

The impact of the New Land Law in Mozambique

Prepared by

Simeao V. Cambaco

National School of Geodesy and Cartography

Background:

Mozambique has:

- ▶ 799380 sqkm in area;
- ▶ About 18000000 inhabitants;
- ▶ About 36,1 million hectares of arable land adequate for agriculture
- ▶ About 40 million hectares of forestry of which 68% are covered with high value commercial species;
- ▶ About 56,1 million hectares for grazing;

Declaration of nationalization of Land (Article 46 of Constitution of the Republic) according to which
“Land belongs to the state and thus it cannot be sold or alienated”

Background(cont)

Ø Land Law 6/79 of 1979 (+ regulation 16/87)

- Reaffirms the ownership of land by the state (Article 1)
- Grants rights of occupancy to any citizen
- Cooperatives, state enterprises, state organisations
- Frelimo Party
- Enterprises
- Small holders for agricultural purposes
- Establishes 50 year lease for private enterprises (amendment by Law 1/86)

No specific reference to foreign investment

Land Law 19/97 (+Regulation 66/98)

- State ownership
- use rights granted to:
 - ü Peasants (family sector smallholders)
 - ü Private individuals (nationals or foreigners)
 - ü Local communities
 - ü Enterprises.

How to access land

Communities – by customary mechanisms

National individuals:

- By *bona fide* occupation for more than 10 years
- By application to the relevant authorities
- By inheritance

Foreign Individuals:

- By application provided they reside in the country for more than five (5) years

If it is through companies, these must:

- Be registered in Mozambique
- Possess an investment project approved by the Mozambican Centre for the Investment Promotion

With this satisfied, companies get a 50 year lease (renewable for similar periods)

Transmissibility(transfer) of Rights

- By inheritance
- Otherwise only infrastructures can be alienated between living persons in which case the transaction must be registered in the Notary (Justice Department)

For rural lands if there is a large area surrounding the infrastructures, this area must be “disannexed” leaving enough for the purpose of infrastructures.

- For urban land, this is transmitted together with the infrastructures contributing to their value.

Mortgage:

It is allowed to mortgage infrastructures or to use them as collaterals.

Extinction of Land Use Rights

Rights can be cancelled when:

- Not attaining the approved investment plan without plausible reasons
- For overriding public interest whereby a compensation/indemnity is due
- Lease term end
- Giving up by the rights holder

Eventual immovable capital assets become state owned

Taxes

Taxes levied are determined according to:

- Land location
- Size of parcel
- Purpose of the land

These taxes are towards:

- Authorization fee
- Annual tax which can be increasing or decreasing depending on the investment made on the land

Land occupation can be free of charge when:

- State and its institutions owned

- Civil society organizations duly recognized by the government as non-lucrative
- Family sector and local communities areas as well as those belonging to individuals citizens within those communities
- National small scale farming cooperatives and associations

Mozambique vis-à-vis region

- Before country's independence, land was owned by a handful of Portuguese colonists;
- Original Mozambicans were landless;
- Due to nationalization at Independence Day, land became state owned and hence:
 - ü available for application by any citizen
 - ü No need for compensation or expropriation
 - ü No need for purchase, sufficing a well prepared application which is quite simplified;

Mozambique vis-a-vis region(cont)

- Southern African countries land ownership in the hands of minorities;
- States lacking cash to buy back land for redistribution;
- Impatience of the people awaiting land allocation
- Unrest in some of the countries leading to violent outcomes;

Actual impact

- Security of tenure for:
 - smallholder family sector
 - Community land through delimitation at request or when there is a potential for dispute;
- No application is approved before going to community consultation
- Explicit foreign investment reference
- Increasing taxation for very large areas so as to discourage accumulation of unused land;