DEVELOPMENT OF CONTEMPORARY LAND RIGHTS POLICY IN MOZAMBIQUE

The regime of rights to land in Mozambique has undergone a radical change in the last few years. The timetable of amendments to legislative instruments dealing with land issues has been rapid: a new Land Policy was adopted in 1995; the new Land Law was passed in 1997; regulations for dealing with rural land parcels were promulgated in 1998 and a Technical Annex to these regulations (detailing the methodology by which registration of community rights should take place) was passed at the end of 1999.

These changes took place within a context of general and fundamental transition, as the country made a shift from socialism to political pluralism. This process, in Mozambique, has taken place over the last decade. In 1987 the adoption of a Structural Adjustment Programme signalled the beginning of the shift and the fifth FRELIMO Party Congress in 1989 and the adoption of a revised constitution in 1990, followed by a Peace Accord that ended the civil war in 1992, all added impetus to the process.

The first amendments in the approach to land management and the recognition of individual land use rights came in 1987 with the revision of the existing land law regulations. Although these permitted concessions for private land use rights to be awarded by the state, in many other respects the fundamental bases of land policy at this time remained in place. The state continued to be the owner and manager of the State Land Fund, the purchase and sale of land was still not legally recognised and land areas cultivated by the family sector were protected only in principle.

By the early 1990s, it became clear that the national legal and regulatory framework governing land use rights did not provide secure tenure rights to either smallholders or larger commercial interests. In addition, the amended constitution had obliged the State, for the first time, to recognise rights acquired through inheritance or occupation. Together, these heralded the subsequent revision of the land law and led to the legal recognition of customary and other rights to land and the development of registration mechanisms to record and manage these new rights.

The National Land Policy that was developed in subsequent years and approved by the Council of Ministers in October 1995 contained several important elements that had been absent. These included the recognition of customary rights over land, including the various inheritance systems and the recognition of the role of local community leaders in the prevention and resolution of conflicts. The policy has dual objectives; it aims to create conditions for the development and growth of local communities and to promote investment in rural areas through the involvement of the private sector. In the policy document the

phrasing of this central intent to “safeguard the diverse rights of the Mozambican people over the land and other natural resources, *while* promoting new investment and the sustainable and equitable use of these resources” (our emphasis) appears to recognise that there is potential for these two objectives to be in opposition.

Most importantly, perhaps, the land policy underlined the importance of developing a legal framework for land rights that would be sufficiently flexible to accommodate different systems and scenarios, particularly in respect to rights and land holdings in the family sector. There was a recognition that customary land holding mechanisms did not necessarily consist of rigid rights and precise rules and that customary law in respect to land use regulation was by nature procedural. To give some effect to this, the role of traditional authorities in the prevention and resolution of conflicts was secured in the subsequent legislation.

Finally, the policy also, significantly, maintains the concept of all land belonging to the state, despite a strong lobby for the full privatisation of land.

After the adoption of the policy there followed a period of fairly extensive public consultation, overseen by the National Land Commission and its Technical Secretariat, a statutory body that had been created through Presidential Decree in 1996. In June of that year a national Land Conference was held and, according to the conference report of the Land Commission, a wide range of issues relating to the proposed new Land Law, were discussed. These are listed in Text Box 1.

The land commission report fails to capture the fact that several aspects of the draft legislation were problematic for small farmers and their representatives. The debate that ensued regarding the draft law often consisted of strongly opposing positions of different interest groups. Some of these opinions and positions are listed in Text Box 2 below. One report regarding this period observed that “civil society assembled around principles which were defined by the negative: ‘We do not want anybody without land, we do not want access to land which is restricted by income and we do not want a family sector confined to marginal areas’” (Devereux & Palmero, 1999).

When the Parliamentary Commissions were presented with the draft version of the legislation their main comments related to the concept of local communities and the ‘organisational’ forms that these would assume. The policy principle of the recognition of customary rights had thrown up the tricky problem of defining in some way the range of people who could hold such rights. The draft Land Law solved this problem through

Text Box 1: Issues discussed at the 1996 Land Law Conference

- the maintenance of all land as property of the State;
- the replacement of the terminology from the previous legislation, which classified land into agricultural and non-agricultural use purposes, with a classification that distinguished areas on the basis of whether rights could be obtained to the land or not;
- Issues related to groups of rights holders, and specifically the cases of women, local communities and foreigners;
- the involvement of traditional authorities and customary systems of land use;
- the transmission of rights to land and infrastructure, and the limitations to these;
- the requirement or not of a development plan and the enforcement of this stipulation;
- the notion of abandoned land and the consequences of this;
- the valuing of rights to land; and,
- the resolution of conflicts regarding rights to land.

[Source: National Land Commission, 1999]

the introduction of a definition for a local community that is capable of broad interpretation.

The main element of this definition is that the rights holders can be a group of families and individuals living within a geographical area, with no further limitations or qualifications on membership of this group except that they should be “seek(ing) to safeguard (their) common interests through the protection of the land and associated resources”. This broad definition enables the myriad forms of customary land rights to fall within the protective mechanisms offered by the law. There was no linkage made in the legislation between land rights and tribal, traditional or group allegiance despite political pressure at the time to the effect that ‘traditional leaders’ should be the recognised representatives of all community level land rights-holding entities. In addition, individually held tenure rights within the broader group rights are capable of being identified, agreed upon and registered.

Text Box 2: Interest group positions at the 1996 Land Conference

- the management of land should be done at the local level and thus a national policy does not make sense;
- title deeds should immediately be issued to everybody;
- communities are the landowners and should be enabled to negotiate land ownership with the investors;
- land in the family sector should be demarcated in order to protect it;
- what is most important is to establish a free market in land; and,
- land should be privatised but private hoarding and speculation must be controlled.

[Source: Negrão, 1998.]

The law does not, however, give any details on the organisational or juridical form that these groups would take on exercising the option of registering their rights and criticism was levelled at the draughters regarding the vagueness of the concept of ‘local community’. Despite these criticisms, the Land Law was passed in 1997 and work then focused on the mechanisms for community representation.

Regulations to the Land Law, revised during 1998, contain some important provisions that were designed to subject the existing land concession applications to the new legal processes being developed. Those who had lodged concession applications in terms of the 1987 regulations were required to indicate their intention to continue with these if they were still pending. A one-year deadline for this was introduced by the new regulations. Renewed concession applications would then be reviewed and adjudicated upon in terms of the new law and regulations (those applications not renewed before this deadline would be cancelled). The new regulations stipulated a mandatory formal consultation with the local community regarding the land occupation and use plans of the applicant.

