

# **An Economic Analysis of Natural Resources in Mozambique**

## **Rural Land Issues and Policies**

### **1. Introduction**

The management of land resources and legal arrangements concerning land tenure have been a matter of heated dispute among Mozambican policy-makers and external agencies over the past decade. The positions taken by many participants have been strongly influenced by circumstances and developments elsewhere in Southern Africa – notably Namibia, South Africa, and Zimbabwe. Even so, much of the argument has paid little attention to actual conditions in Mozambique, in large part because of the lack of systematic data relevant to a proper understanding of land management. One major goal of this chapter has been the compilation and analysis of data on the demand for and supply of land for agricultural use in order to provide a firmer empirical basis for future discussion.

From an economic perspective the central issue of the land debate concerns the best strategy for promoting the intensification of agriculture, focusing on the expansion of more capital-intensive forms of land use aimed at production for the market rather than for subsistence. Within this overall theme, a major point of contention concerns the respective roles of commercial medium and large scale farming that is highly market-oriented and small-scale ‘family’ farming that has been, at least in the past, less capital-intensive and more concerned with meeting subsistence needs.

The social dimension of the debate arises from concerns about poverty alleviation and the distribution of the gains from agricultural change. Mozambique remains a relatively rural country and a large majority of the poor depend upon small-scale agriculture for their livelihood. Thus, for many commentators it has been critical that new institutional arrangements affecting land tenure should protect or enhance the existing rights of poor households that rely upon access to communal land to meet their subsistence needs. But even this is far from straightforward, especially under the demographic and social pressures created by relatively high birth rates and the impact of HIV/AIDS.

Traditional systems of land management in Mozambique are far from egalitarian. Members of local elites have been able to obtain access to more and better quality land than others. The rights of women to hold or inherit rights of land use are insecure, depending upon family and other ties that may be undermined by social change and the mortality caused by HIV/AIDS. However, the entrenchment of unequal access to land has been limited by the option of moving to settle new land, either by expanding the area under cultivation or by reducing fallow periods in shifting agriculture.

The existence of a substantial margin of “unoccupied” or “under-utilised” land is a crucial outlet tempering the inequalities of communal land management. Thus, land tenure experts developing the new Land Law and its associated regulations have sought to ensure that future arrangements do not freeze existing patterns of land occupation and use but allow flexibility for expansion and change within the small-scale farming sector in future. On the other hand, opportunities for the rapid development of commercial farming may be greatest precisely in

such areas, because small-scale farming is concentrated in areas with either or both the best access to infrastructure and the best quality soils. As a consequence, policies about access to land involve real economic choices even though land resources in general are abundant.

Accepting the importance of sustaining and promoting small-scale agriculture as a core element in programs for poverty alleviation and economic development, there is still considerable scope for differences in emphasis in the design of appropriate land policies. The role of shifting agriculture is central. Mission estimates suggest that over 75% of all land used for crop production is classified as land used for shifting agriculture. Fallow periods are shortening gradually, but there is ample cultivable land available to maintain overall levels of fertility and crop production. However, sustained increases in agricultural incomes depend upon investment in more intensive methods of land use that will involve various combinations of animal power and manure, water management, better seeds, chemicals and mechanical cultivation.

There is no doubt that small farmers will respond to opportunities to enhance their incomes, provided that the risks associated with climatic variability can be managed. But, some observers believe that existing arrangements for land tenure combined with shifting agriculture hinder and thus slow up the adoption of more capital- and input-intensive forms of small farming, either by limiting the access of small farmers to sources of finance or by diffusing incentives to invest in improving or sustaining soil fertility. It is not enough to protect the interests of some vulnerable groups if the arrangements limit the capacity of many farmers to accumulate capital and adopt new methods of production.

Equally, the future role of commercial farming is also very contentious. The history of large farms and plantations during the colonial period combined with concerns to avoid the problems that characterise patterns of land ownership in many other countries in Southern Africa lead many to be very dubious about any policies that seem to promote the emergence of a substantial commercial farming sector. These doubts are reinforced by anecdotal evidence about local elites acquiring large holdings of land - sometimes in partnership with foreign investors - that is barely developed or is used for extensive ranching of cattle and game.

History and present performance matter, but the debate seems to be unnecessarily polarised. The development of commercial farming is not a zero-sum game with all gains for large farmers being made at the expense of the small-scale agricultural sector. Indeed, all experience elsewhere suggests that the reverse is true. While land ownership is extremely unequal in South Africa, the commercial farming sector has generated employment opportunities, incomes and wealth for a substantial proportion of the population. The problems that persist arise from the lack of opportunities and resources for commercial farming in areas traditionally occupied by smallholders.

Even more important are the lessons from countries like Brazil, Uruguay and Argentina where large and medium-sized commercial farms operate alongside small-scale farming. In the long term economies of scale, access to capital and technology will favour larger holdings than the present average size. But, for many decades the two sectors can co-exist to their mutual benefit by a combination of technology transfer, the creation of full-time or part-time employment opportunities, and various kinds of smallholder out-growing schemes. This applies as much to livestock rearing as to the production of cash crops, setting aside extensive ranching operations that have few spin-offs and create little employment.

Various reports of the total number of farm holdings yield estimates in the range 3.1 to 3.2 million in the period 2000-03 with an average cultivated area of about 1.35 ha per holding and a total cultivated area of about 4.25 million ha. In 2000 there were about 4,500 holdings of more than 10 ha plus a further 50,000 holdings of 5 to 10 ha. In aggregate, holdings with more than 5 ha of cultivated land account for a little under 12% of the total area under cultivation.

By conventional criteria the lower threshold for large and medium-sized commercial farms would be at least 50 ha. Such farms account for less than 2% of cultivated land, so that by no stretch of imagination can it be claimed that such farms represent a threat to small-scale farming. Indeed, the problem is that the commercial farming sector is much too small to sustain the ancillary services and employment that would assist in the development of more commercial opportunities for small-scale farmers.

This chapter examines the current and prospective utilisation of land resources in Mozambique, reviews issues concerning the legal and institutional framework following the implementation of the 1997 Land Law, examines the role of land taxes as an economic incentive for more efficient use of land resources, and outlines a strategy for future policy. It starts from three assumptions that differ sharply from those that underpin most contributions to the land debate:

- The Land Law was a significant and necessary step in regularising the legal status of land holdings and in providing security of occupation to small farmers. However, it has been given altogether too much importance in the broader context of rural development by most commentators. It establishes a small element of the necessary conditions for agricultural development, but many other important issues remain to be addressed. These depend upon a broader vision of the path towards higher agricultural incomes.
- As Mozambique is a relatively land-abundant country, the predominant forms of agricultural production are land-intensive with heavy reliance on shifting crop production and extensive livestock grazing. While elements of this pattern of land use will persist for several decades, achieving sustained growth in agricultural incomes must depend upon the intensification of land use relying upon the application of more human and physical capital combined with higher levels of material inputs – seeds, fertilisers, pesticides, etc. The transfer of skills and resources required for the successful adoption of improved agricultural technologies is a part of the story. But, the accumulation of land-related stocks of capital such on- and off-farm infrastructure for managing water resources, improving soil fertility, storing and processing crops, and extending access to markets will be the critical challenge. Land policies must provide appropriate incentives to promote the transition away from land-extensive modes of agricultural production.
- Some discussions of land policy seem to be based on an implicit assumption that the development of commercial farming and the growth of the smallholder farming are mutually exclusive options.<sup>1</sup> This is silly. As noted above, the commercial farming sector is far too small to provide the base for agricultural growth, while no democratic government can afford to neglect the needs and ambitions of small farmers in a largely

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<sup>1</sup> For example, a review of the land debate prepared for Oxfam – J. Hanlon, 'The land debate in Mozambique', Oxfam Regional Management Center for Southern Africa, July 2002 – is subtitled "Will foreign investors, the urban elite, advanced peasants or family farmers drive rural development?".

rural country. But, equally, in a land-abundant country commercial farming offers opportunities for the accumulation of capital, the adaption of new technologies, and the development of physical and market infrastructure that will emerge much more slowly from the smallholder sector. Commercial farmers and 'advanced peasants' have played a crucial role in agricultural development everywhere in the world. Since the Land Campaign, academics and NGOs have stressed the importance of developing linkages between the smallholder and the private sector as one element in stimulating the transformation of the former into market oriented units of production. (Palmer, 2000; Negrão, 2002)<sup>2</sup> Of course, the balance between sectors is important for reasons of equity and poverty alleviation, but agricultural growth too is essential and this can best be promoted by a combination of policies that recognise the decisive role of commercially oriented farming in future.

## 2. The demand for and supply of land

The total land area of Mozambique, excluding rivers and inland waters, is about 784,000 sq km. The FAO estimates that about 360,000 sq km (36 million ha) is cultivable, but the area cultivated for arable and permanent crops was estimated to be only 4.9 million ha in 2003 (INE/MADER based on the results of the 1999-2000 Agricultural Census). The amount of irrigated land is recorded as 0.11 million ha but nearly two-thirds of this is not currently irrigated.

A detailed assessment of land cover carried out in 1995 by the FAO, which forms the basis of the estimates reported in the previous paragraph, reported that only 1 million ha was under permanent cultivation while a further 10 million ha was used for short fallow shifting cultivation<sup>3</sup> and 9.1 million ha for long fallow shifting cultivation – see Table 1. Areas of open and wooded grassland and shrub account for 21.5 million ha, much of which is suitable for livestock if not for conversion to permanent cropping.

**Table 1 – Land use by province (sq km)**

Province	Total area	Cultivable area	Land use in 1995				
			Permanent Agriculture	Shifting Agriculture	Grassland	Wooded Grassland	Shrub
Cabo Delgado	82,625	50,000	148	18,760	1,684	8,280	4,692
Gaza	75,709	4,000	2,760	14,100	6,724	15,760	11,252
Inhambane	68,615	9,000	672	15,336	1,748	8,284	2,832
Manica	61,656	29,000	68	11,456	2,404	11,524	8,092
Maputo	26,358	5,000	1,668	6,984	2,784	3,184	2,732
Nampula	81,606	48,000	864	43,524	796	2,876	2,060
Niassa	129,061	84,000	40	22,124	2,344	14,608	15,976
Sofala	68,018	22,000	836	10,336	7,072	10,840	8,648

<sup>2</sup> Palmer, Robin. 2000. Land Policy in Africa: Lessons from Recent Policy and Implementation Processes; in: DFID. 2000. *Evolving Land Rights, Policy and Tenure in Africa*; DFID/IIED/NRI, London.

<sup>3</sup> This is defined as land used regularly for cropping with short fallow periods and at least one-third being cropped each year.

Tete	100,724	49,000	16	16,724	4,940	18,176	19,256
Zambezia	105,008	60,000	3,072	31,876	5,060	6,612	4,000
Total	799,380	360,000	10,144	191,220	35,556	100,144	79,540

Source: Mission estimates based on FAO and INE data.

Note: Grassland is defined as land covered with non-woody vegetation. Wooded Grassland (WG) consists of grassland with a woody component that covers no more than 10% of the area. Shrub (S) is defined as land with a predominant woody component of between 0.5 and 3 m.

