

## Legal and policy reforms to increase security of tenure and improve land administration

R. Cossa, Director DNTF  
P. De Wit, MCA

*Land governance in support of the MDGs:  
Responding to new challenges*

World Bank - Washington DC, March 9-10, 2009

## Mozambique and the MDG

- PARPA II (2006-9) is the Government's response to meet the MDG;
- Economic growth and poverty reduction through 3 pillars:
  - **Governance**: rule of law, transparency, accountability, minimizing opportunities for diversion, reducing improper use of public funds;
  - **Human capital development**: develop technical and scientific capacities, access to basic resources including land and water, reducing incidence of disease, access to social services;
  - **Economic development**: reducing bureaucratic blockages, establishing legislation guaranteeing property rights and increased productivity, increasing productivity in agriculture, improving infrastructure;
- The PARPA:
  - Admits the existence of severe constraints and limitations in resource management (including land resources).
  - Acknowledges the need to guarantee rights of access to land
  - Emphasizes the need to reduce the bureaucracy associated with land titling
- Meeting the objectives requires:
  - A functional and transparent regulatory framework that enables good land governance;
  - An efficient and accessible land administration system that operates close to the client;
  - A human capacity that is fully responsive to the needs of the public;
  - A clear vision on future land and natural resources management, including land use

## The GoM Land Policy Objectives and Policy Instruments

- **Avoid landlessness**
  - State ownership of land and state regulatory powers;
  - Guaranteeing existing land use rights acquired through long term occupation (good faith and customary land rights);
  - Titling of land use rights for all land users ;
  - Involving ordinary citizens in the allocation of new land use rights: local consultation process;
  - Reserves of State Land;
- **Promote productive land use**
  - Zoning;
  - Land taxes;
  - Use of exploitation and investment plans for issuing new land use rights;
  - Institutional responses to promote investment: CEPAGRI, CPI, DNSA, IIAM, DNEA;
  - Audits of issued land use rights.

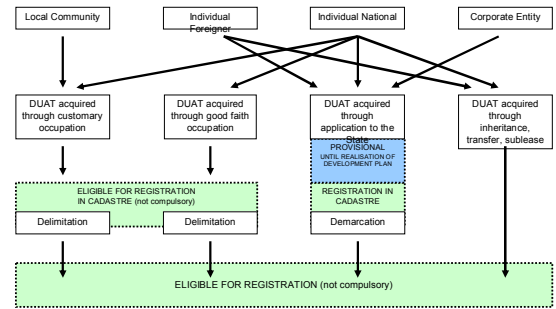
## The Timeline of the Land Tenure Reform Process

- 
- Peace Agreement (1992)
  - Elections (1994)
  - Return process of war-displaced people (1993-1994 onwards)
  - Ad hoc Land Commission (1993)
  - Research on land issues: socio-economic, land use, anthropology (1992 – 2004)
  - Land policy (1995)
  - Inter-Ministerial Land Commission (1996 - 2003)
  - Land Law – a participatory process (1996 - 1997)
  - Land Campaign and land law dissemination by civil society (1998 -1999)
  - Regulations to the Land Law - rural land (1998)
  - Technical Annex for community land registration (1998 -1999)
  - Community land registration (1999 onwards)
  - National and Provincial support to land policy implementation (SIDA, Dfid, FAO, others)
  - Cadastral reform and incremental decentralisation (2000 onwards)
  - Training judiciary - CFJJ (2001 onwards)
  - Multi-donor Community Land Use Fund (2006 onwards),
  - Urban Land Regulations (2006)
  - MCC/A support to land administration (2008 onwards)

## Fundamentals of the Legal Framework

- Establishment of a single right to land - a land use right or DUAT:
  - Long term – up to 50 years renewable for new rights; perpetually for existing rights;
  - Inheritable;
  - Conditionally transferable;
  - Issuance subject to development conditions.
- Different ways to acquire a DUAT:
  - Request to the Government – establishes a new right;
  - Occupation (by families/individuals) in good faith for at least 10 years – confirms an existing right;
  - Occupation (by communities) according to customary norms and practices (sets the scene for co-titling) – confirms an existing right; gives a legal personality to communities.
- The active involvement of communities in land management:
  - Local consultation process for the issuance of new rights;
  - Identification of existing rights;
  - Conflict resolution;
  - Land and natural resources management.
- Possibilities for des-annexing individual DUATs from a community DUAT;
- Possibilities for negotiating access to community DUATs – a negotiated open border model;
- Possibilities to transfer developed land;
- Different handling of urban and rural land (2 sets of Regulations);
- Non compulsory land registration - a dual registration system (cadastre and land register).