The regulations also signalled that a Technical Annex was to be approved by the Ministry of Agriculture and Fisheries (which has since become the Ministry of Agriculture And Rural Development), in order to specify the requirements for the registration of community rights. This process became known as ‘delimitation’, rather than the term used for the registration of private land rights holdings, which is known as ‘demarcation’. The difference or similarity between these registration processes remains a contentious issue. According to the Land Commission report, after participating in three regional courses, different teams undertook over 20 pilot delimitation exercises throughout the country as a means of testing the proposed procedures. The findings of this pilot approach were discussed in two meetings, which found that the methodology was appropriate, and the Technical Annex was approved in 1999. The final content of the Technical Annex was a response to the criticism that had been made

regarding the vagueness of the concept of a local community: instead of attempting to devise a single definition, the Technical Annex was a single, legally prescribed methodology, complete with pro forma documentation and setting out in detail the procedures to be followed in the delimitation of community land (Tanner, 2000).

The land reform programme in Mozambique has now reached a critical point in its development. The basis has been laid for the development of land administration systems that facilitate rural development and safeguard the rights and interests of the rural poor: policy objectives and legal instruments have been put in place to ensure that the customary rights of rural dwellers are safeguarded; the role of rural communities in the allocation and adjudication of land use rights, and the right to register customary use rights, are ensured by statute; simple and flexible methodologies have been designed that allow for the registration and recognition of rights to be rooted within customary knowledge and practise. Moreover, the policy is designed to encourage the development of negotiated partnerships between customary rights holders and the private sector, allowing communities to directly benefit from the use by third parties of customarily occupied land.

The challenge at this point is to translate these policy approaches and objectives into the kinds of systems and mechanisms that are most appropriate to the realisation of the potential benefits. In other words, to develop practical systems and procedures, capable of being implemented at scale throughout the land administration bureaucracy. This is a wide-ranging challenge and involves a number of different stakeholders, often with conflicting interests. It is not only the 'devil in the detail' that must be confronted where, for example, there is a need to overhaul land record systems, design new procedures for managing the cadastre and implement 'new' ways of recording 'new' rights. There must also be discussions and decisions about the 'big picture' issues, where, for example, there is a need to locate the issue of community representation concerning land issues within the broader mechanisms of interaction between the state and its citizens¹, or where the relationship between land and other resource use policies needs to be decided upon. The policy framework and related legislation have been put in place only recently and the necessary institutional framework for appropriate government regulatory services has not yet been developed.

The report by the PROAGRI Land Review Mission underlined the importance of the present period: completed in November 2000, the report stated that "the package for rural areas is already complete...it is essential that the now complete legal framework be moved forwards to a well-supported implementation phase". This is not to say that there have been no moves towards implementation of the new policies. Some donors in Mozambique have supported projects in the last few years that are designed to test out the new legislative mechanisms and

¹ The implementation of Decree 15/2000, for example, which establishes a basis for the identification, recognition and remuneration of formal local community representatives (who will become members of the local organs of state), has gone ahead without any detailed examination of the relationship that these 'representatives' will have in respect to other community level representatives that may be established as a result of the land law. How the roles of community land committees, or the community representatives on local resource management councils (envisaged under the new Forestry and Wildlife Law), will intersect with those of state-recognised representatives remains unclear. The government approach to this, so far, seems to give precedence to the representatives recognised by the state (from implementation of Decree 15/2000) rather than those that are appointed by communities themselves as part of other processes (as part of a consultation on third party land use rights, arising from delimitations or appointed as a result of the establishment of local resource management councils).

assist the Government to develop an appropriate enabling environment and the sector-wide investment programme for agriculture and rural development, the PROAGRI, has always contained a land component. Through the work of the Land Commission, the national department responsible for land rights registration and mapping (DINAGECA) and its provincial representations and various NGOs, steps have been taken to develop the laws and policies into operating procedures and mechanisms.

LAND AND POVERTY ALLEVIATION PLANNING IN MOZAMBIQUE

Broadly speaking, the issue of land, as an asset for the improvement of a rural livelihood, has not been recognised as occupying a prominent position in poverty alleviation planning and processes. The general view, held by central government poverty programme planners and some donors, is that rich areas of arable land are available in abundance and that farm sizes and productivity have remained low as a result of other constraining factors. In fact the latest draft of the Plan for the Reduction of Absolute Poverty for Mozambique 2001-2005 (PARPA) expresses exactly this at paragraph 43.4: “Land is not, therefore, a limiting factor for poor peasants, but rather their capacity (and therefore means of production) to work the land they have in order to achieve acceptable levels of productivity.”

The PARPA does recognise that the issue of tenure security (as opposed to access to land) is of central importance, but tends to do so from the perspective of the need to guarantee private sector concession rights rather than the tenure rights of the poor. For instance, one of the four key strategic objectives within the section of the PARPA devoted to Agriculture and Rural Development is to “guarantee rights of access to land and reduce the bureaucracy associated with land registration”. This commitment does not appear to include the registration of the customary rights of the rural poor, however. The general approach of the plan, including the key measures that are to be taken, reveal a far greater concern with security of tenure for the holders of concession units and the creation of an enabling environment for private sector driven rural development.

This is a major theme of the PARPA, which makes explicit this overarching strategic approach in the introductory paragraphs of the document: it is focused on recognising “the crucial importance of medium and long-term measures in the fight against poverty through policies which will support rapid and broad-based economic growth” and developing a “policy and climate which stimulates the private sector to speed up job creation and increase the opportunities for income generation through employment”. The issue of tenure security is therefore considered from the private sector perspective rather than as an issue that is important for the rural poor themselves. This is a significant gap in thinking, given that the land policy was a creative attempt to recognise the inherent rights of customary tenure holders and to enable these to contribute to poverty alleviation. It would seem to indicate that the wide range of institutions and stakeholders involved in drafting the land policy have not yet managed to sufficiently articulate the nature and importance of the poverty alleviation aspects of the new approach to tenure recognition and security.

The situation is similar in the conceptualisation of the land component within the public sector investment programme for the Ministry of Agriculture and Rural Development (MADER), known as PROAGRI. Here, not only is little attention given to the registration of community use rights as a means to improve the capacity to ‘negotiate’ out of poverty, but there would also appear to be a growing level of government resistance to this aspect of the new policy framework. In the Donor Review meeting of the PROAGRI held in May of 2001 there were clear indications from senior officials that the provisions of the Land Law that are

designed to protect community tenure are considered to be obstacles to the objective of attracting capital investment and land development in the rural areas. This view maintains that there are already enough disincentives to rural investment in Mozambique without requiring investors to enter into expensive consultation processes with local communities.