Data on land use for food and cash crops presented in Table 2 show that about 42,500 sq km of land was cultivated in 2003-04 including land used for sugar cane, coconut and cashew plantations. Over 90% of this area – 39,300 sq km – was cultivated for food crops. The total area cultivated for food crops increased by only 0.9% per year from 1997-98 to 2003-04. Indeed, the area of food crops is reported as having declined in Maputo and Inhambane provinces. This may either be the result of misreporting or part of the longer term consequences of the severe floods in 2000. Pressure on cultivable land is relatively low. For the whole country, the ratio of cultivated land to cultivable land is only 12%. There are large variations between provinces. At one extreme is Gaza with a cropping rate of 72%, whereas Niassa and Tete have use rates of 3% and 7% respectively. In large part, these cropping rates mirror the share of cultivable land in total land area – only 5% of the land in Gaza but 65% of the land in Niassa is classified as cultivable. Cropping rates for land devoted to shifting agriculture are also modest.<sup>4</sup> On average the cropping rate in shifting agriculture is 17%, equivalent to a rotation period of about 1 year in 6. At the provincial level, Cabo Delgado has the highest cropping rate in shifting agriculture with a rotation period of about 1 year in 4.<sup>5</sup>

**Table 2 – Land use for food and cash crops by province (sq km)**

Province	Crop areas planted 2003-04		Cropping rates for	
	Food crops	Cash crops	Cultivable land	Shifting agricultural land
Cabo Delgado	4,606	352	10%	26%
Gaza	2,820	69	72%	1%
Inhambane	3,300	531	43%	21%
Manica	2,782	37	10%	24%
Maputo	715	151	17%	0%
Nampula	8,760	1,046	20%	21%
Niassa	2,857	51	3%	13%
Sofala	2,373	506	13%	20%
Tete	3,319	46	7%	20%

<sup>4</sup> The use rates for shifting agriculture are calculated by deducting the amount of land under permanent crops from total cultivated area and expressing the residue as a proportion of the land under shifting agriculture.

<sup>5</sup> The use rate for Maputo is reported as zero because the area of land cultivated for food and cash crops in the province (about 870 sq km) is little more than one half of the reported area under permanent agriculture (about 1670 sq km). The discrepancy may either be the result of land used for permanent pasture or under-reporting of land cultivated in 2003-04.

Zambezia	7,697	501	14%	16%
Total	39,230	3,290	12%	17%

Source: Mission estimates based on FAO and INE data.

The area of land required for livestock grazing is subject to a large degree of uncertainty because reported estimates of the total stock of domestic livestock differ dramatically (including figures reported by separate divisions of the FAO), both over time and for different species. To illustrate the point, it is widely stated that the total stock of cattle reached about 1.4 million in 1975, then fell by as much as 80% during the civil war and its aftermath, and is now gradually recovering. However, the FAO statistical database – FAOSTAT – reports that the total number of cattle peaked at 1.42 million in 1975 and declined to a trough of 1.24 million in 1994. According to these figures, the number of cattle has risen slowly to 1.32 million in 2003. On the other hand, statistics reported by the FAO's Animal Production and Health Division (FAO – APHD) give the total stock of cattle as being only 0.24 million in 1994 with rapid growth to 0.52 million in 2000. Finally, the FAO's most recent food supply evaluation (based on a survey of smallholder agriculture) reports that the total number of cattle in 2003 was about 1 million (FAO – TIA).<sup>6</sup> Further, the total stock and composition of domestic livestock reported for 2003 – a total of 1.62 million tropical livestock units (TLUs) including nearly 750,000 TLUs of goats and pigs – differs substantially from the 2000 estimate – a total of 530,000 TLUs including only 115,000 TLUs of goats and pigs. Notwithstanding the temporary impact of the floods in 2000, the two sets of estimates are not consistent with the largest discrepancies for Manica, Maputo and Tete provinces.

**Table 3 – Land use for grazing and mixed farming by province (sq km)**

Province	Total livestock (TLUs)	Grazing areas (sq km)		Mixed farming area (sq km)	Overall use rates for		
		Mixed farming	Range land		Cultivable area for mixed farming	Grassland Variant 1	Grassland Variant 2
Cabo Delgado	62,729	825	859	5,783	12%	12%	6%
Gaza	198,583	3,148	10,021	6,037	151%	58%	30%
Inhambane	173,712	3,175	5,430	7,007	78%	82%	42%
Manica	366,537	2,495	13,128	5,315	18%	129%	60%
Maputo	60,403	1,065	1,992	1,931	39%	39%	23%
Nampula	110,324	1,424	1,566	11,230	23%	57%	27%
Niassa	23,208	287	354	3,195	4%	3%	1%
Sofala	97,493	1,557	2,112	4,436	20%	14%	8%
Tete	396,305	3,182	29,688	6,547	13%	158%	70%
Zambezia	134,188	2,141	1,085	10,339	17%	12%	7%
Total	1,623,482	19,299	66,235	61,820	17%	63%	31%

Source: Mission estimates based on FAO / INE data.

<sup>6</sup> This source omits the number of cattle in the provinces of Cabo Delgado, Niassa and Zambezia. The missing data has been replaced with estimates from the FAO Animal Production and Health database to obtain a complete set of provincial estimates.

Notes: (1) The proportion of cattle grazed on range land is assumed to vary from 50% in Maputo to 80% in Gaza and Inhambane and 100% in other provinces. The proportion of goats grazed on range land is assumed to be 50% for all provinces. It is assumed that all other livestock is grazed on mixed farming land. (2) The grazing requirements vary from 2 to 3.2 ha per TLU in mixed farming and from 4 to 10 ha per TLA on range land. These estimates are based on estimates of the carrying capacity of land according to rainfall and cropping patterns derived from agricultural research. (3) The mixed farming area is the sum of the area planted to crops (from Table 2) plus the area required for grazing in mixed farming systems. (4) The calculation of use rates for grassland use the following grazing weights: Variant 1 - 1.0 for open grassland, 0.5 for wooded grassland, and 0.25 for shrub; Variant 2 - 1.0 for all three categories. Variant 2 is relevant if it is assumed that it is possible to convert all wooded grassland and shrub to open grassland.

The most recent data presented in the FAO's 2004 food supply evaluation have been used here to estimate the amount of land required for livestock grazing on the grounds that they may be based on fuller information than previous estimates. Still, the large margins of error should be borne in mind. On this basis the mission estimates that about 85,000 sq km is required for grazing with about 19,000 sq km in mixed farming and 66,000 of range grassland – see Table 3. Allowing for mixed farm grazing increases the average use of cultivable land to 17%, but the ratio is just over 150% for Gaza and nearly 80% for Inhambane. In both provinces, land that is classed as being cultivable is a small proportion of the total land area. On the other hand, for these provinces plus Maputo the total area of land under permanent or shifting agriculture is much larger than the area of land classed as being cultivable – Gaza had nearly 17,000 sq km of land under permanent or shifting agriculture but only 4,000 sq km of cultivable land. Either the classification of cultivable land is unreliable at the provincial level or there is gross over-utilisation of the available land resources in the Southern Region.<sup>7</sup> Since there is no evidence of the rate of land degradation that would be associated with such over-utilisation, the inference must be that land resources for cultivation and mixed farm are much greater in Gaza and other southern provinces than reported in the standard classifications.

There is rather more reason to be concerned about the use of grassland resources. The method of assessment underpinning the figures presented above is admittedly crude. Nonetheless, if the most recent estimates of livestock numbers are correct, then the number and composition of livestock in Manica and Tete provinces seem to be significantly greater than can be carried by the existing grassland resources – Grassland Variant 1. These two provinces have ample capacity to accommodate more livestock in mixed farming, but the relatively large numbers of cattle and goats kept on range lands is not compatible with maintaining the current composition of open grassland, wooded grassland, and shrub. If all wooded grassland and shrub were converted to open grassland (Grassland Variant 2), then the use ratios would fall to 60% for Manica and 70% for Tete – reasonable under reliable rainfall conditions but probably insufficient in the event of a prolonged drought.

As noted above, the total number of livestock has been growing rapidly since the end of the civil war. The FAO – APHD figures imply a growth rate of 13.8% from 1994 to 2000 in the total number cattle, though this slowed to 8.2% for 1997-2000. Assuming that this slowdown continues, the mission projects that total number of TLUs will grow by about 50% from 2003 to 2010. At the same time, the proportion of livestock grazed in mixed farming systems will

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<sup>7</sup> Most definitions of cultivable land focus on suitability for rainfed agriculture. Thus, the observed figures would be consistent if there was widespread use of irrigation. However, the total area of irrigated land in Mozambique is about 1,100 sq km, of which only about 35% is actually under irrigated agriculture and the area of irrigated land in Gaza Province is very small. Hence, this could not account for the discrepancy.

increase from about 45% to about 50%. On these assumptions, the land required for grazing in mixed farming will increase from about 19,000 sq km to nearly 32,000 sq km while the land required for range grazing will increase from 66,000 sq km to nearly 90,000 sq km.

Table 4 gives projections of land use for cropping, mixed farming and range land grazing in 2010 by province. The estimates of total cultivable land seem not to have included land for grazing purposes. Allowing for this together with the under-estimation of total cultivable area for the three provinces in the Southern Region, then prospective growth in land use for crop production and mixed farming area can easily be accommodated within the existing land resources. The intensity of cropping in areas of shifting agriculture in Cabo Delgado and Manica will increase to about 1 year in 3, signalling a gradual shift towards permanent cropping in some parts of these provinces.

On the other hand, pressures on range grazing will continue to grow with the prospect of over-grazing under existing vegetation patterns in several more provinces – notably Inhambane but also Nampula and Gaza – as well as a worsening in the over-grazing pressure in Manica and Tete, unless there is a shift from extensive to intensive grazing. The growth in livestock numbers in Manica, combined with the gradual reduction in fallow periods in the province, suggests that there will have to be a substantial increase in the area under permanent agriculture – either crop land or pasture – in order to accommodate the increasing demand for land to produce food and cash crops and to provide food for livestock in mixed farming systems.

**Table 4 – Projections of land use for 2010 by province**

Province	Land areas (sq km) used for:				Cropping rates		Overall use rates for		
	Food crops	Cash crops	Mixed farming	Range	Cultivable land	Shifting agricultural land	Mixed farming	Grassland Variant 1	Grassland Variant 2
Cabo Delgado	6,061	496	1,236	1,059	13%	34%	16%	15%	7%
Gaza	3,352	117	4,471	13,971	87%	5%	199%	80%	41%
Inhambane	3,300	910	6,601	9,478	47%	23%	120%	144%	74%
Manica	3,422	52	4,523	21,986	12%	30%	28%	216%	100%
Maputo	715	294	2,295	3,296	20%	0%	66%	65%	38%
Nampula	8,759	1,472	3,010	2,580	21%	22%	28%	94%	45%
Niassa	3,170	71	348	299	4%	14%	4%	2%	1%
Sofala	2,725	712	2,740	2,818	16%	25%	28%	19%	11%
Tete	3,684	65	4,079	32,777	8%	22%	16%	174%	77%
Zambezia	8,542	705	2,302	1,151	15%	19%	19%	12%	7%
Total	43,730	4,895	31,604	89,415	14%	20%	22%	85%	42%

Source: Mission estimates based on FAO / INE data.

