



Land Delimitation & Demarcation: Preparing communities for investment

Report for CARE-Mozambique

**Analysis and documentation in support of further
development of the women, agriculture and land project**

Final Version

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Land Delimitation & Demarcation: Women, Agriculture and Land
Final Report

Note

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Acronyms & Abbreviations

CARE-M	CARE Mozambique
CFJJ	Legal and Judicial Training Centre
CLUSA	Cooperative League of the United States of America
CoM	Council of Ministers
DANIDA	Danish Embassy
DFID	Department for International Development
DNFFB	National Directorate of Forestry & Wildlife
DNPOT	Direcção Nacional de Planeamento e Ordenamento Territorial
DNTF	National Directorate of Land and Forests
DPA	Direcção Provincial de Agricultura (Provincial Directorate of Agriculture)
DUAT	Direito de Uso e Aproveitamento de Terra (Right to use and Benefit of Land)
EDR	Rural Development Strategy Estratégia de Desenvolvimento Rural
FAO	Food and Agriculture Organisation
FAPIM	Forestry and Agriculture Programme in Mozambique
FCT	Forum Consultivo de Terra (Consultative Forum on Land)
GAZEDA	Special Economic Zones Office
GIS	Geographic Information System
GoM	Government of Mozambique
IDLO	International Development Law Organisation
LIMS	Land Information Management System
LTR	Land Tenure Regularisation
MCA	Millennium Challenge Account
MCC	Millennium Challenge Corporation
MICOA	Ministério para a Coordenação Ambiental
MINAG	Ministério da Agricultura (Ministry of Agriculture)
MIREME	Ministry of Mineral Resources
MITUR	Ministry of Tourism
MPD	Ministério de Planificação e Desenvolvimento (Ministry of Planning & Development)
NDRN	National Directorate of Registers and Notaries
ORAM	Associação de Ajuda Mútua Rural (Association for Rural Mutual Assistance)
PARP	Plano de Accão de Redução de Pobreza
PEDSA	Plano Estratégico para de Desenvolvimento do Sector Agrário Strategic Plan for Agriculture Sector Development
PEOTT	Plano Especial de Ordenamento Territorial da Província de Tete
PROAGRI	Programa de Desenvolvimento Agrário (Sector Wide Assistance Programme for Agricultural Ministry)
REDD	Reducing Emissions through Deforestation and Degradation
SPGC	Serviços Provinciais de Geografia e Cadastro (Provincial Services of Geography & Cadastre)
TA	Technical Annex to the Land Law
TIA	Trabalho de Inquérito Agrícola (National Agriculture Survey)
ZVDA	Zambezi Valley Development Agency

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Introduction

CARE International in Mozambique (CARE-M) has been implementing the Forestry and Agriculture Programme in Mozambique (FAPIM) in Meconta district in Nampula province since April 2009. The main objective of FAPIM has been to increase the sustainable benefits to communities from woodland resources, by enhancing the flow of revenues arising from private sector exploitation of these.

The current FAPIM will end in December 2012 and CARE is looking to develop a further six year proposal for the period January 2013-2018. To underpin the development of the future programme CARE-M has commissioned some analysis and documentation of activities under the current programme, as well as the development of advocacy materials, implementation guides and the mapping of key priority geographical areas based on an assessment of current and planned investments.

This report is one of two that comprise the analysis component. It comprises a review of the community land delimitation and demarcation processes as implemented by various organisations in Nampula province. It focuses principally on the work undertaken by ORAM. The report contains an analysis of the extent to which these programmes are assisting communities to prepare for the advent of an expected wave of large-scale investments throughout the north of the country, in the face of gas and coal discoveries and the proposed development of large-scale agribusiness ventures along the Nacala corridor. It contains some proposals in this respect regarding future programming.

The other report from the analysis component documents the approach employed by FAPIM to support communities to access the statutory payments due to them under forestry legislation.

Further documents that comprise part of the ToR issued by CARE-M are:

- A Policy Briefing Paper on how to improve enforcement of statutory payments to communities under the forestry legislation.
- A Briefing Paper summarising steps for preparing communities for investments.
- A ‘Guide on how to prepare communities for investments’, with a particular focus on the involvement of women.
- A ‘hot spot’ map and an accompanying report, with recommendations for CARE’s geographic concentration in the future.

This report is based on a review of relevant documents from Mozambique and elsewhere, as well as interviews conducted by the team over the period of October/November in Maputo, Nampula and Cabo Delgado.

This report is structured into 3 main sections:

- **Section 1** provides some overall context to the issue of land tenure and economic growth, land policy in Mozambique and current processes of land use planning and zoning. It highlights some of the impacts of poorly-managed land-based investments. It also addresses issues in respect to gender and land tenure and examines the legal and institutional framework for the establishment of formal partnerships between community groups and investors.
- **Section 2** documents the experiences with land delimitation and demarcation, principally in Nampula province, but also drawing on examples from elsewhere in the country. It

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looks at the processes involved in these exercises and assesses the extent to which they are achieving objectives in respect to preparing community groups for outside investment.

- **Section 3** then addresses the question of what the findings mean for CARE-M in the context of developing a future programme of support that is geared towards assisting communities to prepare for the expected wave of large-scale investments. It contains some specific proposals in respect to approaches to gender and land issues, particularly focussing on women's land rights, and suggests additional steps needed to prepare communities for investments.

1 Context: land and economic growth

1.1 How economic growth affects land tenure

Common results of economic growth include:

- a) Increased value of land and increase in conflicts over tenure:

The main effects of economic growth and the associated provision of transport and other infrastructure are to raise the value of land and associated natural resources (especially water, coasts and beaches, and forests). Conflicts over land access and tenure are likely to increase. Combined (as in Mozambique) with a lack of transparency over land values, significant imbalances in information and minimal land taxation, the prospect of economic growth and investment also leads to speculation in land and the development of huge inequalities in land assets and wealth, both between remote and better-connected communities and within towns and communities¹.

Political power, insider information on development opportunities and the growth of an economic elite are closely interconnected, and serve to reinforce and strengthen existing power structures. At community level, these include patriarchal systems that exacerbate women's particular vulnerability in the face of rising land values; restricted access to land, the impact of widowhood and the effect of HIV/AIDS on family labour are all made worse by cultural and traditional practises in respect to women's' rights to land. But recent data from the north of the country also confirms that the rights of women to access and administer land and natural resources are not so much limited by traditional and customary social rules, but are more affected by the adverse socioeconomic situation of the whole peasant sector. As those that are principally involved in family on-farm production, women are bearing the brunt of the pressure on peasant farming.

- b) Displacement or impoverishment by economic development:

Some people may be directly displaced from their land to make way for new farms, mines, roads, schools and other infrastructure, while others may see the economic value of their holding decline following economic development.

Many wealthier countries have sophisticated systems for estimating the cost of displacement and changes in land value, compensating the losers and taxing the winners in these processes. Mozambique has gained some experience in handling involuntary resettlements and has just passed a regulation on resettlement, but our judgement is that more work will be needed on this area in the medium term (see Box 1).

Land taxes in Mozambique are still very low (under \$1/ha/year for titled agricultural land²) and do not encourage the economic use of land or discourage speculation. The World Bank has commissioned a policy paper on this issue that raises some of the issues. However, it has had a mixed and largely negative reception from the Ministry of Agriculture – which is probably due to a combination of adherence to nationalist ideas about state land ownership and also the fact that many senior officials and policy-makers have large land holdings themselves. Nevertheless, there

¹ The UN now presents an inequality-adjusted Human Development Index, currently calculated at 0.23 for Mozambique (a 1/3 drop in relation to the non-adjusted HDI) (UNDP, 2011). The Gini coefficient for Mozambique, based on current income, is currently estimated at 46 (high), and previous work in Mozambique has estimated inequalities of land holding *within* rural communities of a similar order (Jayne et al., 2003; Marrule, 1998).

² Community lands and individual smallholders are exempt from land tax, whilst all national citizens and farmers' associations benefit from discounted rates.-*////-

is a working group now addressing this sensitive topic under the Consultative Forum on Land (Fórum Consultivo de Terra - FCT) and this may open opportunities.

The repercussions from large scale land acquisitions are not distributed evenly across the sexes, because of the inequalities in women and men's rights (even if they are equal on paper as per the law), roles, responsibilities, voice, economic status or social relationships. Coping strategies to deal with the loss of land will not be the same for women and men, with women possibly being likely to adopt more risky coping strategies to continue to meet their own and family needs (Tandon, 2011). Importantly, because they have less power within community institutions, the loss of entitlements acquired through established community land-use practices become much more difficult to re-assert after displacement.

Box 1: Managing involuntary resettlement in connection with economic and climate change programmes

Mozambique has gradually gained experience in managing involuntary resettlement. This has included: resettlement of flood-displaced populations, resettlement due to development of public infrastructure such as roads (World Bank 2007 page 11), and resettlement of people displaced by mining activities. World Bank safeguards have also been applied to loans relating to the provision of infrastructure: for example see GoM/World Bank 2010 which sets out national resettlement policy for school-building.

The results of resettlement have been mixed and sometimes highly controversial, with resettled groups sometimes abandoning their new accommodation (Chambote and Veja 2008). Following wide criticism of resettlements due to the coal mines in Tete Province (Selemane, 2010, Observatório dos Países de Língua Oficial Portuguesa 2012), increased efforts have been put into resettlement, but even if these are successful it is not clear that other potential investors can mobilise the same level of resources as the giant mining companies.

The Council of Ministers has just (May 2012) approved a new regulation on resettlement, led by MICOA. Although this has many good features, it apparently was not circulated widely for consultation and some aspects have been criticised as impractical to implement. Given how recently this regulation has been approved, it is not clear how much scope there is for advocacy in this area. Gender issues are an important aspect of this.

The new regulations are silent on gender issues, with the exception that within polygamous families, each woman has the right to her own house and plot. Although the right to improved means of livelihoods and ways to generate income are mentioned, and specific mention is made of the need for areas for agriculture, animal husbandry, and "other activities", it is difficult to see how these will be upheld given land pressures and the fact that, almost by definition, people will be moved to areas of lesser value (both because of the incoming investment and due to the fact that the best areas outside the investment have already been occupied by other families, communities, and investors—see reference to Jayne et al., 2003, following).

1.2 How land tenure can affect economic growth and poverty reduction

Tenure security has long been recognised by economists as 'a public good' (e.g. like education, health, safety and security). The nature and strength of property rights have a profound impact upon economic decision-making through their effects on expectations of returns on investment of labour and capital. This holds true also in rural areas on customary land, in the informal sector and in the major towns. Tenure security also flows from the extent to which governance systems recognise these rights and provide mechanisms for their enforcement.

The relationship between land tenure, economic growth and poverty reduction is, however, complex, contested and to a large degree context-specific. DFID's Policy Division in London has recently carried out a review of the evidence on the effect of property rights on growth and investment (Selvetti, unpublished 2012).

Four generally agreed points are that:

- **Security of land and natural resource tenure is important for long-term investment and sustainable land use.** Insecurity of tenure discourages permanent constructions and agricultural investments such as perennial crops and irrigation, and encourages “short-termism” with respect to the environment and natural resource use.
- **However, formal written land registration is not a prerequisite for feeling secure and able to invest.** Both in the rural and urban context, customary and verbal agreements can give land holders a sense of security (which may or may not be justified).
- **The link between secure land tenure and access to credit for investment is weak, especially in rural areas.** As noted by (Field & Torero, 2003) “...the ability of property titles to transform modest landholdings into a viable form of collateral for commercial loans cannot be taken for granted ...[as] transaction costs associated with collateral processing, foreclosure and resale are large relative to the average size of loan requests [and] political or legal factors impede repossession of property as is the case in many developing countries...”
- **Common property areas of land are vital for the livelihoods of the poorest rural people,** who depend on natural resources such as firewood, pasture and wild fruits. Formal land registrations often result in “enclosures” which ignore historic rights to the commons (Woodhouse 2001; Alden Wily 2012).