## Pathways of Land Titling and Registration Processes



## Achievements Community Land Titling

Province	Number Communities		Size (Hectares)	
	Titled	Pending	Titled	Pending
Nampula	93	2	743.418	4.518
Maputo	11	11	98.786	55.337
Gaza	17	3	447.782	24.702
Inhambane	8	3	575.608	10.400
Cabo Delgado	0	0	0	0
Sofala	11	3	648.288	778.699
Manica	7	7	226.374	553.656
Tete	0	27	0	3.928.912
Zambezia	73	18	3.637.001	568.011
Niassa	9	0	357.231	0
<b>Total</b>	<b>229</b>	<b>74</b>	<b>6.734.488</b>	<b>5.924.235</b>

## Achievements Community Land Titling

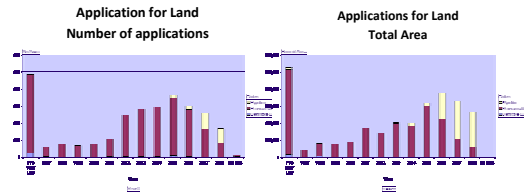


Partial Data

## Policy Issues Community Land Titling

- Sporadic titling of a limited number of communities covering some 8,4% of the country area ; probably less than 10% of Mozambican "rural communities" have a title;
- A strongly NGO driven process; weak government capacity and low public budget allocation (changing since 2007);
- Considerable differences in community sizes : 300 – 364.000Ha; differences in "community" perceptions (research required);
- Major provincial differences, including two provinces without a community title; presence of NGOs, local sensitiveness;
- A need to have clear norms and instructions to implement the Technical Annex ;
- Reasonable information on costs but more analysis required:
  - Average of 20 exercises in Zambezia: 8.715US\$ or approx. 1-2 US\$/Ha
- Service provision capacity remains low resulting in problems for scaling up;
- Issues of local community representation: different legal frameworks exist.

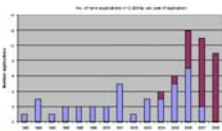
## Achievements Individual and Corporate DUAT Titling – rural areas



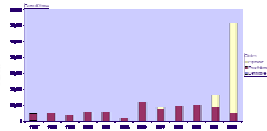
- 27.819 requests for DUAT application covering a total area of 5.618.309ha.
- 2.218 requests remain in the pipeline covering a total area of 1.266.023ha.
- Only 391 DUATs or 1.4% are of a definitive character.

## Achievements Individual and Corporate DUAT Titling

Larger sized DUAT Titling  
(> 10.000ha)



Area requested for Agriculture

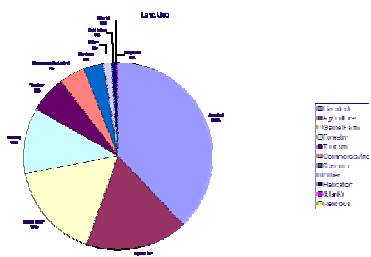


## Achievements DUAT Titling



Partial Data

### Land Titling Requests for different Land Uses (area %)



### Comments on Individual and Corporate Titling

- The total parcel number and corresponding area of titled land is small as compared to the population (close to 20 million), the area of the country (some 800.000sq km) and the presence of natural resources, including potential arable land (estimated at 36million ha);
- Only a total of 961.721ha of the land is titled or in the process of being titled for agricultural use;
- There is a steep increase of DUAT Titling requests for agricultural purposes in 2008;
- More than half of the total land applied for has been since 2005;
- Requests for the titling of very large DUATs (> 10.000ha) increased recently;
- The land administration is facing an increasing backlog of processes over the last three years;

### Policy Issues DUAT Titling

- Limited knowledge, need for awareness creation and information dissemination;
- Difficult access and availability of services to the wide public;
- Few tangible advantages associated with DUAT titling; it provides mainly a proof of land use right holding;
- Conditional transfers of DUATs; the issue of collateral;
- Low capacity of land administrations: human capital, transport, equipment, information;
- High costs of titling and low use of modern survey techniques: 400\$/10Ha (a standard example in Nampula province);
- Low capacity to evaluate exploitation plans: line ministries, CEPAGRI;
- Significant caseload of large DUAT applications and their handling:
  - Ministerial level (1000-10.000Ha): 118 cases totaling 605.000 Ha
  - Council of Ministers level (>10.000Ha) : 25 cases totaling 759.000 Ha