Notes: See notes to Table 3.

For Mozambique as a whole there are ample land resources to cater for prospective increases in rural population and agricultural production over the next 10-15 years. Cropping rates on cultivable land will remain below 20% for the country, while total land used for cropping and

mixed farming systems should remain less than 40% up to 2020. This should mean that there is ample scope for providing land for a rapid expansion of medium and large scale commercial farming that has not been included within these estimates.

However, our analysis shows that there are some important qualifications to this broad conclusion.

- A significant part of the demand for commercial farming focuses on the extensive grazing of cattle and other livestock. There seems to be substantial pressure on existing range grassland resources in at least two provinces – Tete and Manica – today and this situation is likely to get considerable worse during the next decade. While there should be no difficulty in accommodating demand for grazing on permanent pasture and in mixed farming, the development of extensive range grazing should be discouraged in most provinces. The exceptions could be those that have ample under-utilised range grazing such as Cabo Delgado, Niassa, Sofala and Zambezia.
- There is very little information on existing stocking rates and land use patterns set in the context of accessibility and infrastructure provision. A study of land use in Manica District (the largest district in Manica Province by population) carried out by Cruzeiro do Sul shows the critical importance of transport infrastructure. Within zones of moderate to good soil quality, existing smallholder agriculture is concentrated in areas close to the major transport corridors. The same is true for land licensed for commercial farming, even to the extent of licenses being acquired in areas with poorer land but better access by road. While Manica Province faces a prospect of considerable land pressure in future, there are significant areas of land categorised as having moderate to good soil quality that are not currently farmed either because they are unattractive for small farmers and/or as a consequence of difficulty of access. This reinforces the standard economic point that the management of land resources is as much about the development of infrastructure - in particular roads - as it is about legal aspects of land rights and policies. This dimension has been neglected in recent debates both inside and outside Mozambique.

There is one important qualification to these conclusions. The fact that there is ample under- or unutilised land available for the expansion of commercial and small scale agriculture leaves open the question of who has rights over the use of that land. Recent estimates – see Negrão (1992) – suggest that land concessions over about 28,000 sq. km were awarded up to 1990. Land concessions to private companies and farmers since then amount to a further 5,000 sq km. How far this overlaps with the area of cultivated or cultivable land is not known. Still it is clear that agricultural expansion will involve the transfer from current use to new uses of large areas of land that has already been conceded to individuals, companies and institutions. Thus, it is critical that the legal framework should permit such transfers to take place in a reliable, transparent and efficient manner.

### 3. Legal and institutional arrangements

In common with most countries in East and Southern Africa, conflicts over land use in Mozambique are exacerbated by inconsistency in the definition and implementation of land rights. The conflicts are not going to disappear quickly; neither will questions about the provisions and implementation of the most recent Land Law passed in 1997. In large part this reflects the competing interests and objectives of different contributors to the debate.

Since Mozambique is a large country, relatively thinly populated with large areas of unutilised or intermittently occupied land, it might seem possible to resolve conflicts over land by a process of separating competing uses or users. However, as in other countries, land that is little utilised may be unsuitable for many types of agriculture or may require substantial investment in access roads, other infrastructure or water management. Conflicts predominantly take two forms.

- Disputes about rights over the most fertile or climatically well-favoured land.
- Disputes between competing form of low intensity land use such as hunting or game ranching, other forms of livestock, and shifting cultivation.

The heritage of the colonial and post-colonial period is relevant because it underpins some of the fears about current arrangements as well as providing the basis for some of the more intractable conflicts.<sup>8</sup>

Up until independence small farmers relied upon customary forms of land tenure with conflicts being adjudicated by traditional community or tribal elders. Commercial farmers, plantation owners, etc – almost all of them Portuguese - had long leases that were almost equivalent to freehold ownership. Most efforts at agricultural development had been concentrated in areas dominated by large farmers, so that medium and large farms accounted for the major part of land use in irrigated areas and in the more productive or accessible areas.

Independence was followed by the departure of most of the Portuguese population and the abandonment of many commercial farms. This was reinforced by the expropriation in 1977 of farms in provinces bordering on the former Rhodesia controlled by supporters of the Smith regime. At the same time the government adopted an economic system based on state enterprises and cooperatives combined with a constitutional principle that all land was state property. The abandoned commercial farms were reorganized into large state farms, while small farmers were expected to join cooperatives or communal villages along the lines of the Tanzanian villagisation program.

Both elements of this reform were disastrous. The state did not have either the resources or capacity to maintain the infrastructure and operations of the state farms, so that output of cash crops fell and the state farm sector rapidly imposed a severe economic and financial burden on the whole economy. Equally, small farmers had limited incentives to produce and sell food crops and often resisted incorporation in cooperatives or communal villages.

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<sup>8</sup> Tanner provides a detailed description of the origins of 1997 Land Law from a social, political and legal perspective. See C. Tanner – *Law-making in an African context : The 1997 Mozambican land law*, FAO Legal Papers Online No 26, March 2002, [www.fao.org/pub-e.htm](http://www.fao.org/pub-e.htm).

In some areas Frelimo attempted to displace traditional authorities, who had controlled customary land rights, leading to conflicts between land rights created by the former and the new authorities.

By 1983 it was evident that the quasi-socialist model was failing and the government gradually began to liberalise markets for some crops. Following the adoption of a Structural Adjustment Program in 1987 many of the state farms effectively collapsed and reverted to small farmer production. The process was reinforced by the large displacement of population caused by the worsening civil war during the 1980s. Large numbers of people moved to areas that were either more secure or perhaps more capable of supporting the population influx. Not surprisingly many of the receiving areas were among the most favourable for commercial farming.

After the end of the civil war, displaced families and others have tried to return to their former land. In small number of cases this has led to conflict between displaced occupiers and those who have taken over their land. At the same time, conflicts resulting from changing patterns of occupation before the civil war continue to be a problem. With peace and stability, local and expatriate investors, including members of the urban elites, started to gain control of land that was claimed to be “unoccupied” or “abandoned” for the purpose of developing new businesses or in the expectation that improvements in infrastructure or economic prospects will induce others to “acquire” this land.

At the same time, the recovery of economic activity encouraged small farmers to expand production to take advantage of better access to urban markets. Expanding production meant bringing land that had been temporarily abandoned back into cultivation. As a result there were some conflicts between small farmers wishing to assert their traditional land use rights and those who had submitted legal claims or acquired leases over the same land.

The 1997 Land Law, followed by the secondary legislation passed in 1998, represents an attempt to address these types of conflicts. It is founded upon a number of core principles.<sup>9</sup>

- o All land remains as the property of the state, but land leases can be granted for up to 50 years. These leases are renewable, inheritable and may be transferred (other than by inheritance) subject to prior administrative authorisation – in effect, such transfers are not valid until they have been authorised.
- o One condition for the award of a lease is the presentation of a land use or development plan. The lease can be cancelled by administrative action if the lessor fails to comply with this land use plan.
- o While there is technically no market in land, investments in infrastructure and improvements on leased land can be bought and sold. However, administrative authorisation is still required for the transfer of leases associated with the sale of infrastructure or other investments on land.
- o Traditional land use rights are recognised and formalised through a system of community land management, implemented through co-titling of community lands.

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<sup>9</sup> This summary is based on an untitled country case study prepared in 2002 by Maria de Conceicao de Quadros, one of the primary authors of the Land Law.

- o Existing users of land are protected provided that they can demonstrate regular, “good faith” occupation of the land. This need not rest upon documentary evidence as verbal evidence from members of the community was recognised as valid.
- o The right of local participation and consultation in the management of natural resources and in procedures leading to the award of land leases in order both to protect traditional community rights and to take account of the future needs of communities.

For many people, the fundamental goal of the 1997 Land Law was to protect the traditional land use rights of small farmers, including those who occupy unutilised land in good faith. One element was the clear definition of the legitimacy of existing occupation rights. Linked to this was the establishment of mechanisms either to resolve disputes over these occupation rights or to validate arrangements that had been arrived at by community representatives and other local bodies. These elements were important in political terms as part of the wider effort to deal with sources of conflict arising from the inheritance of colonial and post-independence attempts to redistribute land as well as the dislocation caused by the civil war.

From an economic point of view, providing stability for small farmers was an essential element in economic recovery and in the Government’s strategy to reduce poverty. It offered the prospect of lower rates of rural-urban migration combined with more savings and investment in small-scale agriculture, leading to more productive use of land and human resources.

However, there is a more controversial dimension to the ideas developed by the proponents of the Land Law. They wished to ensure that communities continued to have access to land resources used in longer period rotational cycles and communal forest resources. These are illustrated in Figure 1 of Tanner’s paper. The argument was that these resources were critical as underpinning the production strategies of local communities and in enabling them to cope with the uncertainty caused by the variability of rainfall in most parts of Mozambique. Further, communities would need to make use of these land resources, even if they were currently “under-utilised”, to accommodate population growth and rural development.

The difficulty lies in the fact that this view is based on a strong assumption about the balance between – and, perhaps, desirability of – alternative modes of agricultural growth. The issue concerns the balance between more intensive cultivation of currently occupied land versus the extension of the frontier of regular or intermittent cultivation. This is a perennial question in understanding the economics of agricultural development, but it cannot be pre-empted by legal and institutional arrangements that ignore the pressures on land use prompted by both forms of agricultural growth. For this reason, the key weakness of the Land Law, reflected in the continuing pressures on traditional land use and the associated conflicts between the holders of large leases and local communities, lies in its failure to address the balance between more intensive or more extensive land use, which is equivalent to balancing traditional communities rights with attracting more capitalized and commercially oriented farming systems.

In their defence, the authors of the law would probably argue that legislation and its associated regulations can only prescribe a framework that can be used either to resolve conflicts or to develop more detailed policies. The purpose of their framework was (a) to strengthen the bargaining position of communities and others dependent upon traditional land rights, and (b)

to encourage the development of partnerships between large land users and local communities through mechanisms based on consultation and local participation.

While admirable in principle, this approach has turned out in practice to be either naive or too limited to work on a large scale. Few real partnerships have developed, though out-grower arrangements for tobacco and sugar are developing in some areas. NGOs argue that mechanisms for consultation and participation have been a charade in many cases, with the result that (many) small farmers have been displaced without due process or compensation. On the other side, agricultural investors wishing to develop sophisticated and capital-intensive operations complain about the difficulties of obtaining secure leases and navigating the bureaucratic system.

### **3.1 *Land speculation***

One particularly contentious issue concerns the extent of and reasons for “speculation” in land. It is asserted that (a) large areas of land have been leased by rich and/or influential individuals and companies, and (b) the lessors have no intention of cultivating more than a small proportion of their land themselves but are primarily interested in profiting by trading their land rights to others. Setting aside allegations about the manner in which the holdings were acquired, this raises familiar questions about the process by which land is converted from one form of use to another.