The issue of land tenure falls within larger debates about how to stimulate poverty-reducing growth in countries such as Mozambique. While it is widely agreed that agriculture is the principal poverty-reducing sector, international disagreements have raged over whether large farms should be the main focus of efforts (Collier, 2008), or whether small farms are a better bet (Wiggins, 2009, Byerlee and de Janvry 2009). An interesting paper from Michigan State University (Jayne et al., 2003) points out that access to land is (surprisingly) highly constrained for most small-scale farmers in Mozambique and neighbouring countries, and calculates that “the distribution of rural assets is so highly skewed that a large strata of the rural population may be unable to benefit from agricultural growth incentives that would otherwise generate broad-based growth multipliers.”

While there is good evidence - including from neighbouring countries and from some schemes in Mozambique - that properly-supported smallholders can generate rapid agricultural growth, both state and private service provision is very weak in Mozambique. The Mozambique government, along with many other African governments, has tried to attract large-scale investors in agriculture and natural resources, with mixed results in terms of spillover to poverty reduction. This is the logic behind the ProSavana programme, which seeks to make linkages between large and small farm growth. This ‘hub and spoke’ model sees large farms as a means of getting the necessary infrastructure, credit and technical assistance to smallholders, as well as creating employment and growth in their own right.

Land tenure is a critical concern in such a growth model. Some key issues are:

- **Secure land rights are essential for customary holders of land** who are attempting to negotiate with incoming investors, “as otherwise smallholders would have little to negotiate with” (Vermeulen and Cotula, 2010) An initial issue is that GoM has presented

large tracts of land as being “empty” for investors, a fact disputed by local smallholder associations and those that represent them.

- **Growing inequalities:** Richer and more powerful members of a community may negotiate deals at the expense of poorer members, who may find their customary rights expropriated without compensation. This particularly applies to common property resources and to women’s customary access rights. An example of this was found in the *Mile* community in Meconta; the *Regulo Nacoma* has the sole voice in deciding community affairs. All members present noted that if he said for them to move, they would move, “even though we have nowhere else to go.”
- **Land-use planning:** Deininger and Byerlee (2011) in their multi-country study of large scale land investments noted that “...it was surprising that in many cases the nature and location of lands transferred...are rather ad hoc - based more on investor demands than on strategic considerations. Rarely are efforts linked to broader development strategies, careful consideration of the alternatives, or how such transfers might positively or negatively affect broader social and economic goals.”
- **Reliable valuation of land** is important both for negotiating fair deals and for compensating those expropriated. Land valuation is weak in Mozambique, especially in rural areas. (see Box 2)

Box 2: Valuation of land: a key challenge

“When they arrived they held meetings to... tell us they needed the land to build the factory. We had to abandon our farms and in return they gave two thousand Meticaís (\$62.50 USD) to each person that had a farm on the site. Today I feel cheated because I had an area of approximately 3 Hectares where I grew food for the sustenance of my family.”

Interviewee from Salamanga, Maputo Province, quoted by (Matavel, Dolores, and Cabanelas 2011)

“We have a large budget for resettlement, but will other investors – especially nationals – be able to afford the conditions we are offering?” Staff member of Rio Tinto mining company.

A terra não se vende – mas compra-se (The land is not for sale – but it can be bought) A well-known joke.

Whether for resettlement, taxation or business negotiations, fair and transparent valuation of land is a key challenge. This is extremely difficult, as the effective economic value of rural land can increase rapidly and dramatically with public and private investment and improved physical access to urban centres. It is further complicated by the fact that legally land itself has no value, only the structures on it. The topic is however being addressed by several working groups under the National Consultative Land Forum.

While secure land tenure can be seen as a ‘necessary but not sufficient’ condition for economic growth, it is also true that **poor land administration can hold back both growth and poverty reduction, and reduce efforts to mitigate and adapt to climate change.** There are a number of channels through which this mechanism operates. These include:

- encouraging speculation rather than productive use of land
- encouraging asset stripping and pollution (by both communities and investors) rather than sustainable investment, for example in forest areas
- encouraging conflict, both between communities and investors and within communities. Conflict can reduce productivity and sabotage investments (see for example the interesting study by Dolan (1999) on the effect of household conflicts resulting from green bean production in Kenya).

- increasing poverty levels through loss of land or access to common property resources.

1.3 The principal challenges around land in Mozambique

1.3.1 Land and livelihood strategies

Much of rural Mozambique is sparsely populated, with an average density of 29.7 persons/km² in 2010 (lowest in Niassa and highest in Zambézia and Nampula). Land and associated natural resources (such as forests and water) form the major source of livelihoods for many of these people. More than 75% of the population is employed in the agricultural sector. However, the use of natural resources as a central part of livelihood strategies is not limited to agriculture, meaning that the area of cultivated land understates the importance of land to the rural poor. A host of other natural resources are collected, processed and/or marketed by many families, either as a predominant activity or as part of a diversified portfolio of livelihood strategies designed to spread and minimise specific risks. These include resources such as bush meat, honey, clay, roots and tubers, medicinal plants, building materials, thatching grass, firewood and the production of charcoal and salt.

Forests, in particular, provide a range of resources central to peoples' livelihoods. The majority of the Mozambican population remains in permanent settlements dispersed widely throughout the country's forests, in marked contrast to other African countries, where colonial policy had been to relocate people from the forests to roadside communities (FAO, 2003). The effect in Mozambique is that a much higher percentage of the population is directly dependent on access to surrounding forest resources and the health of forest ecosystems for survival. Mozambicans rely on firewood or charcoal, for example, for nearly 85% of their total energy consumption, amounting to about 20 million cubic meters consumed per year.

Agricultural productivity in Mozambique is the lowest in southern Africa, with hardly any use of modern technology - improved seeds, fertiliser, extension services, animal traction or irrigation (Noticias 4 Nov 2011). This was underlined by the data in the Agriculture Census (Censo Agro-Pecuário 2009-2010) published in November 2011 (see Box 3).

The total arable land area of 36 m hectares means that there is certainly room for the expansion of agriculture, and this has been an official preoccupation of the GoM over the last 10 years. Over this period it has consistently been encouraging foreign investment in the commercial agribusiness sector, although the Strategic Plan for Agriculture Sector Development (PEDSA) of 2011 appears to indicate a shift towards national investments at a smaller scale.

Box 3: Key Findings from the Censo Agro-Pecuario 2009-2010

- There are 3.8 million farms in the country, with 5.6 m hectares of annual crops, meaning the average farm is only 1.5 ha
- 99% of farms are classified as 'small' (10 hectares or less), with 72% less than 2 hectares
- There are more farms and they are slightly larger than at the time of the last census, 1999-2000, when there were 3.1 m farms on 3.9 m ha; average farm size has increased from 1.3 ha to 1.5 ha
- Most land is used for food. The main commercial crops for small holders are sesame (93,000 ha), tobacco (70,000 ha), and cotton (59,000 ha)
- Only 2% of farmers were able to obtain credit, and more than one-third of those were Tete tobacco farmers receiving inputs on credit
- Nationally, only 4% of farms use fertiliser, 3% use pesticides and 5% use irrigation. The vast majority of these are in Tete province, and are probably tobacco farmers.

1.3.2 Increasing demand for large land concessions

Interest in acquiring land has rapidly risen since the end of the war in 1992. But since 2007/8 the demand has surged, driven by a continuing global rise in food and other agricultural commodity prices, the interest in bio-fuels and forestry plantations due to high international energy prices (as well as in some cases subsidies) and an apparently reinvigorated role for agriculture in the national economy.

This has placed the acquisition of land use rights in the spotlight, particularly in respect to large-scale concessions of land for foreign, as well as national investors. Between 2004 and the end of 2009 the GoM granted land concessions over more than 2.5 million hectares of land. This is 3 per cent of the land area and 7 per cent of the country's arable land. More than 1 million hectares went to foreign investors, 73 per cent for forest and 13 per cent for agrofuels and sugar (Hanlon 2011). The average size of land applications for agriculture has also increased over the last few years; foreign entities have lodged over half (55%) of all agriculture related applications and the area requested by foreign entities (500,303 hectares) represents 76% of the total area requested (655,097 hectares) for agricultural projects.

Over the same period a number of communities have completed the delimitation of their land, initially through bilateral support provided to NGOs, then through the iTC mechanism, but with little public investment for implementation of this element of the land law. 2010 data in respect to the delimitations at national level is shown in Table 1. More recent data is not available.

Table 1: Community land delimitations (national)

	DNTF, March 2010			World Bank, Dec 2009			
	In process	Delimited	Total	In process (ha)	Delimited (ha)	Total (ha)	% of province
Gaza	3	18	21	18,002	444,040	462,042	6%
Inhambane	6	9	15		588,509	588,509	9%
Maputo	11	11	22	55,337	98,786	154,123	6%
Nampula	3	94	97	47,137	747,376	794,513	10%
Niassa	2	8	10		462,831	462,831	4%
Sofala	5	11	16	934,987	591,084	935,578	22%
Tete	27	0	27	3,928,911		3,928,911	39%
Zambézia	18	73	91	1,842,923		1,842,923	18%
Cabo	4	0	4				
Manica	13	7	20	553,699	226,374	780,073	13%
TOTAL	92	231	323	7,380,996	2,568,507	9,949,503	12%

1.3.3 Impacts of poorly-managed large investments

Box 4 illustrates some of the side effects of poorly-managed external investments. These have been documented from some plantation forest companies (e.g. Green Resources, Chikweti Forests, Tectona Forests, Portucel) and large-scale commercial agricultural ventures (e.g. Quifel, PROCANA) as well as the well-known conflicts over the Vale company in Tete³. In most cases problems have arisen because clear boundary demarcations were not carried out, and local people had a limited idea of the extent and impact of the proposed developments, but in some cases, investors have also ignored promises made during the consultations. In almost all cases community expectations in relation to job opportunities and other, indirect, benefits have been disappointed (Waterhouse, Lauriciano, & Norfolk, 2010).

Although consultations with local communities have been part of the statutory process for land allocation, these have been widely criticised (e.g. Tanner et al, 2006, Matavel, Dolores, & Cabanelas, 2011; Aabø & Kring, 2012) for being superficial, conducted without sufficient preparation or representation on the part of the community, not incorporated into legal agreements and not followed up. The GoM has tried to tackle these problems by issuing a second regulation on community consultation, but it does not address all the issues identified above, in particular community preparation.

³ Some investors (QUIFEL) have come into direct conflict with local land occupants who have been displaced from their farms (Norfolk & Hanlon 2012). SAAPI, the South African forestry company, withdrew a plantation proposal rather than competing for suitable land with smallholder producers in northern Zambézia.

Box 4: Some side effects of poorly managed large investments

“We are now in jail, surrounded and without means of subsistence and survival.” Member of Micoco Community, Niassa, whose land was occupied by a new forest plantation, quoted by (Matavel, Dolores, & Cabanelas, 2011).

Eviction from homes: Sun Biofuels have extended areas under jatropha to beyond the old tobacco plantation that they originally occupied, causing in some cases the displacement of people from their homes.