The report on the review of land activities under the PROAGRI carried out in November 2000 by a joint donor-government team, clearly articulated a view that to date the important focus in respect to land and poverty alleviation had been on the development of an appropriate legal and regulatory framework. At the same time, however, it contained an implicit recognition of the fact that the PROAGRI had yet to realise a clear, comprehensive and implementable plan for the new land policy and that support in meeting this challenge was clearly needed. As well as making the point that there were important areas of governance and institutional support that fell outside of PROAGRI, the report makes clear also that the land component of the PROAGRI has tended to receive less attention than other areas of action. Both central and provincial budgets developed by the implementing institutions in the land sector have suffered from the “harmonisation” with other components; that is, they have received consistently smaller allocations when it has come to dividing the overall budget.

More recent statements by the Mozambican government have reflected growing support for the privatisation of land rights, which has been supported by certain foreign donors. To date it appears that there is no clear strategy articulated for privatisation. The granting of land concession applications under present conditions has made privatisation inevitable and possibly is desirable not only for larger investors but also for the rural poor. However the nature and timing of a privatisation process could impact positively or negatively on economic development and poverty alleviation in rural areas. Wholesale privatisation of existing land concessions in a short time period would lead to the consolidation of land rights of the significantly large number of land speculators, many of whom acquired these rights without proper procedures being followed, without sufficient capital and with very few economic benefits for rural communities within which the land concessions fall. Preferable would be the development of a strategy for the gradual privatisation of land rights which identifies serious investors and which maximises the benefits for rural communities. Such a strategy should include more rigorous assessment of the business plans of land concession applications and the reduction or cancellation of land concessions which do not realise their business plans in the time period stipulated (two years for foreigners and five years for Mozambicans) or which have not paid all their taxes. The existing provision allows for the issuing of titles after the stipulated time period which would allow for a gradual privatisation of land in which the economic benefits for the rural poor and the state would be maximised.

Notwithstanding the existence of plans within the land component of PROAGRI relating to the registration of community land rights it is true to say that the only initial experiences of this approach have come through the intervention of organisations and donors outside of the PROAGRI framework. The aim of the rest of this paper is to describe some of these initial experiences, with a particular focus on the land component of the Zambézia Agricultural Development Programme (ZADP) supported by DfID. It attempts to highlight some of the major lessons that have been learned and to describe the challenges that are faced in implementing the law. We examine the prospects for the realisation of the poverty alleviation objectives within the policy and present some strategic options for the future development of the land reform programme in Mozambique.

LAND REFORM IN ZAMBÉZIA PROVINCE: SOME LESSONS LEARNED AND KEY CHALLENGES FOR THE FUTURE

Provincial context

Zambézia Province, situated in the northern part of Mozambique has approximately 10.5 million hectares of land of which about 6 million hectares are arable. A total of 2,449 land concession applications have been made in the period since these were first permitted under the regulations of 1987, the vast majority of which were launched in the period before the application of the current revised regulations of 1998. These applications cover an area of over 3.65 million hectares in total, or approximately 30% of the provincial land area. They include applications for agricultural use, including extensive areas for livestock grazing, for residential, business and industrial purposes and for forestry activities. Those applications that are in possession of provisional approval total 1,141 and cover 570,000 hectares.

The scale of land concession applications has made the registration of community rights particularly challenging in Zambézia and has sometimes resulted in tensions between rural communities and prospective concessionaires. After the elections in 1994, most people displaced by the war were successfully relocated back to their land, largely through the efforts of traditional leaders (many of whom had previously been marginalized by or were opposed to FRELIMO). Many displaced people returned to land which was now under application for land concessions, further contributing to tensions between rural communities and between rural communities and prospective concessionaires.

Of the total number of land concession applications, over 1,200 of these (over 3,000,000 hectares) have now been cancelled by the provincial land services of the government through the application of the new land legislation and the failure of the applying entity to renew the application before the deadline established in the regulations (see above page 4 and below page 10). In addition, there have been 137 consultations with rural communities as part of the approval process for privately held land concessions and 32 communities have initiated a process of delimiting the areas over which they claim customary occupation rights. It is instructive to note that only in a tiny minority of the consultations have a community rejected an application by a third party for use rights to land in their area.

Institutional responsibility for land registration – Government capacity and the role of civil society

The Provincial Geographic and Cadastral Services (SPGC) are responsible for processing land concession applications and community land registrations. Their key responsibilities include the maintenance of proper cadastral records, ensuring compliance to the Land Law, the provision of technical services and the collection of land use taxes.

Two important issues, integrally linked, remain to be resolved within the sphere of public sector administration of land rights. The first relates to the need for a comprehensive restructuring and change management process that will more clearly define the respective roles of the various state entities (at the provincial, district and locality level) and the private sector in the provision of core services. The second involves the tricky issue of capacity. Once clarity is obtained regarding the first issue it will be possible to more clearly identify the exact nature and extent of the capacity problem. Although there is a Ministry-wide restructuring process currently being implemented, there is little evidence yet of any major shifts in land

rights administration and the SPGC remain without a clear strategic vision on their future development as a government service.

Two major constraints facing the SPGC in Zambézia, and applicable to most of the other provincial offices, are a lack of human resources and extremely limited access to transportation, restricting their ability to effectively cover all of the tasks consigned to them by the law. The SPGC in Zambézia have a total of 20 staff for the province, recently bolstered by the arrival of three additional staff members with ‘superior technician’ qualifications (including the new provincial Head of Services). However, of the remaining staff, only 3 are ‘medium level’ technicians, a further 10 have ‘basic level’ technical qualifications and the rest are drivers and administrative staff. Presently, the staff is expected to perform a wide range of activities in relation to the land law and regulations. Technicians may be expected to be surveyors, convenors of meetings, facilitators of community processes, to resolve conflicts and negotiate agreements. However, no comprehensive audit of required and existing skills has been undertaken and in many cases the staff are untrained to meet the expectations of their roles. The management of tax revenues, for example, presents a particular challenge in the absence of trained accountants.

At district level the capacity problem is more acute. The offices of the District Administrations are required to play an active role in providing opinions on land concession applications, investigating the implementation of development plans, prioritising the delimitation of community land, verifying the quality of community consultations in the processing of land concession applications and in the mediation of conflicts. The District Directorates of Agriculture are the principal district level government agencies involved in land registration and have significantly less skilled personnel available in comparison to the SPGC.

A number of NGOs are active in the province but very few are involved in providing assistance to communities regarding land rights registration. The role of the private sector is generally limited. Text Box 3 (below) provides an overview of the institutions and organisations involved in land registration activities in the province.