To describe land acquisition as being speculative is intended as being pejorative, but it is crucial to understand the incentives that underpin such behaviour. What is usually meant by this phrase is that rights to large areas of land are being acquired or transferred on the basis of expectations about its value in a variety of future uses, while the land itself is not being farmed or used for other (low value) purposes (forestry, hunting reserves, etc). From a stricter theoretical perspective there is nothing improper about such speculation and it is essentially irrelevant whether the process of conversion involves a specialist intermediary (the “land speculator”) or is undertaken by the ultimate user. However, economics also tells us that land concentration resulting from the use of privileges – such as political authority – to ensure appropriation of nearly grand-fathered land rights, creates monopolies that distort markets and interfere with the efficient use of land. The Gini coefficient for land allocated by the state is very high (about 0.8), which is associated with very large holdings relative to the resources required to develop land for commercial agriculture or similar uses. Unfortunately, many of those who acquire land by this route are notably inept in managing the process of land conversion, since their interest and expertise lies in other spheres of economic activity.

It follows that all land acquisition is essentially speculative, because the sum that bidders are prepared to pay in order to own or lease a particular area of land must be based on the expected resource rents that can be earned from future agricultural or other uses of the land. It is relatively unimportant whether it is the current or some future owner/leaseholder who will manage the land to generate the expected rents. Thus, according to the most basic precepts of land economics, the effects of changes in economic conditions and opportunities affecting land use are capitalised in land values. This gives rise to the classic literature on the theme of “the early bird gets the worm”, i.e. at what point and in what manner does the owner of land capture the benefits of changes in future land use?

In the case of land in Mozambique, the termination of the civil war together with economic liberalisation as well as developments in other countries in Southern Africa clearly changed the

prospects for more capital-intensive farming. Other factors – such as current or prospective investments in infrastructure, water management, market development, etc – will reinforce changes in the potential rents that can be earned from land in the areas affected. Thus, “speculation” reflects changes in economic fundamentals that cannot be dismissed. The manner in which it occurs may be distasteful and highly inequitable, but it is a classic case of rent-seeking behaviour in “markets” that are constrained and untransparent.

The full adjustment to the economic conditions that will justify higher resources may be a process that extends over many years. Then, “speculative” transfers today reflect either or both differences in expected rates of return and asymmetric information to various parties, or in more extreme and cases, the granting of rights to privileged parties or individuals. Again, the constraints and lack of transparency that characterise land transfers create the opportunities for rent-seeking by intermediaries.

The key issue is one of economic incentives. Owners or leaseholders will only hold land for “speculative” or any other purpose if the expected gross rate of return yielded by the land exceeds the holding cost. It would be perverse to adopt policies designed to reduce the expected gross rate of return on holding land, since these could only succeed by lowering the resource rents that can be earned from converting land to alternative uses. These would have a parallel effect on investment and agricultural development. Hence, the focus must be on the cost of holding land – in particular on land taxes, which function as rents under current arrangements.

Rent-seeking behaviour is encouraged by a system of acquiring land rights that lacks transparency and allows the well-connected to obtain large holdings at virtually no cost. This focuses attention on the mechanisms by which land rights are awarded – see below. However, there is scant basis in experience to expect that past injustices can be corrected or future ones avoided. If the prospective profits from land conversion are large, then no bureaucratic system has ever proved capable of controlling the process of land acquisition or transfer, other than by completely suppressing all manifestations of market transactions.

### 3.2 *Leasehold vs freehold land rights*

Much attention has focused on the alleged consequences of the fact that land can only be held on leaseholds rather than freeholds. However, it should be noted that almost all land in one of the most property-intensive jurisdictions in the world – Hong Kong – is held on government leases of 50 years or more. Hong Kong has no shortage of prospective purchasers for land backed by financial institutions that regard 50 year leases on development sites as perfectly adequate collateral.

On the other hand, the proponents of the property rights school of development can point to clear evidence of the positive impact of the security of tenure associated with ownership rights on investment and agricultural growth.<sup>10</sup> Further, it is argued that, unless farmers are able to

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<sup>10</sup> See K. Deininger, S. Jin, B. Adenew, S. Gebre-Selassie & B. Nega, ‘Tenure security and land-related investment: evidence from Ethiopia’, World Bank, 2003 for a detailed study of the association between land tenure and agricultural activity in Ethiopia. A World Bank research study published as K. Deininger, *Land Policies for Growth and Poverty Reduction*, Oxford: OUP, 2003 provides a review of evidence from a variety of countries, in particular Latin America. However, sceptics such as J. Quan, ‘Land tenure, economic growth and poverty in Sub-Saharan Africa’ in C. Toulmin & J. Quan (eds), *Evolving land rights, policy and tenure in Africa*, London: IIED, 2000 emphasise the lack of any positive effect of land titling in various other African countries.

pledge ownership rights as collateral for loans, financial institutions will not be willing to provide the funds required to finance the investments required to sustain the growth of commercial agriculture.

In the context of Mozambique, the debate about land ownership versus leasehold titles has tended to generate more heat than light because of the strong ideological tone adopted by the advocates of different positions. A more nuanced set of conclusions will be more helpful as a guide for shaping policy.

- o Most financial institutions have little commercial interest in lending to smallholders and even medium-sized farmers. The costs of originating, monitoring and collecting such loans are much too high given the rates of interest that can be charged. That is why cooperative lenders and other micro-finance institutions have a special niche in meeting the credit needs of small farmers.
- o Such organisations have limited interest in agricultural land as collateral. Under the best of circumstances it is difficult, expensive and usually unpopular to cover defaulting loans by selling mortgaged farms. In any case, the circumstances under which loans cannot be repaid are frequently associated with a general decline in land values and substantial difficulty in selling land. Hence, lending to small farmers is, in effect, a form of consumer finance, which has to be judged on their cash flow and ability to repay the loans.
- o All lenders want to have leverage in dealing with delinquent borrowers in order to deal with those who “can pay but won’t pay”. Community pressure is the classic way of dealing with this problem, as illustrated by the widespread role of credit unions, cooperatives and similar mutual organisations in housing finance and agricultural credit. Hence, a policy of linking cooperative credit mechanisms to the community management of traditional land rights would be the natural way of dealing with credit for small farmers.
- o Even in the case of medium or large farmers, financial institutions are often reluctant to rely too much on any form of land assets as the collateral for loans. More usually, including the case of property development in Hong Kong, it is the rents that can be obtained from physical assets. This means that the current legal framework should provide an adequate basis for lending to commercial farmers, since improvements to land – including buildings, assets, etc – can be mortgaged, sold and transferred following standard legal procedures.
- o Policies and institutional arrangements designed to protect family and communal interests in the small-scale farming sector may be irrelevant and inappropriate for commercial operators with very different requirements for capital and access to financial markets. ‘One-size fits all’ seems to be a rather poor motto for land policy. It should be possible to find ways of allowing commercial farms to rely upon their land (plus associated improvements and structures) as collateral for loans without wholesale privatisation of land held by small farmers and communities. Indeed, this seems to be possible for urban land

under the current law and regulations and it may also be possible for agricultural land held by companies.<sup>11</sup>

Why, then, is it claimed that either the formal recognition of private ownership of land or other changes to the land law are required in order to underpin the development of commercial agriculture? There seem to be two inter-related issues at stake. These concern (a) the role of land collateral as an incentive mechanism, and (b) the security of the type of property rights created by the present system.

If it is difficult and unpopular for lenders to take over land owned by defaulting borrowers as security for loans, why do mortgages over land remain widespread in many countries? Selling a farm is really the “nuclear” option for the lender, after everything else has failed. In effect, it is a disaster for both parties. But the fact that it is possible puts great pressure of the borrower to avoid this outcome, which means that they will make effort to repay loans that are in partial default, often by voluntarily selling some of the land or by adopting other drastic measures to avoid full default.

It is also necessary to understand the example of Hong Kong properly. True, land is held as leaseholds but these are freely transferable with the buildings that occupy the land. Further, as a substitute for relying upon land as collateral, lenders generally require some kind of guarantee from property developers, so that the absence of land collateral is offset by other forms of security or incentive for repayment of the loan.

In fact, the real issue is not the legal technicalities of land ownership or leaseholds but whether the associated property rights are secure, enforceable, and transferable without excessive bureaucratic interference or discretion. The problems, such as they are, lie not with the provisions of the Land Law but with the bureaucratic structure and legal precepts that underpin its implementation.

For example, it has been suggested that, under the present legal regime, improvements to land – whether buildings or irrigation infrastructure – represent satisfactory security for loans in the same way as the land itself is used as collateral in legal systems with conventional private property rights in land. It is hard to see what could justify this view. Any improvements are only valuable to the occupier of the land. Unless there is a guarantee that the land title or use right for a plot of land whose improvements have been mortgaged will be transferred along with the title to the improvements on the land, the security cannot be enforced in practical terms. What this would require is a legal doctrine that the land title necessarily follows the ownership of any land improvements. It seems extremely unlikely that the Land Law would be applied by the courts in that way. There is certainly no indication that the Government intended such an interpretation.

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<sup>11</sup> If the land title is held by a company, which is permissible under the Regulations to the Land Law, then effective control of the land may be transferred simply by transferring a majority of shares in the company. There seem to be no change of control provisions in land titles - in any case, they would be almost impossible to enforce – so land held by a company can be offered as security by pledging shares in the company. A lender can execute this security by selling the shares in the company. With a moderate degree of legal ingenuity there would seem to be no barrier to creating arrangements that are equivalent in economic terms to a mortgage on land. The only problem is that, in absence of a clear and specific regulation, these arrangements will be more costly and perhaps provide less reliable security than a simple mortgage, so that the effect of current legal provisions is to increase transactions costs for borrowing secured against land.

The point being made by those stressing the potential role of land as collateral is that unsophisticated financial and unreliable legal systems may offer few or no alternative forms of enforceable security. It should be recalled that in many countries debtors who could not pay might be thrown in jail (or worse) up to a century ago. The key issue in Mozambique is what alternative form(s) of realisable security can be offered by commercial farmers to guarantee payment of their loans. Since no one wishes to reinvent debtor's prisons, there will be no substantial flow of debt finance for commercial farming without such security.

It is an open question as to whether this will matter for the next one or two decades. For as long as leases on undeveloped areas of agricultural land can be obtained at minimal cost, commercial farmers will not have to pay for the acquisition of their primary resource. But, bringing such land into cultivation – including, if necessary, building roads and water infrastructure – is time-consuming and costly, perhaps requiring substantial access to finance. On a small scale these costs can be financed out of the cash flow generated by current crop production, but without either substantial initial equity or access to loans the rate of development of commercial farms will be limited by the net surplus that they can generate.

The same point applies to the resources required to finance working capital – seeds and other inputs, young livestock, etc. In this case, the main problem is one of resilience in the face of crop failures caused by climatic variability and other external factors. Commercial farmers without access to finance for working capital can build up sufficient equity to insure themselves, but this may not be an efficient allocation of risk capital and will certainly slow the pace of development of commercial farming in areas prone to large risks that cannot be controlled. As one alternative, farm machinery, buildings and livestock may provide some form of security for working capital loans, but these are assets whose realisable value is either small or highly uncertain, so that they cannot be used to secure substantial loans.