Eviction from farmland: Gurue District, Zambézia Province: “... one year after the [Quifel soya and sunflower] concession had been awarded, over 240 poor farmers had lost access to over 500 ha of land without any suitable alternatives having been made.” (Norfolk & Hanlon, 2012)

Blocked access to traditional sources of water: “...73%, 67%, and 76% [of community respondents] in the Southern, Central, and Northern zones respectively confirm that the closest rivers to their communities are their primary source of water ... According to 50% and 16% of the respondents in the Southern and Northern zone, the existing [private investment] projects have blocked passage of the communities to the water source, putting up gates with a guard to impede passage of the communities.” (Matavel et al., 2011). This blocking of access takes place despite safeguards in the current land law.

Reduced access to common property resources reduces income and nutrition: Manica Province: “In the ‘ABC’ case, with much of the forest gone, local people now have to travel long distances to fetch wood for construction or fuel; and there is no more access to game meat ...the forest also harboured a small lake and ponds, which have now been drained by the project, thus reducing access to freshwater fish.” (Waterhouse, Lauriciano & Norfolk, 2010)

One of the key difficulties facing rural people in the face of this increased pressure on land is that common property resources (forests, water, grazing), vital for the poorest rural people, are often not considered. This means that even in cases where they are not necessarily facing involuntary resettlement, there is the risk of losing access to land and other resources that are critical to rural livelihoods.

While problems can arise even in serious investments, the biggest problems are when land is given out and held speculatively. Absentee landlords have little incentive to maintain good community relations, are not producing wealth that can benefit the community, for example through creation of employment, and are potentially blocking productive investment. Therefore a key action for the state is to monitor and cancel or reduce DUATs where investment plans have not been fulfilled.

1.4 Land Policy

In this section, we describe the main elements of the land policy and highlight the current issues and debates in respect to these. We have chosen to focus on those elements that appear most important from perspective of the balancing of interests in respect to land occupation between large-scale commercial and small-holder farmers.

1.4.1 Current Land Policy

The 1995 National Land Policy for Mozambique, still in force today, starts from the basic premise that land belongs to the state. However it also responds to an emerging market economy and is designed to “assure the rights of the Mozambican people over land and natural resources [and] promote new investment” through a mix of post-independence socialist ideology, market principles and concerns for social equity and sustainable use. Long term leaseholds, known as *Direitos de Uso e Aproveitamento da Terra* (DUATs), are either acquired by land occupants by law, or awarded as discretionary concessions by the state.

The key element to the Land Policy, later incorporated into the 1997 Land Law, is the recognition given to the legitimacy of customary land management systems and to informal and customary occupation. The legal framework provided by the Constitution and the Land Law contains several innovative approaches to securing property rights. These include:

- establishing a single land tenure right, the ‘DUAT’, which applies to both customary and newly requested land occupation and use;
- recognizing DUATs obtained through customary and good faith land occupation (thus formalising customary rights through the operation of the law);
- providing secure rights for investors through a renewable 50-year state leasehold (also a DUAT, but awarded with conditions attached and subject to a rental payment (the annual land ‘tax’);
- requiring applicants for DUATs to consult with local people to determine if the land they want is occupied and, if so, establishing the conditions for the investor to take over the community’s DUAT;
- formalising the participation of local people in land and natural resources management (as in the consultation process above); and,
- maintaining a flexible approach to approving and spatially defining the DUATs acquired through customary and good faith occupation.

It is critical to note that the DUATs obtained through customary and good faith occupation are recognised and protected by law – they do not have to be registered. These customary and good faith forms of occupation are still the main ways in which the rural poor get land rights, and they can be proved through oral evidence provided by local community members. A Technical Annex to the Land Law Regulations provides a flexible methodology for identifying and recording these rights, which can be applied to the ‘group right’ of a local community, or to individual ‘good faith’ occupants (see below).

Full registration of DUATs in Mozambique requires both cadastral title registry, through the National Department of Lands & Forestry (DNTE) in the Ministry of Agriculture, and property registration, through the Real Property Registry (*Registo Predial*) in the Ministry of Justice.⁴ The Real Property Registry essentially guarantees land rights by making them public, i.e. recognised by the state, and protects land rights holders against claims by third parties. Although this registration is available, it remains voluntary, i.e. it is not compulsory under the amended regulations. In the case of DUATs held by occupation, the lack of legal registration does not affect the enforceability of the occupancy right.

However, it still is important to do the property registration in the Real Property Registry. Although the DUAT holder cannot own the land, he or she can own any fixed assets on that land, such as houses, buildings, infrastructure, trees or other improvements. No matter how they are acquired, DUATs are recognised by Mozambican law as real rights to a plot of land, urban or rural, and they are transmissible as part of transactions involving the fixed assets upon the land in question. However, for these real rights to be recognised, and thus transactable, they must be previously registered in the Real Property Registry. This has important implications from the perspective of the formalisation of rights and the valuing of land in the context of the establishment of community-investor partnerships.

⁴ The law states that the constitution, extension, modification, transfers and termination of the DUAT are subject to legal registration which, according to modifications to the initial Land Law Regulations, is now the responsibility of the Public Property Registry (*Conservatórias do Registo Predial*)

The 'land delimitation' process, defined in the Technical Annex, is a flexible and participatory mechanism through which local communities can, in effect, define themselves and the areas of land over which they claim a right to use and occupy land. This self-definition approach is well suited to a country like Mozambique, where numerous cultural and geographical contexts determine land occupation and use. Delimitation can be applied to traditional units based on clans or chieftainships, extended families or simply a group of neighbours. Delimitation achieves two major legal and practical objectives: i) it proves the existence of the DUAT by occupation and ii) it establishes the spatial characteristics of the DUAT, including its limits and the presence of public and customary rights-of-way or of any other interests over the land in question. A map of the community DUAT with any other information, such as rights-of-way, is then registered in the Cadastral Atlas and a Certificate of Delimitation is issued in the name of the community.

1.4.2 Policy consultations and reform processes

Land policy has been under the control of the Ministry of Agriculture (MINAG) since the demise of the cross-cutting Inter-Ministerial Land Commission in 2003. Some donors and civil society organisations have pressed to locate this function within a national institution with a more cross-cutting mandate and/or within a broad consultative process. A statutory Consultative Forum on Land (Fórum Consultivo de Terra - FCT) was set up in 2011 to examine various elements of land policy and regulation, but participation has been limited to date and it has had no concrete outcomes as yet.

The Government of Mozambique (GoM) has consistently taken the stance that the current land policy does not represent an obstacle to growth or development. Some international partners (e.g. the World Bank and Millennium Challenge Corporation - MCC) as well as local business groups (CTA, the Mozambique Business Federation) believe that the lack of simple, fair and transparent procedures for acquiring, and particularly transferring, use rights to land is a major inhibiting factor for serious long-term private sector investment. Recently the GoM has acceded to pressure for making rural land use rights more freely transferable, but is only undertaking very limited reforms in this regard. The fundamentals of the policy and legal framework are likely, however, to remain in place for the foreseeable future.

The FCT has met three times since 2010. Although it has no decision-making powers and has had some teething problems (in particular being criticised by many for having a narrow participation with very late circulation of proposals, which does not allow time for civil society and academic groups to consult their membership), the FCT represents an important opportunity to discuss a number of increasingly urgent reforms. The FCT is underpinned by a *Grupo de Reflexao* and a number of working groups which is where most of the debates take place, prior to meetings of the full FCT. The suggestions made in the last Forum (March 2012) for taking forward in the current agenda of working groups cover many land issues that are important for CARE-M and other NGOs working in the sector. These include community land issues, investor-community partnerships, land taxation, resettlement, and the use of the '*cessao de exploracao*' instrument (DNTF, 2012). A process to review the functioning of the FCT is currently being undertaken; if accepted this will probably result in a more decentralised form of operation, with smaller meetings taking place more often at provincial or regional levels.

1.4.3 Legal framework for resettlement

The legal framework for expropriation, compulsory acquisitions and resettlement is scattered across a number of laws and instruments, including the Constitution, the Land Law, the Rural Land law Regulations, the Territorial Planning law and specific decrees: the Ministerial Diploma 181/2010, which deals with resettlement in the context of territorial planning and compensation

for lost crops/land and the recent Regulations for Resettlement Resulting from Economic Activities (Decree 31/2012).

Article 82(2) of the Constitution of Mozambique states that, “[e]xpropriation may take place only for reasons of public necessity, utility, or interest, as defined in the terms of the law, and subject to payment of fair compensation.”

Article 18 of the Land Law deals with the termination of the right of land use and benefit and states that it may be extinguished:

b) By revocation of the right of land use and benefit for reasons of public interest, preceded by payment of fair indemnification and/or compensation;

Article 19(3) of the Rural Land Law Regulations further states that:

the procedure for termination of the right of land use and benefit in the public interest shall follow the procedures for expropriation and shall be preceded by the payment of fair indemnification and/or compensation.

Usually – and legally - there is no compensation paid for land itself, but rather for any built structures, trees or crops farmed. Compensation for cultivated land usually involves compensating the loss from standing crops, although the Territorial Planning Law does introduce the concept of loss of future use, and how this should be included when compensation is contemplated.

Regulations to the Territorial Planning Law, in Article 81, refer to expropriation, in the furthering of ‘public interest, necessity or utility’. The article states that expropriation is permitted in cases where it is “indispensable for the furtherance of collective interests, foreseen in [any of] the land use planning instruments.” Article 81 defines the terms ‘public interest’, ‘public necessity’ and ‘public utility’ as follows:

- ‘public interest’ – when the final objective of the expropriation is to safeguard a common interest of the entire community; can be declared in cases involving the acquisition of areas for the establishment of economic or social infrastructure with a ‘large positive social impact’ and in cases where it is necessary to preserve soils, water courses or biodiversity, or to preserve public interest or military infrastructure.
- ‘public necessity’ – when the final objective is to assist the public administration in addressing emergency situations arising from natural disasters or similar.
- ‘public utility’ – when the final objective is to advance the interests of the public administration whilst acting as the guarantor of state security, the maintainer of public order and the satisfier of all societal needs.

Article 83 of the same law refers to compensation and states that an expropriation of property in any of the above-mentioned situations gives rise to the payment of ‘just compensation’ in terms of the law. This is defined as the ‘real and actual value’ of the expropriated assets, as well as damages arising and lost profits (Article 83(2)). It also stipulates that any compensation must be paid before taking possession of the expropriated assets (Article 83(3)).

Land may be treated differently, depending on whether it is an unregistered right, a right registered within the cadastral services as a DUAT, or a real property right registered also in the Real Property Register (*Registo Predial*). It is highly likely that the greater the degree of registration, the greater the chance of obtaining a fair and market-related compensation in the case of expropriation.

Two recent pieces of legislation deal with resettlement and compensation in cases of compulsory acquisition. Ministerial Diploma 181/2010 deals with resettlement in the context of compulsory land acquisition as part of territorial planning processes. It includes payment of compensation on

the basis of established tables of property values and depreciation over time. The loss of rural lands is only compensated against the basic principle that the land itself cannot be compensated; only standing crops and trees are accorded any value. Compensation values are calculated using a formula that even refers to the development stage of annual crops.

Decree 31/2012 aims to fill an important gap by providing safeguards for people displaced and resettled by economic activities and development projects. While the decree includes important protections, many significant gaps remain (Human Rights Watch, 2012). The drafting process was subject to little, if any, consultation and important stakeholders such as civil society organizations, local communities, donors, the private sector and multilateral institutions were not invited to review or make inputs. The decree provides detailed requirements on some elements such as housing, but overlooks vital protections related to land and livelihoods, access to health care, grievance mechanisms, and meaningful consultation and participation of affected communities.