A key challenge for the future will be to strengthen and diversify the role of private sector agencies, NGOs and other civil society organisations in land registration, especially in community land registration and community consultation for the approval of land concessions. The PROAGRI Joint Land Mission also highlighted this point in their report, emphasising that “resources to consolidate and expand [work done to date on delimitation processes] are now essential within the context of PROAGRI on the one side, *and within the context of support to NGOs and civil society on the other*”. The report also states that “the Mission finds that there is great potential in the idea of developing (and regulating where appropriate) *partnerships between the public sector and other institutions, including private firms and NGOs*, that have the technical skills and experience required to carry out a range of land related tasks (including delimitations, consultations, GPS surveys and mapping). Partial outsourcing might help to solve the essential problem of low capacity” (our emphasis in both quotes).

Although DINAGECA has encouraged this development for surveying activities in Maputo and Gaza provinces, investigations into the extent to which other areas of work might be similarly outsourced have been limited.

The challenge will be to ensure that, where possible, resources are made available in a way that encourages a collaborative approach by government, NGOs and private sector agencies and has a definite impact on the tenure rights of communities. In the particular case of delimitation exercises (as distinct from advocacy activities, information dissemination, legal defence of rights, etc) it is suggested here that one avenue through which the necessary resources could be made available would be through the establishment of a funding mechanism that enables the communities to 'purchase' the services they need from NGOs, companies and/or the government.

The PROAGRI has also been beset by problems with financial planning and the timely flow of finances to the SPGC offices. On only one occasion in the last two years were the provincial land services in Zambézia able to quickly and efficiently access PROAGRI finances and this only during a period of intense political pressure from the Ministry regarding the large backlog of unprocessed concession applications. In addition it is widely recognised that the annual plans for the land component within PROAGRI are somewhat removed from the reality of the actual work programmes. In Zambézia, for example, two of the three major activities contained within the 2000 PROAGRI budget

Text Box 3: Other agencies involved in land registration in Zambézia

ORAM

The Association for Rural Mutual Help (*Associação Rural de Ajuda Mútua* - ORAM) has been centrally involved in the dissemination of information on the land law, the identification of communities who wish to register their land and the provision of facilitation services for community land delimitation. ORAM is currently the only NGO in Zambézia that is directly involved in the delimitation of community land rights. Most of the services provided by the ORAM involve assistance to the community in the election of representative structures, in the carrying out of participatory planning and mapping exercises and in the required liaison with government structures.

ORAM has a staff of about 78 and has a presence in 11 of the 16 districts in the province. Relative to the SPGC, ORAM have access to considerable human, transport and financial resources.

DFID and other donors

The largest funding partner for land registration in the province is the British Government's Department for International Development (DfID) which has provided most of its funding support for land registration through World Vision's Zambézia Agricultural Development Project (ZADP). Through ZADP, DFID has provided approximately 42% of the ORAM budget and 80% of the SPGC budget during 2000. SPGC has also received some financial support from ASDI (Sweden) through DINAGECA and from other donor agencies through PROAGRI. 8 funding partners (since 1998) have supported ORAM in Zambézia and the finances available through grant funding amounts to almost US\$2 million over the period 1999 – 2002.

ZADP Land Component (World Vision)

The main goal of the Land Tenure Component is to increase security of tenure for rural communities in Zambézia, by supporting the implementation of the new Land Law and the registration of land rights of rural communities. Activities of the project have included information dissemination on the Land Law, the development of systems and procedures for delimiting and registering the land of rural communities, training in social facilitation processes and GPS surveying techniques, the development of planning and cooperation between government and NGOs and research into conflicts and the potential establishment of partnerships between investors and communities.

Other NGOs

Other NGOs in the province appear to have played a limited role in relation to land rights work, often referring to the fact that ORAM is already engaged on this. Some have commented on the complexity of land issues and the need to leave it to specialised organisations, but this may also be a reflection of the general weakness of most other indigenous NGOs in the province. The Núcleo Estudo de Terra (NET) and other centres based at the University of Eduardo Mondlane in Maputo have provided training and research support.

Private Sector

Some private sector consultancy companies operate in the province and others that are based in Maputo carry out a range of services for government, NGOs or companies. These are largely focused on socio economic and baseline survey work and specialist sector studies. Certain freelance consultants have provided research support, usually employed through NGO project funding. There are no private companies that are able to offer surveying and mapping services.

for the provincial land services were completely unrealised at the end of the year, except to the extent that these had been planned, budgeted for and realised under the separately funded ZADP land programme . A detailed analysis of the budget lines reveals a large number of activities, costed in excess of \$US40,000, which were similarly unrealised and for which no implementation plans were ever developed.

Dealing with the backlog of concession applications

A large number of land applications in Zambézia, despite having been made in the late 1980s or early 1990s had not received provisional authorisation by the end of 1998. Article 46 of the Land Law Regulations, which came into effect on the 8th December of that year, introduced a 12 month period within which the pending applications under the old regulations had to be renewed, making them immediately subject to the new law and regulations. This requirement was broadly publicised in a notice published on the 14th May 1999 and in newspaper and radio campaigns. A further period of three months for renewal of these applications was introduced in late 1999, after a very low rate of renewal. A further extension was then permitted by default through the conducting of an information campaign, in June to September of 2000, involving the delivery of individual letters to approximately 2500 applicants affected by the requirement and announcements on the radio. In August 2000, under instructions from the Minister, the SPGC office ‘archived’ all those applications that had been pending as of 08/12/98 and which had not been renewed. However, applicants were still permitted to renew these applications (after the cut off date), a situation that continued until July 2001. In August 2001 a decision was finally taken by DINAGECA to cancel over 1000 applications from Zambézia.

The number of applications which were given provisional approval also increased rapidly in the second half of 2001. In June 2001 there were 725 applications that had been given provision approval. Only 17 of these had been approved since the passing of the new regulations in 1998. By December 2001 the number of approved applications had risen to 944 and by February 2002 the backlog of applications was virtually cleared, with only a few of the more problematic applications remaining.

	Cancelled	Approved	Lapsed	Not approved	Pending	Pending approval	Grand Total
Applications	1,234	1,141	17	11	4	42	2,449
Area (ha)	3,016,903.82	570,012.79	16,110.00	1,616.24	2,000.21	44,110.74	3,650,753.79

Table 1: Status of land applications in Zambézia, March 2002. [Source: Serviços Provinciais de Geografia e Cadastro, Zambézia]

The rapid increase in the processing of the backlog of land concessions has been the result of significant political pressure, in the first instance by donors on the Mozambican government (mainly for the cancellation of applications) and then from the government via the Ministry of Agriculture on SPGC (mainly for the processing of outstanding applications to the provisional approval stage). From preliminary research done by ZADP it would appear that the speed at which applications were processed in the second half of 2001 has had a negative impact on the quality of the community consultations done and the assessment of the business plans of applications (see below next section and also Cau, 2001). Furthermore, there has been no field investigation done to ensure that cancelled applications are no longer being utilised.