Thus, the fundamental point remains. Even if commercial farmers do not have to buy land, they must make substantial investments in land improvements and working capital if the sector is to grow rapidly. In absence of substantial flows of capital from outside the country, this investment must be financed from internally-generated funds or borrowing. Without security, debt finance will play a minimal role in funding the expansion of commercial farming. But, the greater the reliance upon cash flow, the slower will be the growth of the sector.

Land ownership is not a panacea, but it does offer the prospect of more investment in land improvement and infrastructure rather than in mobile assets – livestock, etc. Loan finance for such investments will always be limited because risks are high, so that both borrowers and lenders will prefer to maintain relatively low levels of debt to equity. Whether the benefits of more rapid growth in commercial farming are sufficient to offset the perceived political and social costs of adapting the current legal structure is a moot point. However, it is clear that the problem will not go away, unless either (a) more equity capital can be attracted into commercial farming and/or (b) some alternative form(s) of security can be devised to allow commercial farmers to expand their activities by mobilising debt finance.

### ***3.3 Implementation of the licensing regime***

Concerns about the Land Law have to be seen in the context of broader issues of governance. It is generally agreed that the judicial system is poorly equipped to deal with disputes about land rights and may be susceptible to corruption and political influence. Thus, property rights associated with leases and capital improvements may be neither secure nor enforceable, at least

in case where any conflict involves influential individuals or interest groups. But no change in the law is going to solve this problem.

A second issue is the scope for bureaucratic discretion and thus either corruption or meddling when leases are transferred. The main pressure point concerns whether or not the land has been developed in accordance with the authorised land use plan. If leases are granted subject to certain conditions, equivalent to zoning or other development restrictions imposed in all developed countries, it may seem entirely reasonable to check whether these conditions are being complied with at the time that land transfers are registered. The difficulty, of course, lies in the usual gap between plans and reality, either due to factors outside the control of the lessor or because the original plans were unrealistic.

The particular concern lies with the failure to cultivate land – either at all or in accordance with the original plan. But, as explained above, it would be much better to rely upon an appropriate set of economic incentives for the efficient use of land resources than on bureaucratic monitoring, especially if this is linked to arrangements for the transfer of leases. In market economies there is a clear separation of land transactions and the enforcement of zoning or similar development conditions. Under certain circumstances government awards of land or leases can be terminated as a consequence of gross failure to comply with the relevant obligations, but this can only be done after a judicial process with careful checks and balances.

The bureaucracy is not equipped either to monitor or to enforce development conditions, nor is there sufficient trust in the independence of the authorities and the judicial system. Thus, penalties and enforcement for non-compliance with conditions on land leases must be simple, unambiguous and easily enforceable. In practice, this means that payment of the lease fee or land tax is only condition that can reasonably enforced – either by forfeiture of the lease after a period of non-payment or by requiring payment of unpaid taxes (with a penal rate of interest) before a lease title can be transferred.<sup>12</sup>

Responsibility for the award of leases lies with the Survey Department. In 2001 it introduced a simplified procedure for responding to applications for land leases. This sets a target of 90 days for processing applications, provided that the complete documentation is submitted with the application. The period includes time for consultation with local communities. Some critics believe that the pressure of time may lead to such consultations being cutting short or carried out in a manner that excludes many local interests.

The number of applications for titles dealt with in a period of the two years from October 2001 to October 2003 was just over 5,500 covering a total land area of 3.9 million ha. Most of the applications were approved, though the amount of land covered by the applications that were approved is not reported.

Put in context, the land area covered by the applications for land titles over this period was equivalent to 90% of the total area of cultivated land in the country. Of course, almost all of the land covered by such applications was not cultivated, but it is extremely unlikely that even the majority of this land could be brought into cultivation within the time period of 5 years allowed for the implementation of land development plans. Some of the applications were for vast amounts of land. As an illustration, 149 applications for land in Gaza in 2002-03 cover 2.3

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<sup>12</sup> This requirement applies today, but it is not possible to determine whether and how often it has been enforced. In any case the interest charged on unpaid taxes appears to be far below the general level of nominal interest rates.

million ha or an average of 15,500 ha per application. On the other hand, the 183 applications for land titles in Niassa and Tete during the same year averaged 36 ha and the total amount of land involved was less than the average size of applications in Gaza. There is no information about distribution of applications across different types of current or future land use.

However well intentioned and implemented the procedures for handling applications may be it is difficult to accept that it is reasonable to follow broadly similar procedures for applications covering 50 or 50,000 ha. There is, in fact, one significant difference, as applications for areas between 1,000 and 9,999 ha must be approved by the Ministry of Agriculture (instead of the provincial governor), while those for areas of 10,000 ha or more must be approved by the Council of Ministers. Nonetheless, it seems reasonable to require a more thorough process of consultation and due diligence for applications for 1,000 ha or more.

More fundamentally, it is questionable as to whether any titles for land areas of more than 1,000 or 2,000 ha should be awarded for agricultural use. Under current conditions such large areas of land will only be used for extensive livestock production, which should be discouraged. Few, if any, commercial farmers interested in mixed farming or crop production have the resources to develop 1,000 ha in a period of 5 years. A very small number of agri-business companies with substantial capital can easily be dealt with on an exceptional basis. Otherwise, it is better to encourage land to be developed in smaller blocks, provided that successful farmers are allowed the opportunity to acquire title to more land – either from other titleholders or by submitting new applications once they have developed the land covered by their existing titles. In this context, the role of land taxes is critical.

#### 4. Land taxes and rents

##### 4.1 *The current system*

A crucial issue for land policy in Mozambique is the level, implementation and enforcement of land taxes, which are equivalent to the rent payable under a land lease. The regulations to the 1997 Land Law, published in 1999, specify a standard tax rate of MT 30,000 per hectare but with a series of multipliers according to holding size, location and use. The full set of land tax rates are shown in Table 5. The tax rates span a large range from a minimum of MT 7,500 per ha up to a maximum of MT 180,000 per ha.

**Table 5 – Annual land tax rates by classification  
(MT 000s per hectare)**

Location	Land category	Holding size	Nationals		Non-Nationals
			Ordinary	Non-Profit Organisations	All
<b>A. Non-Agricultural Use (excl plots of &lt; 1 ha for tourist development within 3 km of coastline)</b>					
Maputo Province	Standard	Up to 100 ha	48.0	30.0	60.0
		101 - 1000 ha	72.0	45.0	90.0
		> 1000 ha	96.0	60.0	120.0
	Development zones	Up to 100 ha	24.0	15.0	30.0
		101 - 1000 ha	36.0	22.5	45.0
		> 1000 ha	48.0	30.0	60.0

	Partial protection zones	Up to 100 ha	72.0	45.0	90.0
		101 - 1000 ha	108.0	67.5	135.0
		> 1000 ha	144.0	90.0	180.0
Other Provinces	Standard	Up to 100 ha	24.0	15.0	30.0
		101 - 1000 ha	36.0	22.5	45.0
		> 1000 ha	48.0	30.0	60.0
	Development zones	Up to 100 ha	12.0	7.5	15.0
		101 - 1000 ha	18.0	11.3	22.5
		> 1000 ha	24.0	15.0	30.0
	Partial protection zones	Up to 100 ha	36.0	22.5	45.0
		101 - 1000 ha	54.0	33.8	67.5
		> 1000 ha	72.0	45.0	90.0
<b>B. Agricultural Use excl Special Cases</b>					
Maputo Province	Standard	Up to 100 ha	24.0	15.0	30.0
		101 - 1000 ha	36.0	22.5	45.0
		> 1000 ha	48.0	30.0	60.0
	Development zones	Up to 100 ha	12.0	7.5	15.0
		101 - 1000 ha	18.0	11.3	22.5
		> 1000 ha	24.0	15.0	30.0
	Partial protection zones	Up to 100 ha	36.0	22.5	45.0
		101 - 1000 ha	54.0	33.8	67.5
		> 1000 ha	72.0	45.0	90.0
Other Provinces	Standard	Up to 100 ha	12.0	7.5	15.0
		101 - 1000 ha	18.0	11.3	22.5
		> 1000 ha	24.0	15.0	30.0
	Development zones	Up to 100 ha	6.0	3.8	7.5
		101 - 1000 ha	9.0	5.6	11.3
		> 1000 ha	12.0	7.5	15.0
	Partial protection zones	Up to 100 ha	18.0	11.3	22.5
		101 - 1000 ha	27.0	16.9	33.8
		> 1000 ha	36.0	22.5	45.0
<b>C. Cattle-breeding, wildlife farming, permanent crops</b>					
Maputo Province	Standard	Up to 100 ha	3.2	2.0	4.0
(excl cattle breeding)		101 - 1000 ha	3.2	2.0	4.0
		> 1000 ha	3.2	2.0	4.0
	Development zones	Up to 100 ha	1.6	1.0	2.0
		101 - 1000 ha	1.6	1.0	2.0
		> 1000 ha	1.6	1.0	2.0
	Partial protection zones	Up to 100 ha	4.8	3.0	6.0
		101 - 1000 ha	4.8	3.0	6.0
		> 1000 ha	4.8	3.0	6.0
Other Provinces	Standard	Up to 100 ha	1.6	1.0	2.0
(incl Maputo for cattle)		101 - 1000 ha	1.6	1.0	2.0
		> 1000 ha	1.6	1.0	2.0
	Development zones	Up to 100 ha	0.8	0.5	1.0
		101 - 1000 ha	0.8	0.5	1.0
		> 1000 ha	0.8	0.5	1.0
	Partial protection zones	Up to 100 ha	2.4	1.5	3.0
		101 - 1000 ha	2.4	1.5	3.0
		> 1000 ha	2.4	1.5	3.0

**D. Plots of < 1 ha for tourist development within 3 km of coastline)**

Maputo Province	Standard	Up to 1 ha	320.0	200.0	400.0
	Development zones	Up to 1 ha	160.0	100.0	200.0
	Partial protection zones	Up to 1 ha	480.0	300.0	600.0
Other Provinces	Standard	Up to 1 ha	160.0	100.0	200.0
	Development zones	Up to 1 ha	80.0	50.0	100.0
	Partial protection zones	Up to 1 ha	240.0	150.0	300.0

Source: Regulamento da Lei de Terras, Maputo, 1999.

Article 29 specifies, among other provisions, that the use of land is free – i.e. no land tax applies – when it is intended for family uses, local communities and the individuals who belong to them, and cooperatives. The elaborate differentiation of tax rates makes little sense in the context of the actual distribution of land holdings. In particular

- o Areas of partial protection are defined in the Land Law to include areas such as the land strip up to 100 m surrounding a water source, 250 m along the edge of dams and reservoirs, and border strips of up to 50 m along roads, utility transmission lines and other pipelines. While there may be good reasons to establish a principle of eminent domain over such land to allow for future expansion, it is almost impossible to implement a sensible differentiation in the application of land taxes to such land. Further, the Law states

“In total and partial protection zones the right of use and benefit of land cannot be acquired, however special licences may be issued for the exercising of determined activities.”

In other words, such land can be used for restricted purposes only and any rights of use are limited by the power of Government to exercise pre-emptive rights over the land.<sup>13</sup> There can be no justification for charging a higher rate of land tax for holdings that are licenced in these areas.