### Achievements Tax collection

(DNTF-SPGC estimates 2007)

Province	Estimated Tax Amount (DNTF) (US\$)	Tax Collected (SPGC) (US\$)
MAPUTO	773.290	94.563
GAZA	61.179	39.808
INHAMBANE	110.573	28.581
SOFALA	105.728	66.855
MANICA	68.832	42.937
TETE	27.313	9.116
ZAMBEZIA	42.480	25.240
NAMPULA	162.372	43.486
CABO DELGADO	35.140	22.089
NIASSA	52.960	14.996
<b>TOTAL</b>	<b>1.439.867</b>	<b>387.670</b>

## Land Tax System

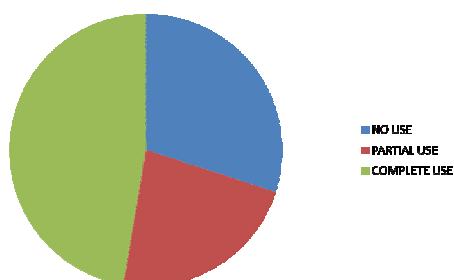
- Low symbolic values:
  - Livestock/game ranching: 0.08US\$/yr.ha;
  - Rainfed agriculture: 0.6US\$/yr.ha;
  - Tourism: 8US\$/yr.ha.
- Weak institutional capacity and systems to collect taxes; absence of sanctions for non payment ;
- Weak information management systems for monitoring;
- Comparative advantages of different institutions to handle taxes require investigation: DNTF, Ministry of Finance .

## Results Land Use Audit 2002 – 2008

Province	Number of Parcels and Corresponding Areas						Measures Taken			
	DUAT Not Used		DUAT Partially Used		DUAT Fully Used		DUAT Cancellation		DUAT Redimensioning	
	N°	Area (ha)	N°	Area (ha)	N°	Area (ha)	N°	Area (ha)	N°	Area (ha)
Maputo	316	128.179	142	161.278	400	166.111	233	45.184	142	62.925
Gaza	100	176.167	32	73.418	137	391.009	107	66.952	32	39.530
Inhambane	94	32.070	52	6.880	116	10.790	82	27.527	25	2.819
Sofala	119	49.318	37	25.327	159	78.742	154	55.773	37	25.327
Manica	26	8.806	78	14.661	175	17.063	27	1.232	78	4.990
Tete	27	4.094	79	6.590	72	4.289	27	3.115	79	2.480
Zambézia	77	34.413	77	34.493	135	46.837	98	22.251	64	11.636
Nampula	174	39.220	79	35.894	196	45.897	88	16.361	79	32.189
C. Delgado	114	6.923	91	6.313	75	6.038	115	15.095	6	6.011
Niassa	15	8.861	14	1.886	31	3.963	15	7.230	14	225
<b>Total</b>	<b>1.962</b>	<b>488.956</b>	<b>681</b>	<b>366.744</b>	<b>1.496</b>	<b>770.743</b>	<b>946</b>	<b>260.724</b>	<b>556</b>	<b>188.134</b>

## Results Land Use Audit

(Sample of 1,625,543 Hectares between 2002-2008)



## Policy issues to Regulate Land Use

- Need to develop a reliable information management system and to update data;
- Reviewing the tax system, including the authorization fee for access to land;
- Increasing the coverage tax collection;
- Increasing the audit coverage; some 3200 parcels audited over period 2002-2008 representing approx. 10% of the caseload;
- Enforcing audit outcome decisions; cancellation, re-dimensioning;
- Facilitating partitioning, transferring DUATs;
- Considering a ceiling on certain DUAT sizes;
- Reconsidering the use of exploitation plans and business plans to request DUAT rights: exemptions (smaller areas), flexibility, objective evaluation criteria (new decree passed), the role of CEPAGRI;

## Human Capital for Land Administration

Institution	University level staff	Technical School level staff	Technical Support staff	TOTAL
National- DNTF	6	16	3	25
SPGC-Maputo	5	25	3	33
SPGC-Gaza	2	13	3	18
SPGC-Inhambane	4	17	7	28
SPGC-Sofala	2	9	3	14
SPGC-Manica	1	10	2	13
SPGC-Tete	2	13	2	17
SPGC-Zambezia	2	9	3	14
SPGC-Nampula	0	9	5	14
SPGC-Niassa	0	6	1	7
SPGC-Cabo Delgado	3	8	4	15
<b>Total</b>	<b>27</b>	<b>135</b>	<b>36</b>	<b>198</b>