1.5 Land use planning & the current land zoning process

1.5.1 Land Use Planning at District level

The National Directorate for Land Use Planning (DNPOT), under the Ministry for Environmental Coordination (MICOA), holds the legal mandate to be the national provider of guidelines and advice related to land use planning activities, with the actual planning processes being the responsibility of districts and municipalities. The legal framework is intended to add the spatial element to the economic development planning processes undertaken at these levels. The major problem is that there is no National Land Use Policy – elements are scattered through other policy documents (e.g. biofuels policy).

Little has been achieved so far, apart from some methodological tools developed by the MICOA. Few district plans have been adopted. Planning in some municipalities has been supported through donor projects but experience is also variable.

Some of the key lessons captured in a DANIDA review of land use planning processes from 2009 are listed in Box 5:

Box 5: Key findings in respect to district land use planning

- Serious policy gaps and inconsistencies between policies; the absence of an overarching National Land Use Policy is the most salient example.
- Lack of formal and non-formal institutional capacity to implement the territorial planning law and policies in its present context, let alone in its broader context.
- Lack of practical and tested tools and a chronic lack of capacity at local level.
- Widespread use of technical approaches, mostly alien to local stakeholders and over which they are unable to exert influence or take ownership.
- Failure to initiate the development of coherent land use planning continues to fuel the speculative behaviour and expectations of investment initiatives.
- Political expediency seems to override strategic planning in a number of instances, and causes tension between technical staff and politicians, and between the different spheres of government.
- Widespread failure to prevent ultimately dangerous settlement patterns of many informal settlement areas, even where adequate preventative measures and alternatives have been made available.
- There are a series of parallel and related processes driven by institutional imperatives and which may threaten or downgrade the raft of generally sound planning principles.

Source: Norfolk & De Wit, 2010

1.5.2 Strategic Land Use Planning

There are two on-going processes to support spatial planning capacity and approaches in strategic areas, both of which focus on the Tete and lower Zambezi:

The first is the proposed Integrated Growth Poles Project of the World Bank, which is aimed at improving the performance of enterprises and smallholder farms in the Zambezi Valley and Nacala Corridor, focusing on the provinces of Tete and Nampula. Direct support to smallholder farms and MSMEs will be extended to a wider pool of firms and farms in (i) the Zambezi Valley (covering 35 districts in the four provinces of Tete, Manica, Zambézia and Sofala), (ii) the two provinces of Niassa and Nampula on the Nacala Development Corridor and (iii) the southern municipalities of the province of Cabo Delgado (in preparation for the proposed development of gas resources).

A component of the project will provide support to key public agencies to strengthen their capacity to plan, coordinate and implement public investment programs in Tete and Nampula more effectively. The project support can include technical assistance and capacity building for the following:

- Regional Spatial Development Plan for Tete and Nampula Provinces
- Municipal Master Plans and selected District Master Plans for Tete, Moatize and Nacala (to complement other Bank and donor initiatives)
- Strengthening capacity of the Zambezi Valley Development Agency (ZVDA)
- Supporting GAZEDA (Special Economic Zones Office) in implementing the Nacala Special Economic Zone (SEZ)

The second is an initiative by the GoM which is discussing a draft decree to authorise the elaboration of the following:

- A Special Land Management Plan for Tete Province (Plano Especial de Ordenamento Territorial da Província de Tete - PEO'TT)
- A number of Multi-Sectoral Plans for the Zambezi Valley (Planos Multisectorial do Vale do Zambeze)
- A Strategic Environmental Assessment for the Zambezi Valley (Avaliação Ambiental Estratégica da Vale do Zambeze)

1.5.3 Current land zoning processes

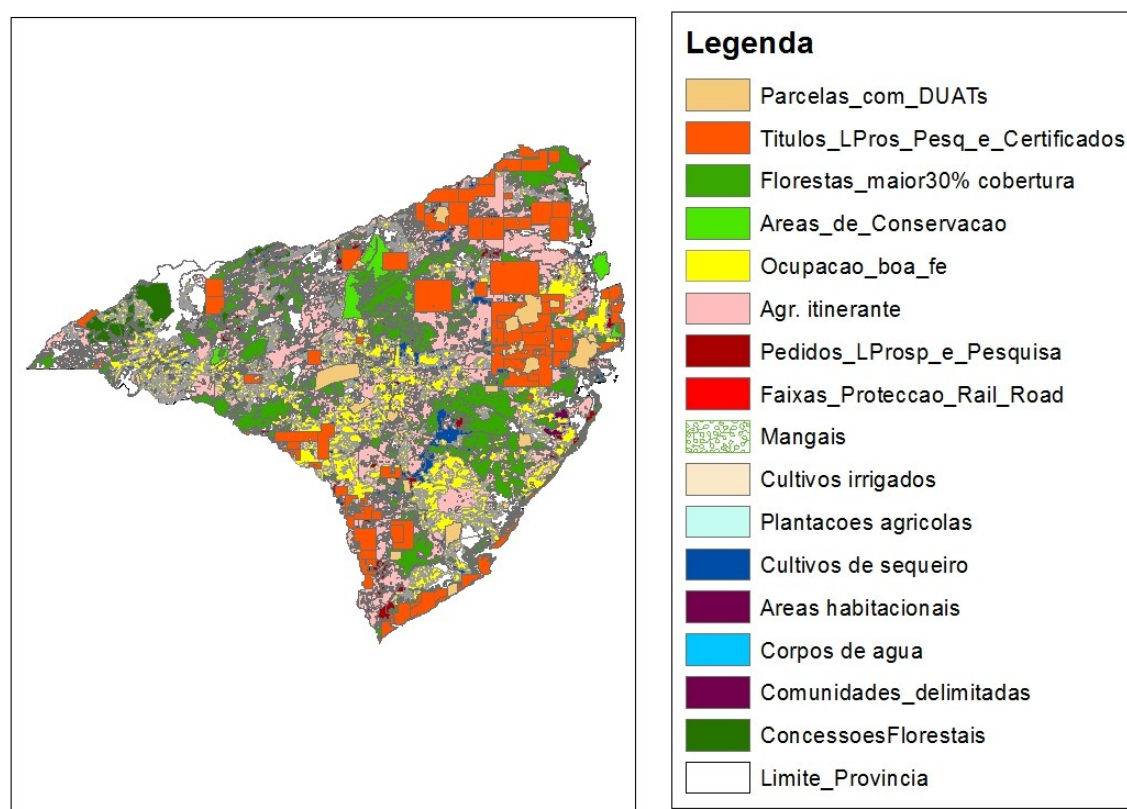
A significant problem is that some parts of GoM conflate the activity of land use planning with land zoning, within a *dirigiste* mindset. The 'national land zoning process' undertaken in recent years has been seen by some as principally an exercise in identifying available investment land. An initial zoning exercise at a scale of 1:1,000,000 (finalised at the end of 2008) was intended to identify contiguous blocks of at least 1,000 hectares for large scale investment: 7 million hectares of land were identified as potentially available.

The Council of Ministers (CoM) thought that much more land was available and therefore commissioned a second zoning, this time at the scale of 1:250,000. This initiative was initially driven by an external demand for investment in the bio-energy sector, but may have significant consequences for the future exploitation of natural resources in the country.

That the Council of Ministers believes that the results of this exercise will provide them a tool to guide future large-scale land applications is revealed by the fact that an embargo was placed on the allocation of large areas until after the completion of the zoning process. This embargo was formally announced in 2008 but has been gradually and informally lifted over the last year.⁵

⁵ According to a senior public servant, the CoM initially wanted to embargo all land allocations, at whatever scale, but were dissuaded from doing so. The current situation is that even the large scale applications for areas over 10,000 ha are being evaluated by the government and submitted for approval. Recent examples of this include the award of 19,540 ha of land for forest plantations to Tectona in Zambézia province in late 2011.

Figure 1: Map showing results of zoning process in Nampula province - white areas are 'available' land (source: CENACARTA)



The CoM is likely to be disappointed once again with the results of the current process, since relatively little land appears to be 'available'. Preliminary results for Nampula and Cabo Delgado show total land availability of a little over 1 million hectares from a total land area of almost 16 million hectares (see Table 2 for further details).

The criteria for exclusion are obviously critical factors in reaching this conclusion and these may be misinterpreted. In particular delimited community areas have been excluded. Delimitations should not be taken as a signal that the communities do not welcome outside investment; on the contrary, many delimitations have been completed with a view to improving the capacity of the community to negotiate and interact with the external investment world, on the basis of providing access to land resources. The impression given by the zoning process, however, is that these delimited areas have become 'unavailable' (or at least that they do not have land areas of reasonable size available for investment). This may be a sign of an enduring misunderstanding, at a political level, about the nature and effect of the delimitation process.

Table 2: Available land - preliminary results from land zoning process in Nampula & Cabo Delgado

	Nampula	Cabo Delgado
Total Area (ha)	7,813,213	7,785,096
Available Land (ha)	592,743	569,848
Excluded Area (ha)	7,220,469	7,215,248
% Available	8%	7%

Source: Ponto de Situação do Zoneamento Agroecológico Nacional, 17/05/12

These results are lower than previous ‘guesstimates’ of the amount of land available for investments. For example the Pro Savana project along the Nacala corridor has reportedly been conceived for at least 14m ha in Nampula alone. This is probably for two reasons: the zoning exercise is not designed to identify *all* ‘available’ land, but only large contiguous blocks; and second, the zoning exercise treats community land as ‘protected from’ investment, rather than seeing communities as territories with potentially ‘spare’ land for investors.

1.6 Gender

“From a gender and rural development perspective, the current model of large-scale land acquisitions does not address the interests of rural women. Essentially, harmful land deals squeeze rural women between traditional patriarchy and global capitalism. Rural communities have already faced a long standing subsistence crisis; household coping strategies are exhausted by HIV/AIDS, conflict, environmental disasters, state neglect and misguided donor prescriptions. It is high time for governments to acknowledge the voices of those who have worked, cared for, nurtured and fed the continent through its “challenging” moments as there is no single part of the story behind the new “emerging africa” that could have happened without them.” Tandon, 2011

The issues in respect to gender and land tenure, looked at through a livelihood lens, are listed in Annex 3. In respect to gender issues affecting land tenure, use and security in Mozambique, there are six overarching conclusions:

- a) Secure access to land is critical for the livelihoods of the vast majority of Mozambicans. In general, **women have less land and less secure access to land** than men.
- b) **Shared access to common areas** of land, water and natural resources is critical to the livelihoods of many poor women and men. Any work on land tenure must recognise this.
- c) **Widows and divorced women are at the sharp end of inequality, particularly in patrilineal areas (mainly centre and south).** Although the Mozambican constitution and Family Law guarantee equal inheritance rights, in practice “even before the funeral is over, the in-laws may come and claim the house and land and throw the women and children out” (interviewee). This is as true for wealthy Maputo women as for remote rural women.
- d) **Formal rights are far outweighed by traditional mores and social pressures.** The formal legal system is remote from daily life, particularly in many rural areas (box). In many cases women are able to work within traditional community structures to gain reasonable access to land and natural resources and to resolve family conflicts (Waterhouse & Vijfhuizen, 2001); however any attempt to confront the status quo may result in ostracism or violence (Izumi, 2007). Thus, changing attitudes and awareness must go along with any attempt to enforce formal legal rights. That said, interviews carried out as part of recent research in Nampula confirmed that the emergence of positive laws promoting gender equality in recent years is effectively reinforcing women’s rights through the suppression of discriminatory local norms and practices: “The population is aware of something changing, that reality is not what it used to be, and that changes introduced by the State are overcoming older currents of discrimination against women” (Villanueva, 2011). The giving of land by traditional leaders to women’s associations or mixed associations does seem to have a precedent and can be built upon.
- e) **Women’s access to and use of land is also impeded by lack of access to education, finance and representation.** The HIV/AIDS pandemic has also made the situation worse for many women, by increasing both widowhood and persecution of widows and in some cases increasing eviction of suspected HIV-positive women from land (Kachika, 2009). Thus, any programme looking at women’s land tenure must take a

broader view. In families affected by HIV/AIDS, women are the prime caregivers for husbands, parents, children, and other relatives, so even if women are not infected, they are affected, in terms of their time and ability to gain access to and use land.