- o The results of the Agricultural Census of 1999-2000 show that there were only 60 holdings with more than 100 ha of cultivated land (out of 3.06 million holdings in total). Indeed, there were only 4,483 holdings with between 10 and 100 ha of cultivated land; 88% of these holdings had between 10 and 20 ha of cultivated land with an average size of 12.1 ha. In practical terms there seems to be little point to applying higher tax rates to land holdings of cultivated land greater than 100 ha. In terms of total land area cultivated, there are 15 holdings with more than 1,000 ha of cultivated land (with an average of 3,045 ha per holding). These will be farms operated by companies, so they will be subject to other provisions of the tax system concerning profits taxation, etc. No effective redistribution will be achieved by the two higher bands of land tax rates (101 – 1,000 ha and > 1,000

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<sup>13</sup> Article 7, Clause 1 of the Land Law Regulations of 1998 states “No right of land use and benefit may be acquired in partial protection zones.” It is not clear whether this is intended to restrict further the use of land in partial protection zones or is merely a matter of careless drafting – see also Article 8, Clauses 1 & 2. The intention is clearly that land in partial protection zones may only be used for specially approved purposes and that no right of occupation or use may be created. In such a context it is hard to understand why any land tax should be payable, let alone at a higher than normal rate.

ha) and their existence simply creates incentives to evade or manipulate tax liabilities.

- o Similar considerations apply to the discrimination against non-nationals. Again the Land Law states

“Natural and juristic foreign persons can be subject to the right of use and benefit of land, once they have an investment project that is duly approved and the following conditions are observed:-

- (a) in the case of natural persons, once they have been resident in the Republic of Mozambique for at least five years;
- (b) in the case of juristic persons, once they are constituted or registered in the Republic of Mozambique.”

The effect of these provisions is to ensure that either (i) non-nationals operate in partnership with nationals who obtain the right of land use, or (ii) non-nationals establish and operate through registered companies. Again, the higher tax rates for non-nationals are likely to be ineffective and any redistributive effect could be better achieved by other tax instruments.

In summary, the discriminatory structure of land taxes is almost certainly ineffective and, to the extent that it is actually enforced, it encourages the inefficient use of land. It is much more important to apply *and enforce* a simple structure of land taxes with minimal differentiation between different categories of user and use.

#### 4.2 *Land rents versus land taxes*

Any reform of land taxes must be seen in the broader context of fiscal policy, raising the larger issue of whether it is desirable and/or possible to tax agricultural income or production. As in other similar countries, the share of the tax burden falling upon the agricultural sector and the rural population is low in relation to their shares in national income and consumption. This may be justified on either practical grounds of tax administration or on the basis that poverty is concentrated among rural households dependent on agriculture. In any case, the government relies primarily upon taxes on goods, services and international trade for its revenue – these taxes accounted for 80% of tax revenues – so that taxes on agricultural output or exports would not be consistent with the overall structure of the tax system. Nonetheless, there should be no special exemption for agricultural incomes or profits from the general taxation of income and profits. This would ensure that commercial agriculture would be taxed on the same basis as other sectors.<sup>14</sup>

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<sup>14</sup> The case is sometimes made that taxing agricultural exports is a second best substitute for taxing the income generated by commercial agriculture. Under certain assumptions this may be theoretically valid, but few would recognize these assumptions as reflecting the reality of tax systems in developing countries. The great problem is the tendency for export taxes to become an easy and highly distorting source of revenue for governments unwilling or unable to tax better proxies for agricultural income. Further, the increasing sophistication of world trade in agricultural or horticultural produce poses huge problems of tax classification and inefficient tax-driven investments. It may be relatively simple to tax exports of raw sugar, cashew nuts or oranges, but what about sugar-based sweeteners, packaged mixed nuts or orange juice?

Notwithstanding the general principle that agricultural production and income should be treated like other sectors, the legal principle remains that land is state property leased by farmers. Hence, it is reasonable to impose some form of taxation on either land or the output produced from that land in lieu of rent. The question is what practical basis of taxation provides the best approximation to the amount of rent that the leaseholder would be willing to pay for use of the land. For this purpose it will be assumed that small farmers - with holdings up to 5 or 10 ha - are exempt from any form of land taxation on economic and administrative grounds.

At the heart of discussions about the appropriate level and structure of land taxes in Mozambique is a basic confusion between land rents and land taxes. In most countries where there is some form of explicit land or property taxation the dominant form of land occupation is either private ownership or (relatively) long leaseholds. In these circumstances a land tax is non-shiftable tax on the return to occupying land that falls upon the occupier. This is what gives rise to various strong claims to the non-distorting nature of land taxes. Changes in the level or structure of land taxes are always unpopular precisely because they cannot be shifted, which gives rise to the frequent difficulties that governments encounter in attempting to maintain the relationship between tax revenues and land values.

However, the starting point in Mozambique is rather different. All land is state property and the government grants occupation licences on payment of certain administrative fees that are (largely) unrelated to the potential value of the land concerned. This is precisely why "land speculation" is attractive so long as ways can be found of transferring the occupation right on payment of some capital sum - e.g. payment for "improvements". Even if titles to land become freely transferable, there is absolutely no reason to the profits made by the initial occupiers by exempting their titles from payment of some sum in lieu of rent.

This is the basic issue about the level and structure of land taxes and it is one that must be addressed now - or never. If the Government were to establish the principle that all or some land titles will be subject to a reasonable land tax in lieu of rent, adjusted regularly in line with prices and productivity, then all future occupiers will build this expectation into their decisions about the amount of land that they choose to occupy and how much they invest in improvements per unit of land. The effect of such a tax should be neutral from perspective of subsequent occupiers, since under current conditions it will be shifted to the initial titleholder in the form of a lower profit on subsequent disposal of the title. Equally, of course, those who expect to gain from obtaining privileged access to initial grants of land titles will lobby against such a proposal. For them, the *quid pro quo* may be explicit recognition of the status of their title(s) combined a better and more secure framework for the transfer of titles.

A related objection to the adoption of land taxes rests on the observation that in countries with a history of taxing agricultural land the revenue from such taxation has steadily declined as a proportion of GDP.<sup>15</sup> The transition of agricultural land taxes from an important source of revenues to a fiscal irrelevance has been largely the consequence difficulties in revaluing the tax base and administering tax collection. However, while the observation is correct, the interpretation reflects confusion about the nature of such taxes.

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<sup>15</sup> See, for example, the article by J. Skinner 'Prospects for agricultural land taxation in developing countries', *World Bank Economic Review*, Vol 5, No 3, 1991.

An agricultural land tax is equivalent to an income tax on a specific class of income – agricultural rents. During the course of economic development, (a) value-added in the agricultural sector grows less rapidly than total GDP, and (b) growth in agricultural value-added tends to be generated by increases in inputs of human and physical capital per unit of land. It is, therefore, inevitable that the share of agricultural rents in GDP will fall more or less rapidly. From a fiscal perspective such taxes are much less buoyant than broader based taxes falling upon income or consumption. But this is irrelevant if the purpose of implementing a land tax is not the collection of revenue but the creation of a framework to ensure that public land is used in a more efficient and equitable manner.

The Government has neither the administrative capacity nor the political will to tax the vast majority of land users with small amounts of cultivated land. There are less than 5,000 farms with more than 10 ha of cultivated land and about 50,000 farms with 5-10 ha of cultivated land. These are the holdings that should be the focus of a serious effort to assess and collect land taxes. But, again it is important to be realistic about the likely fiscal impact of such taxes. If an average tax rate of 30,000 MT per ha (some US\$1.50/ha/year) were to be applied to all cultivated land in holdings with more than 5 ha of cultivated land, the total tax revenue from land taxes would amount to 13 billion MT in comparison with total tax receipts of 10,800 billion MT.<sup>16</sup> At best, land taxes at current levels are unlikely to raise more than the equivalent of 0.2% of total tax receipts. In effect, they are *de minimis* in relation to the fiscal situation of the country.

A more interesting question is the light that these calculations shed upon the level of land taxes when viewed as a form of rent payment. National accounts data show that agriculture contributed 22% of total value-added in 2002, equivalent to 18,400 billion MT. Hence, total revenue from land taxes of 13 billion MT is equivalent to only 0.07% of agricultural value-added. This is far below any reasonable estimate of the proportion of such value-added that could be assigned to land rents.

A simple calculation is instructive. Consider a land tax in lieu of rent for holdings with more than 10 ha of cultivated land. The total amount of cultivated land in such holdings is about 120,000 ha or 3.1% of total cultivated land. On this basis, the agricultural value-added generated by land holdings of at least 10 ha should be of the order of 550-600 billion MT. If the share of rent in that value-added is 10% (a rather low figure by comparison with rents in relation to value-added in other countries), then the imputed rent would be 55-60 billion MT or US\$ 18-20 per hectare of cultivated land per year. This is an order of magnitude higher than the nominal basic rate under the current structure of land taxes/rents and the actual rate is much lower for most farmers.

The implication is that a land tax as a substitute for rental payments on public land leases should be applied at a much higher rate than the land tax rates specified under the current regulations. The objection that will be made is that the imputed rental of, say, US\$ 20 per ha is only relevant for land that is under cultivation, whereas other land – used for shifting agriculture or grazing – could not generate an equivalent rental income. But this is, of course, the whole point of the exercise – i.e. to discourage the holding of land in low value uses. It is intended to provide a strong incentive for those with large areas of leased land either to invest

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<sup>16</sup> It is reported that the actual amount of land tax collected in 2002 was MT 3.8 billion, so that land taxes are even less important as a source of revenue than suggested by these calculations.

in bringing the land under cultivation or to divest a part of their titles to others with the necessary resources.<sup>17</sup>

Taxing the area of land used is simple but crude, since it fails to take account of location, soil quality, climatic conditions, access to water resources, and other factors that make land more or less valuable. Other countries have adopted property or land taxes that attempt to take differences in potential land use and values into account,<sup>18</sup> but the evidence for implementing such a tax in Mozambique is non-existent. The best that could be achieved would be a very simple differentiation based on potential use value of the land under a “highest and best use” doctrine of land valuation. This is, of course, implicit in the current structure of land taxes but there is no reason to discount the imputed rent by over 90% just because the land is used for cattle breeding rather than cultivated crops.

How far this should go is essentially a question of administrative capacity. Trying to implement more or less sophisticated methods of land valuation has proved beyond the capacity of administrative authorities all over the developing world. As a starting point, the best approach would be to rely upon a simple classification of agricultural potential based on rainfall patterns, soil types and access to infrastructure. Provided that it is recognised that such a system would have to be based initially on a very broad brush classification, there is sufficient information from existing studies combined with remote sensing data to devise an implementable scheme.

Holding other factors constant, the value of agricultural output from a farm will be correlated with the rental value of the land, so it could be taxed as a proxy for rental value. Unfortunately, other things will certainly not be equal and the noise introduced into the relationship between output and rental value by variations in skill, capital, and other inputs is likely to outweigh the correlation that makes output a suitable proxy. In any case, the administrative burden of trying to monitor agricultural output as a basis for land taxation would be high, unless the tax is treated as an adjunct to taxation of agricultural income or profits. Finally, taxing the value of agricultural output may represent a significant disincentive for the accumulation of capital and the intensification of land utilisation that is required for agricultural development.