Consequently, the potential for these applications to contribute to the realisation of the poverty alleviation objectives of the land policy has been diminished.

A key challenge in the short term for SPGC and the government in general is to confirm that all cancelled applications are no longer being utilised and to investigate applications which should have already implemented their business plans (in the case of foreigners 2 years after provisional approval and in the case of Mozambicans 5 years after provisional approval).

Community consultations

Since June, 2000, under the initiative of the new Minister of Agriculture and Rural Development, greater priority has been given to the community consultations required for the processing of land concessions. However, there are still concerns expressed by some NGOs regarding the nature and quality of these processes. These concerns were shared by the PROAGRI Joint Land Mission, which reported that community consultation processes were not being carried out in an effective and transparent manner according to the law. As a result the Technical Secretariat of the National Land Commission recommended that a study be conducted of those consultation processes that have taken place. Initial research completed under the auspices of the ZADP (Cau, 2001) demonstrates that there remain many uncertainties regarding the quality of both the consultation processes and the information about agreements that is captured and recorded.

The development of a methodology and training materials that can assist in enabling government, NGO and private sector staff to complete the consultations in an effective way in the future is also important. The consultation process is an important opportunity for the beginning of the establishment of a potential long-term partnership between a local community and private sector investors in rural areas. To date the formalisation of agreements between land concessionaires and communities has been weak and there appear to be no formal economic partnerships being created. This seems to be the case in other parts of the country also. A report on Cabo Delgado states: "In reality, the new law has not turned out quite as well as planned. While it does defend community land rights, it has not produced the close relationships between investors and rural communities that its designers envisioned. Instead of contracts spelling out ongoing financial relationships between investors and communities, the practice of one-off (compensation) payments continues, leaving community members with a short-term flush of cash and long term loss of their lands" (Bechtel, P. 2001).

The thorny question of the involvement of legitimate community representatives in the consultation processes has recently taken a new twist with the approach adopted by the government in relation to traditional leaders. Despite clear stipulations in the Land Law that community members generally should participate in the process, that they should have the opportunity to elect representatives and that there should be at least 3 representatives involved in giving formal approval, many land applications are now being reviewed and approved solely through formally recognised traditional leadership structures. The government justifies this approach by reference to a decree passed in 2000 that re-instates the traditional leaders to the status of semi-official public servants².

² Decree 15/2000 of 20th June (Local Community- Forms of Participation in Public Administration) [Boletim da República (BR) no. 24- Supp., Series I – 20th June 2000] – see footnote 1 above.

The delimitation of community land rights

There are a number of reasons for the position that communities' land rights should be formally registered through the delimitation process as permitted in the Regulations. These are as follows:

- Since the Land Law places such a strong emphasis on community consultation in the approval of land concessions, the process of delimitation would ensure that there was clarity on who needed to be consulted (which community) and who the legitimate representatives were;
- In light of the policy objective of establishing partnerships between communities and investors, the delimitation process would establish the framework within which a partnership could be negotiated and, at the same time, award legal standing to the community, enabling it to enter into such a partnership arrangement; and,
- Registration of the rights would increase the level of security of tenure and strengthen the local community management role in the care and control over natural resources, as envisaged by the general policy of the GoM.

The delimitation of land as an objective in itself is emphasised by many NGOs that are working on the land issue. In addition to this, the position adopted by the Land Campaign and contained within a document produced by this body on the 25th November 1999 contains a particular view of "land occupied by local communities":

- With a few exceptions, all land in Mozambique falls under the customary occupation of at least one community
- There are common boundaries between community lands
- There is no 'free' land between the community areas

The nature of the right acquired by community and good faith occupants (through their occupation of land) and the right that can be applied for by private investors is the same in both instances: that is, a *Direito de Uso e Aproveitamento de Terra (DUAT)*. As such, it is only possible for one legal entity (a community, a company, a private individual) to possess the legal right to a single piece of land at any one time.

To a certain extent this legal truth, combined with a parcel-based cadastral system, may have created the perception held by some that the delimitation of community lands must be done to 'close in' a community and, by so doing, identify the land which is then 'free' for private investment. That is, the delimitation of community land is viewed as being mutually exclusive to the granting of investor concessions. This is perhaps the single most important issue for which a strategic approach needs to be developed. It is an issue that has been discussed at a national level during and after the revision of the Land Law and the Regulations. If a consensus on a strategic approach to this issue can be reached in the province, there will be less potential for land conflicts and the task of designing appropriate institutional and financial support for the administration of land rights will be much easier.

The Technical Secretariat of the Land Commission, in developing the Technical Annex to the Regulations, put forward two models to illustrate the choice that exists when considering the concept of delimitation. In the 'Closed Border' model the community enjoys strong protection

of land use rights within a closed border that does not permit access for private investors to utilise land. A DUAT awarded by the state can only be requested outside these delimited areas. In the 'Open Border' model, external investors are permitted access to use rights within the community-delimited area. The DUAT is still requested from the state but the conditions under which it is granted are developed in agreement with the community.

The establishment of a conscious approach that accommodates the co-existence of community-delimited land and private land concessions within these areas would be a major step forward for the implementation of the new Land policy. That is, the adoption of the Open Border model. This would be in accordance with the national policy objectives and has been the option favoured by the Technical Secretariat of the Land Commission. However, resistance to this approach exists both within the DINAGECA and at other levels of state administration. The private sector has not yet been provided with sufficient incentives to want to adopt it as a favoured option. Nevertheless, it is suggested that this approach would go some way towards achieving the following:

- preventing community land delimitation leading to the alienation of rural communities from areas of high productivity;
- permitting the fuller participation of communities in social and economic development of rural areas;
- establishing a firm basis for good relations between investors and communities and leading to a reduction in conflicts; and,
- accommodating the continued generation of the tax revenue to the government from these private concessions.