- f) Finally, **formalising a woman's land rights at a particular moment, even if this is possible, carries the risk of "freezing" limited rights** that under traditional tenure systems might have been more flexible over time. Factors such as age, kinship and marital status affect women's rights to use land, plant and sell annual and tree crops, and common property rights. On the other hand, when society is in flux, the more powerful tend to accumulate more power, while the less powerful lose. An example of this is the supposedly matrilineal systems of the North. Under the influence of thousand years of colonization by outside cultures, including Islam, Portuguese, and modern culture, the power exerted by women under the matrilineal society has generally passed to women's brothers. Thus, it is the maternal uncle who has the most say over the child. And, even more so than blood parents including both mother and father.

Box 6: Some quotes on the challenges of dealing with gender

"Although customary tenure systems discriminate against women, they are accessible to women and women are able to negotiate their rights with local level decision-makers. On the other hand, any woman with a grievance over her land rights according to the formal law would have to take her complaint outside the local context to a formal law court. These are almost completely inaccessible to rural women. They are distant, bureaucratic, inefficient, bear charges and operate in Portuguese - a language which most rural women do not speak." (Kachika 2009)

"Women may be branded socially deviant and suffer a backlash of abuse or ostracism if they resort to the courts to pursue their rights." (Sweetman 2008)

"On the one hand, the woman's rights speech is politically correct, but on the other hand issues such as domestic violence, polygamy, early marriages, and low income *"have a wide social legitimacy"*. ... Adequate judicial redress of land-grabbing is also inhibited by general problems with access to justice for rural people and the lack of independence of the judiciary branch...." (Mozambique CSOs 2010)

"...there is a fierce disagreement ... around the issue of women's groups pressing for individual title and land ownership. Accordingly, the criticism is that while richer, more educated urban and peri-urban women may gain from laws allowing women to own land (and for land to be sold) the vast majority of poor, rural women will only lose out as land becomes commoditized. Moreover, there is evidence that titling and registration efforts actually exacerbate gender inequalities." (Knight 2010)

"We heard about the One Woman, One DUAT campaign [in Maputo province] and would like to know more ... we don't know how that would work here ... DUATs are very expensive to arrange for one person" ORAM Manica

"Even in [areas where women are traditionally submissive] being on a committee changes the woman to become more active. She is not just on the committee, she has a task to do, and that gradually gives her more confidence." ORAM Sofala

In rural areas, the above factors argue *against* an immediate focus on formalising individual women's land titles and *towards* a broader focus on improving social attitudes towards women's land rights, in particular for vulnerable groups such as widows and orphans, as well as working to improve women's status on a wider front. This is recognised even by those authors who favour giving women individual titles (Sweetman, 2008). The formalising of women's rights as part of the delimitation of community rights in Mozambique fits within this approach; in a number of instances in which communally-held land is secured in the name of community groups, women are included within the new institutional structures set up (associations or community resource management committees) to administer the land areas.

These institutions operate alongside or within the customary framework, but have offered opportunities for women to negotiate and shift attitudes and approaches without coming into direct conflict with the status quo.

Annex 4 lists some initiatives from Mozambique and neighbouring countries that have addressed gender and land issues. The evidence to date is that seeking individual DUATs for women is high cost and of unknown benefits in the rural setting: indeed, work from other countries suggests it may have a negative effect. Potentially more cost-effective approaches include changing attitudes and spreading knowledge of formal rights through radio programmes and training. However these must be carefully tailored to local realities. Getting women onto land committees, associations, and resource management committees, where these exist, is also a worthwhile aim, but (as with other committee members) careful attention must be paid to how women are selected and whose interests they represent.

1.7 The framework for community-investor partnerships

1.7.1 The consultation process and legal problems

It is the mandatory consultation process that represents what is undoubtedly *the key moment* in establishing a framework for partnerships, or indeed any agreement between a community and an outside investor. This section therefore starts with an analysis of this process, highlighting some of the weak points in terms of both policy and implementation.

The consultation mechanism is a potentially strong safeguard for local rights and interests and should provide significant leverage to local communities in negotiating access to land with interested 3rd parties, including vis-à-vis the state. That it has generally failed to do so to date constitutes a central challenge to all stakeholders, since the legal framework that guides the consultation process is well-developed.

The legal basis for the mandatory consultations is provided by the Land Law and the Land Law Regulations. Further amendments were made to these processes by Decree 43/2010 and Ministerial Diploma 158/2011.

Local communities have statutory rights to participate in a number of decision-making processes that affect the land over which they have use rights. This arises through the operation of Article 24 of the Land Law: This states:

24(1) In rural areas the local communities shall participate in:

- a) The management of natural resources;*
- b) The resolution of conflicts;*
- c) The process of titling, as established in paragraph 3 of article 13 of this Law;*
- d) The identification and definition of boundaries of the land that the communities occupy.*

For the specific purposes of the titling of land in the name of 3rd parties (referred to in sub-para c above)⁶ the requirement for a prior consultation with the local rights' holders is contained in Article 13 of the Land Law:

13(3) The application for a title for the right of land use and benefit shall include a statement by the local administrative authorities, preceded by consultation with the respective communities, for the purpose of confirming that the area is free and has no occupants.

⁶ 3rd parties in this case include individual members of a community, or a sub-group from within the community, as well as 'outside' investors.

The Land Law Regulations provided further details on how this must be carried out, through Article 27 (which was later amended – see below):

27(2) A joint operation shall be carried out, involving the Cadastre Services, the District Administrator or his representative, and the local communities. The outcome of this work shall be written up and signed by a minimum of three and a maximum of nine representatives of the local community, as well as by the owners or occupiers of neighbouring land.

27(3) The opinion of the District Administrator shall refer to the existence or otherwise of rights of land use and benefit acquired by occupancy in respect of the area applied for. In the event that the area applied for is subject to other rights, the opinion shall contain the terms under which the partnership between the applicant and the holders of the right of land use and benefit acquired by occupancy shall be governed.

Legal difficulties arise in respect to the important issue of the representation of local rights holders. This is a long-standing area of difficulty and has been the subject of some debate and controversy. At the heart of the debate are differing interpretations of the nature of the land use rights awarded to local communities. The controversy ought not to exist, given the clarity provided by the legal framework in respect to this issue. That it does exist highlights the difficulties in fully implementing the legal framework on land under current conditions.

The clarity of the legal framework in respect to the nature of the land use right, and the manner in which it is held by a group, is incontrovertible. Firstly, the DUAT acquired in law by a ‘local community’, within the definitions provided by the law, is a private land use right which is *at least of the same stature* as the DUAT awarded by the state to an interested 3rd party.⁷

The Land Law and the Regulations are then very clear in respect to how a local community, as a group, holds that right. Having accorded a DUAT over relevant land areas to any ‘local community’ that fits this definition (awarded through Article 9(1)), Article 10 of the Land Law then makes it clear that these collectively-held DUATs should be managed according to principles of co-title, meaning that all members of the group should have an equal voice and must participate in decisions over their common assets:

10(3) The right of land use and benefit of local communities adheres to the principles of joint title holding for all the purposes of this Law.

Article 12 of the Regulations then locates this within the legal regime relating to co-ownership provided by the Civil Code:

12 Joint holding of the right of land use and benefit by national, individual or corporate persons or by local communities is governed by the rules on the co-ownership of property established in articles 1403 et seq. of the Civil Code.

Article 1403 of the Civil Code defines “co-ownership” of property as when two or more people simultaneously hold property rights over the same item of either moveable or immoveable property. In the context of a land use rights held by a community, this means that every community member has equal rights to community property. It follows that there must be a mechanism in place to ensure that every joint owner of the land use right is represented in the consultation process. Clearly, the mechanism for that representation must also be an objective and unadulterated reflection of the interests of the group *as the joint-holders of a private land use right*.

It is in the regulations for this mechanism for the representation of the joint rights holders that the difficulties and controversy have arisen. The Land Law itself does not specifically deal with how the competency is to be exercised. The most relevant clause is Article 30 of the Land Law, which states:

⁷ In some respects, it may be considered a stronger right, since it is awarded in perpetuity.

30 The mechanisms for representation of, and action by, local communities, with regard to the rights of land use and benefit, shall be established by law.

The Land Law Regulations also do not provide sufficiently developed safeguards in this respect; Article 27(2) merely contains the stipulation that agreements reached during the consultation process for the award of DUATs within a community area are “*signed by a minimum of three and a maximum of nine representatives of the local community*”.

The legislative approach to improving the legal framework in this regard has unfortunately made the fundamental mistake of confusing the consultation of *citizens*, as people who might be affected by developments within a particular jurisdiction, with the concept of consulting with *rights holders*, as persons who in law must give their authorisation to any changes to the constitution, nature or holding of those rights. Whilst the Land Law clearly identifies ‘local communities’ as groups that *hold* land use rights, the legal framework for consulting with these groups approaches them *as if they were merely residents of an area*, limited to having sufficient interests to justify their right to participate in decision-making processes.

This approach is clearly highlighted through the various Decrees and Ministerial Diplomas that have been adopted to regulate these consultation processes. The first of these was the Regulations to the Law on Local Organs of the State (Decree 11/2005), followed by Decree 43/2010, which amends Article 27 of the Land Law Regulations.

The preamble to Decree 43/2010 is instructive; it states that Decree 11/2005 determines that the local state authorities should observe:

...among other principles, the active participation of citizens in seeking solutions to key issues affecting the lives of people, particularly through local consultative councils, advisory bodies of local government authorities. Among these functions is the consideration of proposals for private investment for the exploitation of natural resources and the use and enjoyment of land.

Decree 43/2010 then amends the Land Law Regulations (in Article 27(2)) to include the Consultative Councils that were established by Decree 11/2005:

27(2) There will be a joint effort involving the District Administrator or his representative, the Cadastre Services, members of the Consultative Councils of the Village and the Locality, members of the local community, the owners or occupants of adjoining land and the applicant or his representative. The result of this work will be reduced to writing and signed by the members of the Consultative Councils of the Town and Village.

The involvement of the Consultative Councils, as bodies that encapsulate the general interests of residents and that represent a mechanism for their participation in decision-making, is not prejudicial in and of itself, given that this participation is in addition to the participation of the ‘members of the local community’ as a rights holding body. But a significant problem arises because of the final stipulation of the amendment, which is that the result of the consultation will be ‘*signed by the members of the Consultative Councils of the Town and Village*’. Through this formulation, the decree has mistakenly identified the citizens’ Consultative Councils as the principal body that needs to signal its agreement with the transfer of the land use rights, rather than the ‘members of the local community’ as the joint holders of the rights in question.

A further amendment to the consultation process was recently introduced, through Ministerial Diploma 158/2011. This adopts a two-stage system of consultations, spread over a maximum period of 30 days. The first meeting must involve the provision of information to the community and interested parties and the second is to receive feedback from their consideration of the application. Although these are useful additions to the regulatory framework, the Ministerial Diploma maintains the fundamental error of attributing the ‘signing off’ of the final agreement to the Consultative Councils.