In summary, both practical and economic considerations point towards reliance upon a simple tax per hectare of land occupied with some stratification to reflect differences in potential rental values on the basis of location, land quality and access to infrastructure to the extent that this is administratively possible.

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<sup>17</sup> One corollary of this point is that it is essential to permit the sub-division of existing titles, since the conditions under which sub-division is possible under the current legislation are unclear and disputed. This is discussed further below.

<sup>18</sup> Many Anglophone countries including most countries in the SADC region have some form of site value taxation of either or both urban and agricultural land, usually as a source of revenue for local government. Most of these taxes fall primarily upon urban land, but there is a general tendency to extend the coverage of such taxes. For example, South Africa is extending its system of property taxation to cover agricultural land. See R. Franzsen, ‘Property taxation within the SADC: current status and future prospects of land value taxation’, Lincoln Institute of Land Policy, 2003. The land tax in Mozambique is equivalent to a tax on unimproved site value, since land improvements, infrastructure, and buildings are assets of the leaseholder under the provisions of the Land Law.

## 5. A policy strategy

The crucial issue is to get the balance between the family/community and commercial farming sectors right in structuring access to and payments for land. The over-riding concern of many participants in the debates leading up to and since the passage of the Land Law has been to protect the interests of traditional family farmers and communities with respect to their use of land and to establish a framework that will ensure that investments in land take place on the basis of mutual advantages. However, this has led to assertions about community rights over land used for shifting agriculture that make no economic sense in a context in which agriculture has to become more capital-intensive if economic growth within the small farm sector is to be sustained. Nowhere in the world has shifting agriculture provided the base for continued economic growth and Mozambique is not going to be an exception to this rule.

The transition from open access patterns of land use to more capital-intensive small farming is difficult to manage. The likelihood of major inequity is reinforced by another familiar conflict that can already be seen in Mozambique, viz that between the (relatively) intensive use of land by small farmers and land-extensive livestock ranching. Fortunately, there is no major reliance upon transhumance (migratory herding of livestock).

History matters in the present situation. Efforts to promote capital investment in settled agriculture have to deal with the residue of resentment created by past policies of villagisation and collective farming. Some of the justifications for these policies were sound in economic terms, but they formed part of a wider economic and political agenda that has been rejected. Thus, any new set of policies must be based on positive incentives rather than coercion. In any case, the government has neither the resources nor the will or support to take any other course. The key elements of a land strategy designed to reconcile, as far as possible, the interests of small and commercial farming will include:

- A. For the next 10-20 years debates about the “privatisation” of rural land are a time-wasting red herring. Secure leasehold titles provide all the security that is needed by commercial farmers. The problem with the current system is not the lack of freehold land ownership, but the scope for bureaucratic interference – creating opportunities for corruption and rent-seeking behaviour – when people seek to transfer land titles. The principle that the investments on land can be freely transferred has already been accepted. All that is needed is to remove any element of discretion in the transfer of land titles, by allowing such transfers to be entirely a private matter subject to the requirement that any land transfer is registered at the National Land Registry.<sup>19</sup>
- B. It would be desirable to clarify provisions for the renewal of land titles, so as to ensure that investment in land whose leasehold has less than 20-30 years to run is not blighted, as is common under some systems of leasehold tenure. Ideally, the renewal of title for a further period of 50 years should be automatic – i.e. not a matter of bureaucratic

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<sup>19</sup> This is not as trivial a matter as it may seem. Lawyers specialising in the registration of new companies report that the biggest single cause of delays in establishing new companies is the requirement that the company registration document – the Articles & Memorandum of Association under UK company law – has to be published in the Official Gazette. The requirement is consistent with the philosophy of public law systems though it is alien to common law jurisdictions. In principle, it should not matter but the inefficiency of the operating procedures of the Official Gazette means that publication can take 2 or even 3 months. It is clearly important that any requirement for registering the transfer of land title should not be subject to similar delays or potential obstruction.

discretion - provided that the leaseholder has complied with the provisions of the lease and is willing to pay the appropriate renewal premium. Under the current law land titles can only be renewed once, so that eventually the lack of security is going to damage investment in land improvement and other assets tied to the land. The issue of private ownership cannot be deferred indefinitely but certainty over the renewal of leases would remove any need to address the issue in the next 30 or 40 years.

- C. A critical aspect of land titles, which gives scope for extensive bureaucratic interference, concerns the obligation to propose and implement a development plan for the land covered by the lease. The requirement is understandable if the grant of a lease is viewed as being equivalent to the Government awarding some kind of valuable monopoly right in return for investment by the leaseholder. Such transactions can be found in any market economy when local, regional or national authorities wish to promote urban regeneration or economic development. But, their number and scope is restricted by the capacity of the relevant authority to assess, monitor and enforce the development plans.

The Government of Mozambique does not have the resources to check the validity of and subsequent compliance with development plans for commercial – let alone family or community – agricultural land spread all over the country. Hence, there should be a clear distinction between (a) almost all of the land for which leases are awarded on normal (though adjusted) terms without any conditions concerning development, and (b) land with leases on privileged terms subject to conditions on development that can be monitored and enforced. This framework would be consistent with abandoning the Government’s right to approve the transfer of leases awarded on normal terms and providing an automatic right of renewal or extension of these leases in all but the most exceptional circumstances.

The award of leases on privileged terms should be restricted to circumstances in which there are clear economic and/or social reasons for ensuring that land is developed in ways that are consistent with some set of public goals supported by public investment. An obvious example of such a context would be land served by new or existing irrigation schemes where the government wishes to ensure that complementary investments are made by farmers to make appropriate use of the irrigation capacity.

- D. An example of the type of provisions that should be removed from the legislation is to be found in Article 18 of the Land Law Regulations:

“1. The right of land use and benefit acquired for the realisation of an investment project, approved in accordance with the legislation applicable to national and foreign investments, shall have the term corresponding to the term established in the Investment Authorisation. Such term shall not exceed 50 years and may be renewed in accordance with the provision of the Land Law and the terms for the renewal of the Authorisation.

2. The titleholder shall, 12 months before the end of the term fixed in the title, request that the Cadastre Services renew the period for exercising the right. In the request for the renewal, the titleholder shall demonstrate that the economic activity for which the application was initially made is still being carried out.

3. In those cases where the renewal application is submitted to the Cadastre Services outside the time limit indicated in the preceding paragraph, the titleholder shall be subject to the payment of a fine under the terms established in these regulations.”

There are two points prompted by this Article

- Disallowing applications for renewal of a land title prior to 12 months before it expires is unrealistic in the context of any serious investment project. It simply ensures that investment decisions will be blighted for many years prior to the expiry of a lease. Imposing a fine for an early application merely exacerbates the point.<sup>20</sup>
- Suppose that land has been acquired for the purpose of establishing a cattle-breeding and dairying operation. However, economic circumstances change and the land is converted to citrus plantations. In terms of the Regulations, the economic activity for which the [original] application was initially made is no longer being carried out. But, the land is certainly being put to productive use. The Regulations imply either that title should not be renewed or, at a minimum, that a new application should be submitted. Again, this is a bureaucratic hindrance to the efficient use of land that creates uncertainty and discourages investment. It should be the opposite; no permission required but with detailed information on the changes being provided by the occupier. Of course, there are circumstances in which it is reasonable to impose covenants on the use that may be made of land, but generally these are the concern of zoning or planning regulations – not land titles. Where restrictive covenants are imposed to prevent externalities or protect the interests of third parties, these can be associated with the land title in the same way as other servitudes referred to in the Regulations – e.g. Articles 14 and 17.

E. Similar points can be made about the award of Provisional Authorisations for land use – effectively a temporary title that can be revoked if the development plan has not been implemented “without justification”. In this case the Regulations state that

“2. The revocation of the provisional authorisation gives no right to compensation for any investments that have been made but are not removable.”

This gives large and essentially uncontrolled authority to various authorities determine whether the right of permanent occupation should be awarded and exposes investors to significant risk of expropriation. Of course, the intention was to prevent “investors” acquiring land and then leaving it unutilised or using it for some purpose utterly different to that for which the land was originally granted. However, the attempt to avoid such abuse means that land use cannot respond to changing economic conditions

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<sup>20</sup> No doubt the drafters had in mind that applications outside the 12 month period would be late applications, but that implies the assumption that the expiry of the land title is not taken seriously – in which case why establish any limit on the length of the title? Further, there seems to be the assumption that renewal will be automatic if it is sought, in which case why not acknowledge that fact. Mozambican lawyers may not take such provisions seriously, but investors and their lawyers certainly do.

and puts excessive power in the hands of local or national officials. Again, it should be the opposite; no permission required provided that information on change of use is filed.

- F. For commercial farming the normal terms should be adjusted to offset any incentive to hold land without making the investments required to develop it. The main incentive should be the requirement that the lessor pay a substantially higher rent or land tax for land held on normal lease terms. As noted above, the current structure of land taxes is far too complex and provides unwarranted incentives for cattle and game ranching. From an economic point of view the level of land taxes should be set close to what would be the market rents payable on land in different locations and suitable for different types of use.

As a starting point the following provisions seem to be justified:

- The basic level of the land tax for agricultural land should be increased by 10 times to MT 300,000 (ie about US\$ 12) per ha with that base level being adjusted annually in line with inflation.<sup>21</sup>
- The multiplier of 2 for land in the Province of Maputo should be retained, as the much better infrastructure in the province combined with convenience of access to both Maputo and South Africa justifies a higher level of land rents.
- Multipliers for Development Zones, Partial Protection Zones and land holdings in excess of 100 ha should be eliminated. In the case of large holdings, the existing structure of taxes was intended to penalise occupiers who lease large areas of land but only develop a small fraction of their holding. The correct incentive is to charge them a realistic land rent for all of their land and let them decide on how they will invest in developing it.
- There is no reason to allow a discount on land used for permanent crops. Such agriculture can and should compete on level terms with other types of arable and livestock farming.

- G. The question of land taxes for livestock and wildlife ranching is more difficult to resolve. As in the case of permanent crops, there is no justification for favouring livestock over arable farming in areas that are potentially suitable for both forms of agriculture. However, everywhere in the world extensive livestock operations rely upon the use of relatively poor or unfavoured land – hill farms, land with limited access to water or particularly unreliable rainfall, locations with poor infrastructure, etc. Such land would normally command lower agricultural rents in any use. The crucial distinction is the quality of the land, not the type of agriculture. Thus, any differential land taxes should reflect differences in land quality rather than the use of the land, but implementing such

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<sup>21</sup> This figure is consistent with the limited information available on the level of rents that can be afforded by commercial farmers, plantations, etc provided that land is used for mixed farming or crop production. A brief review of published crop accounts for irrigated crops such as sugar cane and cotton and a variety of food crops including cassava show that commercial producers in Southern Africa could pay rents of up \$200 per ha for irrigated crops and \$40 per ha for rain-fed crops.

a system is likely to be difficult and open to abuse. An example of a country that has tried to tax the agricultural potential of land is India under the Land Revenue tax. This goes back several centuries but is now operated by State governments. The problem is that the authorities have been unable to update valuations at regular intervals, so that the tax no longer reflects current patterns of land use or values.<sup>22</sup> It would be advisable to examine various options in order to identify a reasonable basis for setting land taxes for livestock and wildlife ranching. Note that these recommendations apply to agricultural land held for commercial farming. It is reasonable to apply much higher land taxes to urban land or land in areas of tourist development. Again, the current scheme is highly complicated. Applying a multiplier of 10 (or 20 in the Province of Maputo) to the base level of the land tax for land within the boundaries of urban areas or in designated industrial/tourist development zones would be reasonable and implementable.