In practical terms this approach would need to be integrated into the ongoing activities of the SPGC. For example, the nature of this partnership should form part of the discussions between the parties involved in a community consultation process. At present, this process involves the recording of vague commitments on the part of investors (e.g. to upgrade access roads in the area and establish trading outlets) in the record of the community consultation. There have been reports from Nicosia (a district close to the provincial capital of Zambézia) that investors have subsequently reneged on agreements that have been made and in such circumstances the community have little chance of legal recourse; firstly, because the recording of the agreements is vague and secondly, because unless the community has actually delimited their land they have no legal personality and therefore no 'standing to sue'.

There has been general support for the idea that communities, at these consultations, should be offered an explicit choice as to whether they wish to delimit the land under their occupation before, or at the same time as a DUAT is granted to an investor in the area. Even if they decide that this is not necessary or desirable at the time, the subsequent demarcation of the DUAT will, in effect, be a partial delimitation of the community area, since it will identify some of the boundaries of this area. Demarcation under the Open Border model would therefore require the identification of the community in whose land the application falls.

The demarcation process has the legal effect of a ceding by the community of the DUAT (that they have obtained through occupation) over the demarcated area. What then is the right that they are left with? The regulations regarding the renewal of a DUAT would not seem to give the community an opportunity to be involved in the renewal process. There is no obligation for the consultation process to be repeated, for example. If a concession is awarded for the

maximum permitted period of fifty years, it may therefore be 100 years before the community gets an opportunity to review the terms under which they originally agreed to the ceding of their DUAT. In a context of hasty consultations this really does throw up the prospect of a long-term loss in land use rights. One possible solution would be for the government to adopt guidelines that state that, as a matter of practise, concessions should be awarded for a 10 year period, with exceptions made in special cases where there are significant initial investments.

The approach would therefore require some refinement of the procedures presently used by the SPGC to administer and register rights but it would also require the commitment from all role players, including government, private sector and civil society organisations, to contribute to this process. Whilst some NGOs have characterised the approach of many land use applicants as being an attempt to ‘grab’ land rights, the approach adopted towards the delimitation of community land rights also presently lacks a vision that accommodates the concurrent use of land by community groups and investors. Certainly, the delimitation processes that ORAM is assisting with in Zambézia are occurring in isolation of DUAT applications in the same area and ORAM have only been involved in one community consultation processes to date, even in areas where they appear to be working with communities. Whilst it is the responsibility of the SPGC offices to ensure that relevant up-to-date information is freely available, it is also incumbent upon NGOs to assist the community to find out about the existence of awarded or pending DUAT applications. This issue was discussed in a workshop between SPGC and ORAM in July 2001 and it was agreed that there was a need to improve the availability of information on land concessions in areas being delimited and to discuss these concessions during the delimitation process.

In general terms there also needs to be recognition of the fact that the key areas where delimitation ought to be taking place are those where there are significant DUAT applications from investors and that delimitation and award of private concessions should be undertaken as complementary processes. More specifically, there would need to be recognition of the following key elements:

- That a concession (DUAT) is a land right held by a private individual or company which is legally awarded by the state, to which taxes for it’s use remain due to the state.
- That the concession is a temporary ‘ceding’ of an underlying DUAT previously acquired by the community through occupation, that has been delimited and is held and registered in the name of a local community.
- That for the period of the ceding of the right by the community the land in question is dismembered from the community delimited land under terms and conditions which are established in agreement between the parties, including the state, and recorded as part of the registration of the investor’s concession rights. Such terms and conditions would have to comply with the Land Law and Regulations and may contain specific provisions for duration and renewal of the concession, such as a more limited time period than the 50 year maximum permitted by law.
- That in the event of the state unilaterally revoking the concession right in accordance with the Land Law (e.g. for non-compliance with taxation requirements, non-compliance with the land development plan, etc) the land in question would be re-annexed to the relevant community delimited land or made available by the community to another investor.

It is important to note that the community, through the delimitation process, acquire legal personality and agreements made between them and investors would be enforceable.

Most community land delimitations currently underway appear to be defined on the basis of historical traditional boundaries, rather than by the formal government administrative definitions. There are about 380 traditional areas (*regulados*) in Zambézia, recognised and mapped in the colonial period, and these have tended, with some small variations, to be the units of land rights holdings that a community seeks to register. No delimitations appear to have yet been initiated by non-traditional groupings, despite the flexible legal definition of 'local community' that would permit this to happen.

There remains considerable lack of clarity as to the legal status of delimited communities and the basis on which they are able to enter into partnerships with third parties. The Land Law provides for the selection of community representatives to engage with outside facilitators in the delimitation process. In Zambézia there was a widely held assumption that these elected groups of community representatives would become Land/Natural Resource Management Committees. But, as the ZADP has discovered, there are many dangers with this approach and the role of these representatives after the delimitation process is not clear.

Text Box 4: General characteristics of different land conflicts occurring in Zambézia [Source: Norfolk & Soberano, ZADP, 2000)

- the occupation of areas of 'old' concessions, which were previously operated by state-owned companies and have recently come under the control of new private sector investors. Although there is uncertainty regarding the legal position of occupiers that may have occupied land in the intervening period between collapse of the state enterprises and the privatisation process, they themselves view their occupations as legitimate, particularly since it was often sanctioned by representatives of the state.
- the re-establishment of colonial-era private concessions by individuals or company investors, or the establishment of new concession areas. Both are done through application to the government in terms of the land law. This may lead in some instances to a conflict with neighbouring communities, where there is a clash between the subsequent uncontrolled grazing of newly introduced livestock and local crop production. In other instances, old concession areas may have also been occupied since their abandonment, either spontaneously or with government approval. In either case, the lack of a common and systematic approach to application of the land law or its flouting altogether, has led to local conflict.
- In many situations the roots of some contemporary competing claims to land use rights have a long history and involve local community occupations of (and dislocation from) land in the early and middle parts of the previous century. These situations have sometimes led to the insistence of a community right to occupy in the face of a contrary legal position, where a community has "invaded" land that was legitimately awarded to an applicant in terms of the previous 1987 land law regime. In other instances, there is a deep-seated resentment regarding the continued occupation of land by some large companies that have been awarded previous state company concession lands.
- In a few areas, the application of the land law is "held hostage" to a local political and administrative elite, who are often more keen to encourage unfettered private sector investment in an area than they are to ensure protection of local community rights. In other instances there can be powerful political figures who are involved themselves in attempts to register land.
- Forest-based conflicts are occurring, although most local communities do not feel empowered to intervene in uncontrolled logging activities. These may be encouraged by the lack of effective monitoring and by unscrupulous behaviour on the part of local administrative structures.

The procedures of the Land Law allow for the issue (the long term role) to be discussed with communities during the PRA process. Possible roles depend on the community and what already exists. The most likely role could be in continued land registration within the community (families and the development of village cadastre); land use planning, natural resource management, negotiations with prospective investors. The role could vary depending on the community.