1.7.2 Inherent challenges in partnership establishment

Although the land policy has always been held up as providing a framework within which ‘deals can be done’, there have been few attempts to actually negotiate any partnerships on the basis of secured community land rights. This absence of experience means there are no proven tools for achieving this. In recognition of this, the IFAD (International Fund for Agricultural Development) and the Embassy of Holland are financing a specific project precisely to investigate and pilot some partnership arrangements. The project is known as **ProParcerias** (Community Investor Partnerships Project),⁸ and aims to strengthen land and natural resource tenure security through the piloting of business partnerships between smallholder farmers, rural communities and outside investors. It is examining the tools available for establishing and securing land rights in the context of such partnerships and for negotiating and documenting sustainable partnership arrangements, including the award of legal personality to the community groups involved.

Unfortunately, the ProParcerias has been slow to get off the ground and the meetings held with their personnel in Maputo gave rise to more questions than answers. The following is a summary of the situation as it stands. We suggest here that the best way to understand the challenges involved in establishing partnerships between communities and investors is to look at the issue primarily from the perspective of *the establishment of group rights*. The challenges are significant:

- The first key challenge relates to the identification of the group itself. Here, the issue is whether a framework and related tools should encourage the formation of partnerships that involve all of the community members within a defined geographic area, or merely a subset of members of the community that are interested in actively participating. Actors within the ProParcerias project express the view that a partnership arrangement will have a better chance of success if participation is defined more narrowly, through a group that has actively ‘opted in’ to the arrangement. They base their argument on the difficulties inherent in achieving a full agreement with all the members of a community and the transaction costs implicit in sustaining the partnership. There are pros and cons to this approach, as well as implications in terms of the available tools to be used.
- If partnerships are to be established with a smaller ‘subset’ of a community, the land available to them as a group will need to be defined and negotiated with the broader community, as will the basis on which they will be permitted to ‘claim’ this land. The challenges here will be how to define if there is a need for, and the mechanisms to implement, any wider benefit-sharing from the partnership amongst members of the broader community that are not directly involved.
- Equity arguments would seem to suggest that, at least where community land that was for communal use is involved, such a need will exist and the mechanisms for benefit-sharing will need to be designed. Associations, for example, frequently represent a minority of better-organised and wealthier farmers in a community (CLUSA 2002) and demarcating association land can cut off poorer and more vulnerable members of the community, including many women, from good-quality land that they were previously able to use, for example riverine or ‘*machongo*’ land, without any compensation (Knight et al., 2012; Vijfhuizen, 2001) This can increase conflicts within the community, as well as potentially increasing poverty.

⁸ The ProParcerias (Projecto de Parcerias entre Comunidades Locais – Investidores) is implemented through the National Directorate for the Promotion of Rural Development (Direcção Nacional de Promoção de Desenvolvimento Rural - DNPDR), within the Ministry for State Administration.

- An additional issue to be considered, when choosing the available options for legal recognition of the group, is the legal restriction that applies to associations, which by definition under Mozambican law are not-for-profit organisations and are prohibited from any distribution of dividends or surpluses to individual members. This means that any financial benefits accruing through the partnership arrangement could only be applied to the realisation of the founding objectives of the association as a whole. An alternative tool available for legally recognising the group is the law that permits the establishment of cooperatives. A new law, the General Law on Cooperatives⁹ (replacing colonial-era legislation that was never repealed and post-independence legislation based on a Soviet-era model of cooperative) was promulgated in 2009. It provides a framework for business-oriented initiatives, including farmers' cooperatives, to operate as entities that specialise in business transactions for the benefit of their members. The surpluses of the operations of a cooperative, in contrast to an association, may be distributed among the members.¹⁰
- Whilst it is legally possible for a group within a broader community to define itself also as a 'local community' as defined in the Land Law, and thus undertake a delimitation of the land, there will still be a requirement for the boundaries to be clearly established in consultation with the rest of the community members. Given that the legal implication of a delimitation process is a permanent ceding of the use right to the group, great care should be taken if this option is used. There are strong arguments for this option only to be followed in the event that the land in question was already, in terms of the local customary norms and practises, recognised as legitimately being the land of the particular members of the group in question. That is, great caution ought to be exercised where this option involves land that has in the past been regarded as being for communal use or as yet unallocated. Not to do so would run the risk of supporting a 'land grab' within the community and prejudicing the livelihoods of poorer and more vulnerable groups.
- There are also legal uncertainties in respect to the delimitation option. The first is whether or not the process, in and of itself, would serve to award legal personality to the group that undertakes the delimitation. Even if it did so, the group would then, in terms of the civil law, possess the use right to the land in a regime of full co-ownership. The implication of this is that every member of the group would have to give explicit assent to any ceding of those rights in the context of a partnership arrangement. In light of the fact that the legal framework, and in particular the Technical Annex, is silent as to the future management and administration of delimited land by the group, arrangements would need to be made to ensure that these assents were given by each and every member, or that a legal-binding Power of Attorney was provided to a representative body. The kind of tools that exist, for example, in the South African context (where there are model statutes and training modules applicable to the establishment of Communal Property Associations) have not yet been developed in Mozambique.
- A second uncertainty relates to the status of the certificate issued on completion of the delimitation. It remains unclear as to whether the delimitation certificates can be the object of registration in the Real Property Registry or if the land would need to be further demarcated and a title issued in order for this to take place. This is an issue that requires clarification by the authorities. It is closely related to another issue, which is

⁹ Law 23/2009, Bulletin of the Republic of Mozambique (Series I No. 38, Law 23/2009), September 28, 2009

¹⁰ A "division of labour" between associations and cooperatives would imply a clearer distinction between efforts to promote civil-society activities, and efforts to promote private-sector development in rural areas.

whether or not a contract of *cessão de exploração*¹¹ can be entered into where the land in question has merely been delimited rather than demarcated.

- An alternative approach for a partnership arrangement with a group from within a broader community would be to establish an association (in terms of a specific decree that exists for this purpose) and for that association to apply for the award of a DUAT by the state. This would address two issues: firstly, it would ensure that there would have to be a formal consultation process with the broader community, thereby establishing their formal consent to the award of the land and agreement on the terms for wider benefit-sharing; secondly, the legal personality of the association, along with statutes that would specify representation mechanisms, would be a necessary part of the process. However, this process also raises other issues.
- There is uncertainty as to what happens if the DUAT is revoked for any reason in the future. Some provincial administrations have acted in the past as if a revocation implies that the land itself, along with any infrastructure, becomes available to them to re-allocate as they see fit, rather than being returned to the domain of the local community and subject to their consent before any further ceding of the use right. We were told by one interviewee that this had already happened in a failed community-investor partnership in a tourist concession in Nampula province. This possibility makes the granting of association DUATs, even with the explicit and knowledgeable consent of all community members (as foreseen in the law), a high-risk strategy for poverty reduction.
- Further issues relate to the substantially higher costs involved in the demarcation process, and the legal requirement that an annual land use tax is paid by DUAT holders that have been awarded a DUAT. The ProParcerias will need to investigate whether or not it will be possible for non-profit associations, which are exempt from the payment of such taxes, to continue to claim this exemption where they are benefitting from, for example, a rental payment for use of the land, paid by an investor. The official government position on this issue is not yet clear, but some government stakeholders express the opinion that, given that the investor would not have a contractual relationship with the state and not be required to pay the annual land tax, the mechanism would imply a loss of revenue to the state. Other stakeholders argue that the loss is offset by the direct benefits that would accrue to local people, but this raises once again the issue of how these benefits would be shared.
- A common issue, in any of the different potential arrangements that could underpin partnerships between a community group and an investor, is the question of how to value the potential equity contribution of a community, represented by the ceding of the use rights to land. There are different potential approaches to this, and some risks that must be borne in mind. One approach would be to negotiate a form of rental payment, which would need to be reviewable on a regular basis. A different approach would be for the community group to acquire shares in the commercial venture, an option that represents greater risks but which also could lead to greater benefits. Here there is a challenge in terms of how to value the land, in a context where legally it has no market value beyond the holding cost represented by the annual land taxes. In these instances, ProParcerias will also have to address the issue of how to structure the initial equity contributions; that is, whether these represent the purchase of a share quota that cannot then be diluted in the event of further capitalisation of the venture, or not. ProParcerias will need to tap into appropriate expertise in order to address these questions and safeguard community interests.

¹¹ Contract for ceding of land use rights

- Once the issues from the community side have been addressed, and there is a clear definition of a potential group and the land that they have available, there are issues that need to be addressed in respect to attracting and selecting appropriate investors. The ProParcerias project is looking at the potential for organising tender and bidding processes, but much work will need to be done to compile these, to decide upon selection criteria and to establish contractual arrangements.
- There appears to be a widespread recognition that the facilitation and, particularly, the on-going monitoring of partnership arrangements will be need to form part of the future architecture of an enabling environment. This arises from a perception that both investors and community groups will need assistance in order to ‘deal with one another’. The role of permanent ‘brokers’ is therefore seen as a key element in the future, and strategic decisions will have to be made regarding the sustainable provision of such services. ProParcerias stakeholders argue that brokerage of this nature requires special skills and aptitudes, and that government staff find it hard to play this role. Not only that, government officials can find themselves in conflict of interest situations, where the need to defend community land rights is in direct opposition with government targets for external investment.
- The partners in the ProParcerias project also report that there are considerable challenges involved in addressing these issues with communities that have developed a ‘culture of dependency’ and that expect some form of immediate tangible assistance from their engagements with outside parties. To some extent this underpins the view of the ProParcerias project ought also to be offering some form of seed capital contribution that can be contributed to a partnership in the name of a community group.

1.7.3 A potential approach to securing land rights in the context of a partnership

Notwithstanding the challenges highlighted above, this section proposes a potential approach to securing group land rights that permits the establishment of partnership arrangements based on the use of that land by private sector entities. It is untested and would need to be piloted and documented. Lessons learned from attempting this approach could be fed into the ProParcerias process, with a direct impact on policy development and lesson learning.

The approach assumes a number of pre-conditions, which would obviously have to be established as part of the facilitation process:

- A community is in agreement that their land ought to be delimited with a view to negotiating the rental of a part of that land to an outside investor, through a partnership arrangement.
- The community is able to identify the area of land that they are willing to cede on a temporary basis in return for receiving a rental payment of some form, which payment would accrue to the community as a whole.
- The community are in agreement that, because the area of land will be used for commercial purposes, there is an obligation to pay the annual land taxes to the state in respect to that piece of land. The community further agree that the payment of these taxes is their responsibility, since the use rights to that land are legally recognised by the state as belonging to the community.
- There is an investor willing to access land through a partnership arrangement with the community, or a subset of members of the community, that is in the nature of a rental

agreement for a fixed period of time. At the lapse of that agreement, the investor would need to understand that the land use rights over that land, and any infrastructure on it, would revert to the community as a whole.

- The investor is willing to establish some form of legally-recognised joint venture that guarantees a minimum quota-holding by the community members.