- H. At the other end of the scale, there needs to be a clear distinction between commercial farms, which are required to pay land taxes, and land held by communities and small farmers. Initially, all holders of land titles for less than either 5 or 10 ha of land outside urban areas should be exempt from payment of land taxes, since the cost of administering and monitoring payment would be disproportionate to the amount of revenue raised. But a blanket exemption from payment of land taxes for community land holdings would create a significant incentive for communities to lay claim to large areas of land used for shifting agriculture, undermining the broader policy of promoting investment in settled agriculture. For this reason, there should be a limit on the amount of land that a community can register title to without payment of an annual land tax. Logically this limit should be equivalent to the exemption for small family farms, i.e. either 5 ha per household or, alternatively, 5 times the cultivated area plus the housing space per household in the community.

In the longer term there is a more complicated issue. The Constitution asserts that all land is owned by the State. Logically this means that all land in use is leased from the State, even if no title to that land has been granted. By extension this means that any system of land taxes should apply equally to titled and untitled land, subject to the provision of Article 29 of the Land Law exempting certain types of use from payment of the tax. As noted above, for reasons of practicality land holdings up to 5 or 10 ha should be exempt.

There are about 3.9 million households in Mozambique and about 80% of them have some form of small-scale agricultural holding.<sup>23</sup> An exemption of 5 ha of agricultural land per household would mean that a maximum of 15.6 million ha of land would be exempt from payment of the land tax. This is equivalent to 43% of the total cultivable

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<sup>22</sup> S.James, 'Policy options for the taxation of agricultural land and agricultural income in India', Lincoln Institute of Land Policy, 2004. The updating of assessed land or property values is a perennial problem for all types of property, partly because of the administrative burden involved and partly because of public opposition to the large shifts in the distribution of the tax burden that occur when revaluations are deferred.

<sup>23</sup> The rural population is about 65% of total population, but many urban residents retain land holdings in rural areas. The total number of holdings is about 80% of the total, so the calculation is based on this proportion of the total number of households.

area of the country. In practice, the average size of small holdings is only 1.15 ha, so that the exemption would cover about 3.6 million ha or about 10% of the total cultivable area.

If an average tax of MT 300,000 per ha were imposed on all cultivated land above 5 ha per holding, the total tax revenue would be about MT 195 billion. This is much higher than the revenue at present but is still barely more than 1% of agricultural value-added. Extending coverage of the tax to land used for grazing in mixed farming systems might increase the total revenue to MT 285 billion.

A little more than \$10 million in land tax revenue is not large, but it would establish a clear principle that land taxes must be paid on land leased from the government in lieu of rent. Further, while there are good general grounds to resist the tying of tax revenues, this is a very specific source of revenue associated with the government's status as the owner of agricultural land. Hence, the revenue could be allocated either to upgrading the operation of the land titling and management system or to fund specific agricultural programs.<sup>24</sup>

I. *Transitional relief.* The adoption of much higher land taxes may be resisted on the grounds that this undermines the basis on which existing lessors have taken out their titles. On the other hand, the change would be accompanied by less onerous conditions with respect to the implementation of development plans. It may be appropriate to grant some kind of transitional relief to titleholders that have made good faith efforts to move forward with their development plans. This relief could include two elements:

- Any existing lessor could be permitted to hand back any proportion of the land for which they have title without charge within a period of 5 years from the initial grant of the title.<sup>25</sup> The period of 5 years is linked to the period during which development plans were supposed to be implemented under the Regulations to the Land Law. If that is thought to be too onerous, then the period could be extended to 8 years but not later than 5 years after the implementation of higher land taxes.
- The higher land taxes could be phased in over a period of three or four years for those with leases granted prior to, for example, 2006. Since the base level of the land tax is currently MT 30,000 ha, phasing the higher rates in over 4 years might be done by adopting the following base rate
 

o	2006	MT 75,000 per ha (indexed to inflation since 2004)
o	2007	MT 150,000 per ha (indexed to inflation since 2004)
o	2008	MT 225,000 per ha (indexed to inflation since 2004)
o	2009 on	MT 300,000 per ha (indexed to inflation since 2004)

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<sup>24</sup> Article 43 of Regulations for the Land Law specifies that 60% of the revenue from the collection of annual fees/taxes shall be allocated to the Cadastre Service. This may be reasonable at current levels of revenue, but it should be reconsidered if the level of taxes is raised as proposed. An amendment to the Regulations would be required to change both the level of taxes and the allocation of revenues.

<sup>25</sup> This is already permitted under Article 33 of the Land Law Regulations but only at the expiry of a Provisional Authorisation.

This provides ample time for any lessor with a serious intention of developing their land to complete the investments and commence farming activities necessary to earn the return on their land that would cover their land taxes.<sup>26</sup>

- J. *Penalties and enforcement.* There appears to be little effective monitoring and enforcement of either land tax payments or development program obligations, except perhaps at the point when the titleholder wishes to transfer the title to someone else. This creates an incentive for covert transfers that may reinforce a general sense that land titles are neither a reliable guide to who controls land nor a secure claim on the right to use land. Thus, establishing a proper system of monitoring and enforcing payment of land taxes and, if relevant, compliance with development plans is complementary to the simplification of provisions concerning the transfer of land titles. A way to enforce is binding the monitoring to the consultative councils of the districts, giving them the information and the instruments for an effective decentralized land management, as it is suggested in the Agenda 2025 and in the RAP 2004 of the G20 to the Poverty Observatory.

One reason for a reluctance to enforce payment of land taxes may be the claim that titleholders cannot afford to pay these taxes while they are implementing their development programs. However, set against investment costs that are likely to amount to at least US\$ 1,000 per ha – and may be much higher – the payment of land taxes of US\$ 1.25 or 12.50 per ha will have no material impact. The failure to insist upon payment of land taxes encourages the holding of land for speculative purposes rather than for agricultural investment. Individuals or companies with the resources to develop, for example, 100 ha should be given an incentive to do that and should receive no encouragement to hold 500 or 1,000 ha for future use unless they are willing to bear an appropriate holding cost.

Under the current regime, non-payment of land taxes is simply equivalent to obtaining a loan whose interest payments (the penalties payable) are rolled up into the capital value of the loan. In fact the implicit rate of interest is quite high – the fine is equal to one-twelfth of the annual fee for each month of delay, i.e. a simple interest rate of 100% per year. However, it is not clear whether a failure to pay taxes and penalties within a reasonable period of say, 2 or 3 years can be penalised by automatic forfeiture of the land title or, where some kind of loan has been registered, to bankruptcy and disposal of the lease plus any improvements to the land (stricter provision would have to be made for defaulting such payments).

- K. *Sub-division of regular land titles.* It is essential to provide a mechanism by which plots of land can be sub-divided in response either to changing economic circumstances or as a mechanism by which improvements on one part of a land holding can be mortgaged in order to finance capital investments in unimproved. Article 12 of the Regulations mention the possibility of joint title holders (co-titulariedade) and establishes that co-ownership property follows the Civil Code, as such any kind of sub-division should follow the rules established by the Commercial Code. The intention is to permit some

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<sup>26</sup> This provision may be regarded as an extension of Article 44 of the Land Law Regulations. This permits temporary exemptions from land taxes for a period of up to 3 years in cases where the titleholder is unable to complete a development plan for “reasons that are beyond his control and responsibility”.

form of sub-lease mechanism under which sub-division is possible via the creation of sub-tenancies, subject to the conditions of the master ground lease. However, the detailed working of such a mechanism and its implications for the incentive to develop land must be examined and implemented as soon as practical.

- L. *Sub-division of community land.* The Regulations contain explicit provisions for the sub-division of land held under community titles, in effect conversion from community control over land to individual titles. Clause 1 of Article 15 states

“The partitioning of community areas for the purpose of issuing individualised titles to individual members of such communities shall not be exempt from the consultation process and shall not affect areas of common use.”

The intention of those drafting the regulations was that the consultation requirement was simply a matter of ensuring that the individual or family requesting an individual title to a plot of land is really the occupier of the land. To that extent the provision is reasonable as a method of protecting community interests from predatory behaviour by individual members of the community.

On the other hand, there is the risk that, as in other land tenure and agricultural systems operating under common property arrangements, entrepreneurial and innovative members of the community may either be forced out or become a source of internal conflict. It is important to note that practical experience of the difficulties of reconciling individual entrepreneurship with strong community rights over land is precisely what underpins the arguments for moving towards individual property rights based on studies of Latin America, especially Central America. In this case the critical issues will concern the interpretation of what are “areas of common use”, in particular in the context of shifting cultivation. The Regulations appear to recognise that the occupants of holdings under permanent cultivation have a right to an individual title over that land, so long as this does not impinge upon the situation of other members of the community.

The Regulations do not appear to provide explicit exemptions from the payment of provisional/definitive authorisation fees and other conditions when individual titles are issued in areas of land held under with community titles. This may be an oversight and there may be no intention to impose such conditions. The problem lies in ambiguity about how titles are issued, because the Technical Annex to the Regulations defines a procedure that applies equally to communities (covered by Article 9), individuals who have occupied land for at least 10 years (covered by Article 10), and new applicants (covered by Article 11). Articles dealing with the payment of fees refer to the payment of fees by “applicants”, which could include applicants for individualised titles as well as applicants for new land titles. Since the total fee is MT 900,000 irrespective of the area covered, this would be used as a deliberate barrier to the sub-division of community areas.

In summary, the Land Law was conceived and approved at the parliament as a *Lei Quadro* [Framework Law]. It represented a huge step forward in the debate about land rights. The intention was to add new regulations as required, instead of limiting the possibilities of change during the development process. Since the introduction of the new Land Law the agricultural

product in the country is increasing, investment is being attracted, there are no landless and no tenants paying rents to absentee landlords like happens in many other African Countries since the 90s. However, the contribution of land as a resource to poverty reduction would be enhanced by a more coherent tax system for areas leased by the state. The revenues of the state, both at local and national levels, would increase and more productive investments with multiply effects close to the poor would take place. Hence, the mission recommends that amended regulations on land taxation should be drafted and adopted.

Second, in a paper synthesizing the discussion at a World Bank Regional Workshop on Land Issues in Africa and the Middle East, Roth emphasises the discrepancy between the arguments about the goals and principles of land reform and the reality of land administration in Southern Africa.<sup>27</sup> The mechanics of land policy have not received sufficient attention throughout the region. Mozambique suffers from some of the problems that are observed in other countries in the region. As emphasised above, the Land Law has established a strong framework for the management of land rights in the country. Attention should now focus on developing a transparent and effective administrative system to ensure that these land rights have real meaning in practice.

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<sup>27</sup> See M. Roth, 'Integrating land issues and land policy with poverty reduction and rural development in Southern Africa', Land Tenure Center, September 2002.

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