## Financial Capacity for Land Administration

### Budget sources for Land Administration functioning and investment:

- General State Budget: Ministry of Finance ;
- Sector Budget Support – ProAgri: Ministry of Agriculture;
- Revenues from land administration: DUAT taxes, minor administrative fees;
- External sources:
  - Land Fund (DfiD and others): 6 M US\$
  - MCC/MCA: 38M US\$

## Operational Budget Land Administration – Provincial Cadastre Zambezia

Year	State Budget (US\$)	ProAgri (US\$)	Tax Revenue (US\$)	Total (US\$)
2004	18.788	24.628	5.531	48.946
2005	9.055	18.766	5.149	32.970
2006	15.467	27.424	8.628	51.519
2007	8.305	20.235	7.221	35.760
2008	4.188	28.020	7.331	39.539
<b>Average</b>	<b>11.160</b>	<b>23.815</b>	<b>6.772</b>	<b>41.747</b>

- Exclusive salaries
- Provinces have no direct access to investment funds

## Budget National Directorate of Lands and Forestry (2009)

Source	Purpose	Projects	Amounts (US \$)
Treasury	Operational		984.600
ProAgri	Operational		1.503.344
Taxes			0
<b>Total</b>			<b>2.487.944</b>

## Comments on Human Capital and Budgets

- An overall low university-level trained capacity; only one university-trained surveyor; two provinces are deprived from university trained staff;
- The training scope of medium level technicians is narrow, emphasizing on conventional surveying;
- No clear recruitment strategy for new staff;
- Limited operational budgets at the provincial level; the Zambezia annual budget can cover: (i) up to 30 weeks of field work for one team of 2-3 technicians, or(ii) some 4-5 community land delimitations;
- Major challenges exist for meeting investment needs.

## OUR CHALLENGES 1

- Information dissemination, awareness creation and education
  - The large public including communities and private sector operators;
  - Land administrators;
  - Local authorities including district, municipal, provincial governments;
  - Customary authorities and grass roots organizations;
  - Women;
- Strengthening the Regulatory Framework (land administration instruments)
  - Consolidating norms and procedures for different land administration tasks;
  - Tax system review;
  - Simplification of DUAT transferability in rural areas;
  - Rethinking the use of exploitation plans in land allocation;
  - Procedures on re-dimensioning and partitioning of DUAT; des-annexing family holdings from community land, titling of good faith land rights;
  - Issues of mortgaging land in rural and urban areas;
  - Issues of community land: representation; concept "community" and extent of community land; the use of the Technical Annex; the eventual impact of recent amendments to the application of the land law regulations;

## OUR CHALLENGES 2

- Development of land use management tools
  - Zoning at different scales for different purposes: identification of investment opportunities; regulating the tax system; avoiding major "mistakes" on land and DUAT allocation;
- Development of a clear Land Administration Vision
  - Institutional responsibilities: de-concentration, comparative institutional advantages, private sector involvement (surveying);
  - The challenge of dual subordination of provincial land administrations;
  - Functional analysis of the cadastre and land register: two separate or a single institution?
  - Meeting the costs of land administration at different levels and the sustainability of the system; but also the challenges of being more creative and innovative with smaller budgets;
  - Land titling approaches: systematic, sporadic, strategic land titling?; when and where? (conflict hotspots, resettlement areas, international border areas, coastal areas, others);
  - Turning cadastral services more client friendly;

## OUR CHALLENGES 3

- Land Administration Capacity Building
  - Different levels require intervention: National, Provincial, District, Municipalities;
  - Strengthening the capacity of support institutions: CENACARTA (mapping), INFATEC (land admin. school), CFJJ (judicial training centre), CEPAGRI (private sector investment), private surveyors and other service delivery capacities;
  - The need for a Recruitment Strategy and Staffing Plans;
  - Infrastructure, equipment and mobility for service delivery;
- Land Information Management System
  - Systems development: the use of modern technology;
  - Basic mapping using modern technology;
  - Updating of data, information exchange, quality control;
  - Accessibility and public use of data; the use of internet facilities.
- Policy and law implementation monitoring
  - Audits of DUAT use;
  - The application of the local consultation process;
  - The handling larger sized DUAT requests.

### The Next Steps

- Implementing the MCC/MCA Land Program at the National level and in 4 Northern provinces;
- Engaging with other partners to implement the reform process in the 6 remaining provinces;
- Preparing a zoning exercise at the scale of 1/250.000;
- Identifying institutional solutions to further develop and strengthen the regulatory framework;
- Capacity building of all institutions.