If these conditions are met, then the steps involved in this potential approach would be as follows:

- The community as a whole undertakes the delimitation of their land, which would be certified through the issuance of a document recognised and signed by the SPGC office of the relevant province.
- The delimitation process would need to involve the identification of the area which the community are willing to cede to the investing entity. The identification of this area would need to be sufficiently well-documented (a *planta* and *memoria descritiva*¹²) to permit its inclusion in a subsequent contract that would be witnessed and notarised (*escritura publica*). This means that the process for identifying this piece of land would need to approximate the technical specifications of the demarcation process rather than those of the delimitation process.
- The joint venture between the investor and those members of the community that wish to participate would need to be legally established. This will be the investing entity that manages the commercial operation on the land and would therefore need to have an appropriate legal form to enable it to apply for all future necessary licensing, etc.
- A contract for *cessão de exploração* over the particular area of land would need to be entered into between the investing entity and the community as a whole. Article 15 of the Land Law Regulations specifically allow for a local community to issue a contract of *cessão de exploração* as long as all the members of the community consent to the arrangement. A mechanism to ensure and document this consent will need to be established. This may require the establishment of a legally-recognised association that represents the interests of all members of the community. A CGC is not sufficient, since this does not have sufficient legal personality, and is only recognised in terms of being able to receive funds from the state.
- The Land Law Regulations, in article 15, also stipulate that the contract of *cessão de exploração* must satisfy two conditions:
 - it must be submitted for prior approval by the entity that originally recognised the underlying land right, which in this case would be the SPGC office that issued the certificate of delimitation
 - it must be celebrated through a public deed (an *escritura publica*, which is a document witnessed and attested to by a public notary)
- The contract of *cessão de exploração* must also contain a clause that ensures that the community accepts the obligation to pay the annual land tax to the state in respect to the land in question. This amount can be offset by the amount paid as a rental by the investing entity to the community.

¹² The *planta* refers to the graphical design of the parcel of land, with coordinates indicated and the *memoria descritiva* is the accompanying text document that describes the parcel and the boundaries.

- Once the contract of *cessão de exploração* has been authorised and executed, the investing entity would be able to take up the use rights to the land. Any activities on the land would need to be expressly permitted by the contract of *cessão de exploração*. In addition, there may be a number of licences (e.g. a construction license) that would need to be applied for in the name of the community (as the holder of the underlying land use rights) rather than in the name of the investing entity – if this is indeed the case, the investing entity can assist the community to complete this process.

2 Community land tenure – delimitation and demarcation

To recap briefly, the Land Law declares all land in the country to be property of the state, but provides for private use rights to land. These are commonly referred to as DUATs, a right of use and enjoyment of land, roughly comparable to a lease. They can be issued in three different ways:

- (i) as a grant by the state, resulting from an approved request by individuals and corporations,
- (ii) as a result of good faith possession for ten years or more,
- (iii) as a result of a community or an individual holding land under custom.

The same term, DUAT, is thus used for statutory rights, acquired by operation of the law, and for those rights allocated by the state, indicating the equal standing of these rights. Granted DUATs are formalised through a process called “demarcation”, which is an integral part of the titling process, whilst rights acquired in law can, if they choose, follow a process known as “delimitation” which leads to the issuance of a certificate instead of a title.

2.1 Delimitation activities

Community land delimitation exercises have been undertaken in Nampula, and the rest of the country, since the early part of the last decade. Implementation of delimitation processes was interrupted for a period of many months in the aftermath of the Council of Ministers amendment to the Land Law Regulations, but re-commenced in 2011 as a result of the clarification of this amendment provided in a National Circular from DNTF. This essentially stated that a) land use plans were NOT a pre-requisite for a delimitation and that b) no political authorisation of the process was required (that is, the process could be signed off as complete and correct by the Head of the provincial Cadastral Services).

Most of the early delimitations in Nampula have been done by ORAM, through bilateral funding from the Dutch Embassy and international NGOs, with the iTC providing the bulk of the funding for the more recent initiatives.

2.1.1 Progress in Nampula, Niassa & Zambézia

A map of completed delimitations in Nampula (until 2009) is shown in Annex 2, but sourcing up-to-date spatial data on these from the provincial authorities proved impossible during the current consultancy. Crucially, most of the NGOs involved in implementing these processes (and the iTC itself) have also failed to keep well-organised records and in many cases do not possess copies of the actual maps for the delimited areas. This, in the context of badly-organised and opportunistic local governance, is a serious failing and will need to be addressed in future activities. CARE-M will note that none of the community delimitations that they have implemented around Potone forest in Angoche appear on the map in Annex 2. In discussions with the iTC office in Nampula it was agreed that they would embark on a process of systematically collecting all missing spatial data in respect to activities that they have funded.

According to data from the MCC-funded iTC, they have funded 95 delimitations since 2011 in Nampula, Zambézia and Niassa. These are listed, along with the institutions responsible for implementing them, in Table 3 below.

Table 3: Delimitations funded by iTC in Zambézia, Niassa & Nampula since mid-2011

Province & Org	Area (ha)	# Delimitations
Nampula	238,474	55
CARE	23,848	11
Fórum Terra	34,012	8
KULIMA	51,623	10
OLIPA	92,980	11
ORAM	36,011	15
Niassa	672,863	15
CCS	17,911	4
CONCERN	609,169	5
ESTAMOS	41,491	4
(blank)	4,293	2
Zambézia	24,668	25
CCM	3,409	4
PRODEA		6
RADEZA	2,706	5
SIDE	18,553	10
Grand Total	936,005	95

The delimitations in Nampula include 11 implemented by CARE in Angoche, shown in Table 4 below.

Table 4: Delimitations implemented by CARE in Nampula

Community	Area (ha)
Namizope-Saja	1,195.66
Mucuvula	3,577.47
Nacacala-Luazi	1,657.72
Namacula	2,103.41
Mucanjiua	1,917.20
Natire	1,808.01
Murussa	1,202.66
Namerupe	2,233.70
Namihepe	1,864.00
Saua-Saua	3,071.72
Boila velha-Napa	3,216.73
Total	23,848.28

Delimitation of land under the MCA community land delimitation project appears to be costing about \$4 per hectare (Hanlon, 2012). According to a recent press report, a total of 113 delimitations, totalling just over 1 million hectares, have been completed (this appears to include some that have been formally titled with DUATs) at a cost of approximately \$4 million (Noticias, 24 Oct 2012).

ORAM has built up much experience in land delimitation processes over the years but still needs support to address a number of key weaknesses: these include monitoring, record keeping, mapping and advocacy.

2.1.2 Lessons from other NGO initiatives

Centro Terra Viva, ORAM and the International Development Law Organisation (IDLO) have collaborated in a project to look at comparative experiences (in Uganda, Liberia and Mozambique) of assisting community groups with securing rights to land. The findings indicated that community land documentation processes have the potential to i) resolve long-standing land disputes; (ii) improve community governance and establish mechanisms to hold local leaders downwardly accountable; (iii) stimulate communities to sustainably manage their natural resources; and, (iv) strengthen the rights of women and other vulnerable groups.

Importantly, the study noted that while the data and observations from Liberia and Uganda indicated significant changes in the communities, in Mozambique very little change was noted. The primary difference between the processes followed in Liberia and Uganda and that in Mozambique was the inclusion of an extended, iterative, and fully participatory process of cataloguing, discussing and adopting a set of community rules/bylaws and a plan for natural resources management (Knight et al, 2011). So, although there is no legal requirement for land use planning to be part of the delimitation process, it may well be a useful component to include.

The study also confirmed that documenting or registering the community land as the “meta-unit” may be the least costly means of protecting rural households’ land claims. The research found that even when providing full legal services support to communities, community land documentation efforts cost only a few thousand dollars per community. Specifically, in Mozambique, the total costs of land delimitation per community were at most US\$3,968, with full legal support (ibid). This is close to the estimates from the iTC.

2.2 Demarcation activities

Demarcation refers to the more exacting definition and titling of a parcel of land, and can be done for individuals or groups. In Nampula, a number of associations have been assisted to demarcate land (see section 2.2.2 below). Generally speaking, demarcation is a much more expensive process and has rarely been used to secure individual plots in rural areas, largely because in a context of shifting agriculture it has not been economically viable. MCA have funded a Land Tenure Regularisation campaign that has included some rural plots (see 2.2.1 below).

In certain contexts, the securing of individual plots of land in rural areas may make sense; CLUSA, for example, have been assisting individual smallholders to secure their rights over fixed *machambas* where they are growing soya (see 2.2.4 below), the tobacco companies have for many years been assisting their producers in Tete to register their DUATs and there are indications that Lurio Green Resources are now adopting this approach in the context of an outgrower scheme in Mecuburi district.

The rest of this section looks at the progress and describes some benefits and potential pitfalls of the demarcation processes.

2.2.1 The Land Tenure Regularisation programme of securing individual plots

The MCA programme under the DNTF contains a component that is financing LTR of individual parcels, mainly in peri-urban areas, but also in a few rural settings. According to the monitoring of these activities, there have been a number of positive opinions expressed by economically disadvantaged groups, including poor women, widows, and divorcees, the disabled and young people. These groups were apparently particularly impressed with the way the work could be completed and their rights formalised without a complex bureaucratic procedure and without having to pay, a novel experience in matters related to land. Some examples of the experiences that were relayed to the MCA teams are cited in the Box 7 below.

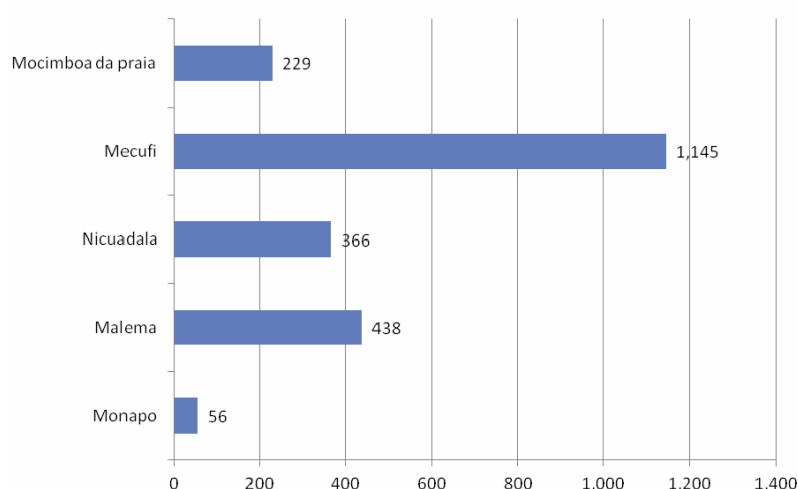
Box 7: Some quotes from LTR beneficiaries

“I got DUATs for 5 parcels that I inherited from my mother. I am the only daughter that lives here in Nicoadala; all my brothers and sisters are married and have moved away and live elsewhere, so it was the consensus of the family that the plots should be registered in my name, because our mother had already distributed the family belongings to us while she was still alive. I am very thankful to the project for their help. Not even in my dreams did I think this would be possible, considering that I am a poor woman used only to working in the fields for my living. I didn’t have any idea how to register my plots and anyway didn’t have any money to do it. I am very happy with the project. The Government helped us a lot. I and my children are safe now and feel well protected.” (a woman speaking in Muanamambene, Nicoadala District).

“It’s not easy dealing with all these documents..... So, as soon as I heard about these goings-on, I told my wife to get down there and register our plot in her name and not to wait for me to get backotherwise we ran the risk of losing our chance to register. You see, I had gone to Milange to try to find some work. When I got back, my wife told me she had succeeded in registering the land and I was pretty pleased, I can tell you. We received our land use title document later this year so we are feeling really good. We are happy with the project and the government should be 14 congratulated. It should be extended to other districts so that more people can enjoy the security of a written title.” (a man speaking in Mocuba).

So far the programme has been run on a pilot basis and official sanction still has to be obtained for the adoption of the methodologies that permit the plot demarcations to be done on the basis of satellite imagery and general boundary principles. The numbers remain low (see Figure 2 below) but the process may become important in the future, particularly if outgrower schemes based on the individual participation of farmers becomes a feature of the future landscape of agricultural development.