Cost of land registration

The cost of land registration has yet to be adequately analysed. DINAGECA has guidelines for the charging of fees for the registration of land concessions which are currently being revised.

ORAM has estimated the cost of community land registration at \$3,000, however these estimates do not include all costs of SPGC or of district administrations. A key challenge for the future is to improve the monitoring of the actual cost of land registration. A practical approach to securing tenure for the rural poor would be to concentrate on the establishment of efficient mechanisms and forms of support should any particular community choose to register their rights at any particular time in the future.

Development of systems and procedures for land registration

The development and implementation of Land Law is still at an early stage and many aspects (particularly community land delimitation and community consultation) are new terrain for government and NGOs alike. Over the past two and a half years SPGC and ORAM have achieved a basic level of expertise in the implementation of the Land Law in Zambézia. Procedures for community delimitation and community consultation have been tested from start to finish and the “pipeline” is more or less in place. Although the procedures were well defined in the Regulations and Technical Annex to the Law, our experience suggests there are still gaps and procedures need to be tested and developed further.

The key obstacles in the implementation of procedures for community land delimitation so far have been:

- The lack of accurate and easily accessible information concerning existing and putative land concessions (see below next section);
- an uncertainty (at least until publication of the Technical Annex in 1999) regarding the exact procedures to be used and a continuing situation of flux as systems and methodologies continue to be developed;
- the need to test methodologies and design training in PRA methodologies and in the use of GPS equipment;
- delays in obtaining approval from District Administrators for the prioritisation of community land delimitations;
- an underestimation of the time required for resolving inter-community boundary disputes; and
- the lack of clarity in the requirements for mapping and the *Memória Descritiva* and the format for the issuing of the Delimitation Certificate (*Certificado Oficiosa*)

Information and land use planning at provincial, district and local level

Through support provided by the ZADP, the SPGC in Zambézia has made considerable progress in developing land information management systems and the mapping of land concession applications and community delimitations. They have also piloted two district level workshops at which mapped information on land concessions and community land delimitations were presented for the first time to district level leadership. The extent to which easily available and accurate information has the potential to improve access and participation from the poor cannot be underestimated. A key challenge for the future is to continue the search for the most effective and appropriate mechanisms for disseminating information at district and sub-district level. It is an unfortunate trend that the approach to the mapping of land concessions by the DINAGECA places more emphasis on issues of technical accuracy, etc. than on the ability to produce cost effective maps for use at these levels.

Spatial information is critical for development planning purposes at a district level. More critically, however, a decision remains to be taken regarding the lead government agency in rural planning processes. Although, in their comments on the PROAGRI Joint Land Mission Report, the Department of Land and Water within INIA disagree with the notion that there are overlapping responsibilities in relation to planning activities, it remains the case that the administration of land rights is being undertaken in isolation from other district level planning processes.

The Ministry of Finance and Planning and the National Directorate of Rural Development have been undertaking pilot district planning projects in parts of Mozambique, with a view to designing processes and methodologies. A key issue for the province of Zambézia will be to ensure that any similar initiatives are undertaken in co-ordination with the SPGC and with access to information regarding the land rights situation of an area. The PROAGRI Joint Land Mission recommended “an appropriate institutional set-up for a co-ordinating body at provincial level to guide strategic and land use planning [should be] decided upon and established.” More recently the Inter-ministerial Commission on Land has put forward proposals regarding the establishment of a land ‘network’, as part of its statutory brief to develop institutional models for land administration (Tanner, 2002).

Collection of land taxes

The payment of taxes under the land policy is one of the mechanisms designed to assist with the generation of revenue from the exploitation of natural resources. A part of this revenue is consigned to the district administrations and is an important potential contribution to the building of capacity at this level. The policy regarding decentralisation recognised that the process would have little impact if the administrations were not authorised to use their own revenues.

In addition the land taxes serve to ensure that only serious investors, with the financial standing to develop land appropriately so that it contributes to the general socio-economic development of the country, are holders of exclusive land use rights. Without annual taxation, land speculation remains a possibility.

The extremely low rate of payment of these taxes to date, if allowed to continue, will therefore jeopardise the ability of the district administrations to develop capacity and admit the possibility of speculators in land sitting on large parcels of valuable resources and awaiting the opportunity to capitalise on these. Although the SPGC are legally competent to

collect the land taxes, the Department of Finances remains responsible for the application of sanctions in the event of non-payment. A recommendation from the PROAGRI Joint Land Mission was the creation of a land tax unit within the SPGC structures. Recently SPGC in Zambézia established such a unit. The extent of the non-payment that this unit will have to deal with is enormous (3,564,416,459 metecais, approximately equivalent to US \$150,000) and payment rates to date have been extremely low (375,002,198 metecais, US \$15,625).

There has also been very little discussion of the eventual consignment of these tax revenues, beyond the initial legislative stipulation that the proportions paid to central state coffers, to DINAGECA, to the SPGC and to the local district administrations should be 40%, 24%, 24% and 12% respectively. There is a range of possibilities for these revenues, many of which involve assistance to realising the poverty alleviation objectives of the law. It could be possible, for example, to allocate a certain percentage of this income to cover the transaction costs that the state would necessarily incur in a community delimitation process, effectively removing this element of the costs from the community.

Government bias and lack of political will

Notwithstanding the poverty alleviation objectives of the land policy and its emphasis towards protection of family sector land holdings and the encouragement of partnerships, in reality there has been an emphasis on the part of the state and FRELIMO towards the unfettered privatisation of land and a bias against the family sector. This bias was evident in the formulation of policy (the open/closed border debate) and continues to prevail in the implementation of the law.

There is a perception that the family sector does not have the resources to expand production potential and to significantly contribute to the economy. There is also a perception that the strengthening of security of tenure of rural communities will 'scare off' investors and that the community consultation for the approval of land concessions, as required by law, causes unnecessary delays in the approval of concessions. Government emphasis at the moment is on the speedy processing of land concession applications and the collection of taxes. There are increasing moves towards the full privatisation of land holdings, as evidenced by statements emanating from the Ministry during the latter part of 2001.

To some extent the lack of an implementation strategy and institutional support at provincial and district level reflects this bias and lack of will to implement certain aspects of the law, specifically the community delimitations and community consultations for the approval of land concessions.

STRATEGIC OPTIONS FOR FURTHER SUPPORT TO LAND REFORM PROCESSES AND THE ALLEVIATION OF POVERTY

In this section we suggest some elements that would form part of an ideal environment for the realisation of poverty alleviation objectives through a land programme in Mozambique and make some initial recommendations as to how these elements could be put in place.

Key elements of a land programme focussed on poverty alleviation:

- The delimitation of community lands and the registration of customarily acquired rights should be widely accepted as the basis for securing land rights for groups of family sector producers.

- Family sector producers should participate in and benefit from local investment and economic development.
- The delimitation of community lands and the approval of land concession applications should be integrally linked.
- The SPGC and staff in the District Directorates of Agriculture and Rural Development should be provided the resources and training to meet clearly defined responsibilities.
- The demarcation fees and land taxes should provide most of the revenue required for government-initiated community land delimitations and for the processing of land concession applications.
- The delimitation of community lands should form the basis for improved natural resource management and land use planning.
- A range of NGOs and private sector agencies should be involved in community land delimitation and the processing of land concessions.
- The processing of land concessions and community land delimitations should be coordinated at district level and district level government, NGO and private sector fora should be established to support this.
- A provincial body, established by government but involving various stakeholders should provide overall management and support for the processing of community land delimitations and land concessions.

Short to medium term proposals for realizing the vision:

- Strengthening of a provincial committee to deal with land rights registration (and possibly natural resource management).
- Establishment of district level fora for managing community land delimitations, the processing of land concessions and conflict resolution.
- Establishment of various provincial or district level funds for contracting a range of services from the NGO, private sector and government for community land delimitations, conflict resolution and technical assistance for government (SPGC and District Administrations).
- Funds for building the institutional capacity of civil society organizations.

Possible actions by Government:

- Lead and support the development of an implementation strategy for community land registration and the processing of land concession applications.
- Articulate a strategy for privatisation, which identifies serious investors and maximises benefits for rural communities.
- Strengthen mechanisms for feeding back proposals for adapting and amending procedures from the provincial to national level and between provinces.
- Identify resource requirements of the “land sector”, beyond PROAGRI.

- Address the challenge of delivery at scale and the long-term sustainability of the land administration system. Complete projections on the collection of fees and taxes matched against resource requirements at provincial and district level.
- Improve the assessment and monitoring of the implementation of business plans by investors. Develop procedures and system to reduce or cancel those plans not realised within the time frame and those not paying taxes.
- Investigate cancelled land concession applications to establish whether they are being utilised or not.
- Resolve the institutional responsibility for land use planning/natural resource management.
- Encourage the development of integrated planning processes at provincial and district level. Link information dissemination on land concessions and community land delimitations to these processes. Also link information on land concessions and community land delimitations to information on logging applications.
- Reinforce the process of developing provincial and district level mechanisms for integrated planning and conflict resolution.
- Continue/reinforce the role of communities in the processing of land concession applications, conflict resolution, land use planning, natural resource management. Strengthening the role of communities means resolving the issue of representation.
- Prioritise areas with investment potential for land registration (community and land concessions). Investment potential could be defined in terms of land use potential and/or investor interest. The latter requires an assessment of capital base and other resources available to the land applicant.
- Identify pilot projects for the establishment of partnerships between communities and investors. Partnerships should be broadly defined as the formalisation of relationships between communities and investors.

The role of donors:

- Support the development of an implementation strategy for Mozambique's land policy including the development of a privatisation strategy, which identifies serious investors and maximises benefits for rural communities.
- "Don't put all your eggs in one basket!"

The present shift in emphasis towards putting finances into the central state treasury, against agreed performance indicators, must take into account the risks involved and accept that the achievement of donor's strategic objectives could be minimised. The lessons from PROAGRI are instructive in this regard, where, notwithstanding the existence of agreed principles, objectives and plans, very few of the land programme poverty alleviation elements received any attention and donor bodies were unable or unwilling to challenge these failings.

A key element will be the negotiation of performance indicators. In terms of the land programme these would need to include an emphasis on the strengthening of mechanisms for identifying investment potential and the linking of this to the processing of land concessions

and community land delimitations; creating an enabling environment for the formalisation of agreements between communities and investors, etc.

Whilst the above may be the primary mechanism for channelling development funding, other mechanisms for channelling funding to specific government agencies, NGOs and the private sector need to either be maintained or developed further:

- Propose the establishment of funds for the contracting of services to process land applications and community delimitations (partial outsourcing but also independent access to confirm community rights).

Much praise has accrued to the new Mozambican land policy as a result of the 'right' to register land rights acquired through land occupancy that was included within the new legislative framework. It remains the case, however, that a community that wishes to exercise this right must pay the costs involved. The right therefore remains out of reach for the vast majority of rural communities. An independent funding mechanism that would allow a community to apply for a land delimitation 'grant' to cover these costs would be an important and necessary complement to central state funding assistance. Included should also be support for the negotiation and strengthening of agreements between rural communities and land concessionaires.

- Promote integrated economic and development planning and improved information exchange on land concessions, community land delimitations, forestry applications and other land uses.
- Provide funding support for intra and inter provincial exchange. Encourage the consolidation of a national mechanism for the exchange of experience.
- Promote the development of business plans for SPGCs, district administrations and municipalities for attaining sustainability – income projections matched against resource requirements. This should be part of the criteria for channelling funding to state treasury.

References

- Bechtel, P. 2001 “Land Law and Agricultural Development in the Cabo Delgado Province of Mozambique and in Swaziland”, unpublished paper presented at the Conference on Land Reform and Poverty Alleviation in Southern Africa, convened by the Southern African Regional Poverty Network, Human Sciences Research Council, Pretoria, 4th – 5th June 2001
- Devereux, & Palmero. (1999). “Creating a Framework for Reducing Poverty: Institutional and Process Issues in National Poverty Policy”. MOZAMBIQUE COUNTRY REPORT
- DFID Rural Livelihoods (Land Tenure) Department. (2000). “Report on an FAO Workshop - Common Property Tenure Regimes: Methodological Approaches and Experiences from African Lusophone Countries”. Rome, 12-13 December, 2000. by C. Tanner.
- Liversage, H. (2000). Report to PROAGRI Joint Review Mission on Land, Land Tenure Component ZADP, Quelimane
- Norfolk S. & Soberano D. (June 2000). “From conflict to partnership. Relationships and land in Zambézia Province”. Land Tenure Component, ZADP. Quelimane
- Republic Of Mozambique - Action Plan For The Reduction Of Absolute Poverty (2001-2005) (Strategy Document For The Reduction Of Poverty And The Promotion Of Economic Growth) (4th draft 19/03/2001)
- Tanner, C. “Uma Proposta para uma ‘Rede de Terras’”. (2002). FAO Projecto UTF/MOZ/070/MOZ, Maputo.