Figure 2: Progress with LTR in rural districts of Nampula, Cabo Delgado & Zambézia



2.2.2 ORAM

ORAM have been assisting a number of associations with the demarcation of land in various parts of Nampula province. However, most of these associations are currently making effective use of only a very small proportion of the land in question. Several, for example, have secured hundreds of hectares and are using less than half a dozen.

Whilst ORAM have been reasonably good at overseeing delimitation processes, and have dealt with the cadastral elements of demarcation, they have been less than thorough in ensuring the full legal registration of rights in the *registo predial*, an oversight which has been pointed out to them on many occasions but which they have yet to address.

2.2.3 iTC

The funding products of the iTC also include support to associations for legalisation and securing land rights through demarcation processes.

Table 5: Demarcations funded by iTC in Zambézia, Niassa & Nampula since mid-2011

Province & Org	# DUATs	Area (ha)
Nampula	4	198
OLIPA	1	100
ORAM	3	98
Niassa	4	331
ESTAMOS	1	58
(blank)	3	273
Zambézia	3	106
ORAM	1	101
RADEZA	1	3
(blank)	1	2
Grand Total	11	635

2.2.4 CLUSA experiences in land demarcation

As a consequence of the threats represented by the activities of a number of commercial companies in the Lioma area of Zambézia, CLUSA decided in late 2009/early 2010 to include a specific component on formalising occupancy rights to land for the smallholder beneficiaries of their soya programme. The methodology, results and impact of this programme provide some important insights.

The mechanism adopted to secure the land rights was through individual demarcation and titling of plots. The applicants are treated by the cadastral services as holders of ‘good faith’ occupancy rights and the applications are considered to be applications for the issuance of *titles* to the land. This is important, since the cadastral services could have chosen to treat these requests as something different, which we will examine later.

The titling procedure follows almost exactly the same sequence of activities as other requests to the state, including these of commercial companies. Some of the requirements of this process include the following:

- The applicant needs proof of legal identity;

- The applicant submits a request to the land administration including (i) a map that localises the parcel, (ii) an exploitation plan for the land holding;
- A consultation process with the local community is required and local leaders must give the go-ahead for the request;
- Upon administrative handling and approval of the provincial governor, a land title is issued;
- The parcel is audited by the land administration within 5 years, upon which a definitive title is issued.

The CLUSA project adopted an on-demand strategy to implement the land formalisation component; potential beneficiaries in their grant sites were informed about the possibilities for land titling as part of an awareness creation campaign. When a certain number of individuals in a specific area manifested an interest, arrangements were made to initiate land titling in that area. The titling process was facilitated by an individual consultant who was recruited on an intermittent basis.

2.2.4.1 Positive impacts of the titling process

After one year of land formalisation activities, CLUSA had managed to facilitate the obtaining of 103 land titles for 214 producers, 95 of whom were women. Titles had been obtained for 45 of the women, covering an area of 409 hectares. The total land area involved was 2,057 hectares, and production of soy in 2010 was carried out on 283 hectares of this titled land. As part of the land titling process, some 800 individuals also acquired a legal identity through the issuance of ID cards; this is a pre-requisite for obtaining a land title. A significant number of the beneficiaries of this were women.

Some of the positive impacts noted were as follows:

- Increased knowledge and awareness of land rights and tenure security

The preparatory and sensitization work in initiating the land titling process contributed to raising awareness amongst local populations on the need to use the land law as a protective mechanism against land access threats. Local people had doubts that acquired statutory land rights would prove sufficiently strong against interference from outside, without further formalising these. The threats were perceived as not only coming from the commercial sector, but also from some local and traditional authorities that could engage in deals to alienate land from local communities and individuals.

In Magige, when enquiries were made as to why people thought the land legalisation and formalisation process was important, the initial response was that it would stop arguments between people and guarantee that children would be able to inherit. After this, though, they began to speak of outside pressure and threats:

“When a person comes here with documents from national or provincial or district level, they will know that they cannot just occupy land here because the people here also have documents. It hasn’t happened here in this area yet, but we have seen it in Tetete sede with Tectona Forests and a lot of people have also lost their land in Ruace.”
(BMGF, 2010)

The group were reportedly well aware of the impact of written titles and authorisations vis-à-vis locally acquired and recognised rights. In respect to Tectona and the ability of the *regulo* or *chefe do posto* to intervene, they stated: *“Uma vez autorizada, não há maneira”* (“once the application is authorised, there is nothing that can be done”).

- Reduced disputes

Beneficiaries of land titling perceived that land titling reduced inter and intra household disputes on certain land management decisions, including the transfer of land to future generations.

- Female empowerment

Land titling for women provides independent rights over an important resource base, and means that women can make independent decisions on the allocation of land to specific production systems. Individual titling of land for women was also perceived by men as being good; it prevented a number of possible land inheritance challenges. The issuance of ID cards to women as part of the land titling process was seen as a strong empowerment tool.

- Access to credit

A number of farmers with titled land obtained access to credit from a specialised bank that operated in the region: Banco Terra. Repayment rates were reportedly excellent.

2.2.4.2 Possible negative and unintended consequences of land titling

The manner in which the cadastral services chose to treat the applications submitted by CLUSA on behalf of the beneficiaries is a crucial element in assessing the potential for either negative or unintended consequences. The SPGC appeared to have recognised two important elements about the applications:

1. The applications originated from good faith occupants who were claiming statutory rights to the land areas which they were seeking to formalise;
2. The applications were for the issuance of titles to the land areas, rather than for certificates based on the delimitation of those rights.

The assessment of the impact is therefore mixed:

- On the **positive** side, it is good to note that the applicants were treated as good faith occupants and not as new users seeking to be awarded land rights by the state;
- On the **negative** side, it is not clear why the cadastral services chose to treat the applications as being for full titles, when the certification of the rights would have achieved the same objective of protecting those rights, without the use of cumbersome and expensive procedures.

There are therefore a number of negative and/or unintended consequences. These arise as a direct result of the choice of legal route through which to formalise the rights, a choice which appears to have been exercised by the cadastral services, rather than CLUSA or the ultimate clients. They include the costs involved, the need for precise demarcation of the land parcels and the requirement to submit and then comply with an exploitation plan.

Given that the choice appears to have been made by the cadastral services, it is worth noting here that if the applications were to have been handled as requests for *new* rights, rather than as the formalisation of *existing* rights, there may have been a number of *further* unintended consequences. These include the obligation to pay annual land taxes, time limitations on the lease period and the potential impact of revocation. The potential risks are clear in the law; whether they will take on the form of an unintended consequence will, however, depend on the land administration itself, and maybe more importantly, on how various levels of government instruct the land administration on the application of certain elements of the regulatory framework.

Some of the issues raised below are therefore relevant to future CARE programming in this regard:

– Costs of individual land titling

The demarcation and titling of the land parcels imposes high costs. There is no conclusive data on the real costs of individual land titling by CLUSA. Calculations made by CLUSA total MT 9,800 (US\$ 280) for an average plot of a few hectares. This value mainly refers to the preparatory work of the titling procedure, including the costs of the local consultation process. These costs are thus incomplete, and do not cover the several steps that result in a definitive DUAT.

A more complete cost calculation was presented by the CLUSA land consultant and equals on average MT 23,460 (approx. US\$839). This value is also underestimated, however, as it does not include field travel costs for cadastral technicians¹³. Both estimates also do not include the costs for obtaining an ID card, in cases where this is required. These values are high, especially when compared to the cost of an average rural family homestead built with local materials (US\$1,150), as well as in comparison with other land formalisation approaches¹⁴.

– Need for demarcation

As noted above, the cadastral services dealt with the applications on the basis that they were for the titling of rights obtained through occupation in good faith. On this basis, and in accordance with the law (art 34(2) of the Land Law Regulations), the SPGC will not issue a provisional title first, but move directly to the issuing of a definitive authorisation of the right; this, however, requires that the area be demarcated, placing an extra burden on the applicant to survey the plot before receiving any documentation.¹⁵

The SPGC in Zambézia further insisted that the land had to be demarcated with high precision GPS equipment, and not through the use of alternative approaches. Precision survey services were, however, not readily available in Lioma. As a result, none of the 104 ‘finalised’ titling processes resulted in the applicant receiving a title document - the applicants had only received a paper that stated that the governor had approved the land titling process, which is not the same thing.

– Compliance with exploitation plan

The presentation of an exploitation plan and its approval by the land administration is an integral part of all land titling processes, including the titling of rights obtained through good faith occupancy. Standard forms exist and the preparation of a plan is not complicated. Any deviation from the exploitation plan is, however, subject to approval by the state.

The land administration has the task of auditing the compliance of the exploitation plan. In applications for an award of land from the state, the audit normally comes at 5 years after the provisional approval of the title request, and precedes the issuance of a definitive land title. Given that the titling of rights acquired through good faith occupancy does not require provisional authorisation, it is not clear when this might fall due for such parcels of land.

A major criterion for judging compliance with the plan is an evaluation of the actual land area put under use. In cases where a large area has been titled, but where significant portions remain unused, there is a real risk that the titled land could be re-dimensioned after inspection.

¹³ The same consultant estimated that a full process of individual land titling may cost some MT 36,000 or approx. US\$1,000 (Selma Martins, interview 29th November, 2010)

¹⁴ Calculations of community land *delimitation* indicate a cost of between US\$2,000-8,000 for an area of several thousand hectares. A community land *demarcation* of 2,000 hectares, facilitated by Kulima in Nampula province was costed at US\$14,000 (De Wit and Norfolk, 2010)

¹⁵ Commercial companies and other “more important” applicants have ample time (1 year) for demarcation. Most of these stay however with the provisional title document, and are not inclined to continue the titling process, in the absence of any real functioning audit mechanism from the land administration.

In the CLUSA project, an assessment of the average titled land area against the average area actually under cultivation (with soybean) over the period 2007-2010 indicates that there were sometimes major discrepancies between these respective areas (see Table 6).

Table 6 - Discrepancy between production area & formalised area [zonal averages (ha)]

Zona	Average production area (ha) under soy, 2010	Average total area (ha) being formalised
Lioma	2.30	14.31
Magige	1.20	5.87
Napuatxi	1.54	8.97
Serra	1.42	8.32
Tetete	1.99	12.98
Grand Total	1.69	10.04

Source: CLUSA, 2010

The need for all titled land to be put under use after 5 years (2 years for foreigners and foreign companies) has of course major implications on securing family land that is kept as a land asset in reserve for future generations. Strategically, although the risk remains low that the cadastral services will begin to audit at any kind of scale, it may be that the delimitation and certification route is a far safer option in such circumstances, given that these are not required to submit exploitation plans and are not subject to any auditing.

- Limited rights in time and the potential impact of revocation

The law is clear that land rights acquired through request to the state are limited in time to a maximum of 50 years, renewable once for an equal period. It is equally clear that land rights awarded in law ('community land' and land rights acquired as a result of 10 years of good faith occupation) are subject to no such limit. They may also be delimited or titled without these limits applying.

As noted above, with awarded (as opposed to acquired) rights, there is the possibility that the title can be revoked or cancelled as a consequence of a failure to pay tax, or to comply with the exploitation plans. An additional overarching risk may be that an applicant, having requested an award of land rights from the state, cannot then fall back on other mechanisms (occupation in good faith, for instance) to secure rights to the same land parcel. If the "new" awarded right is revoked, a possible consequence could be that this also results in the loss of an "existing" acquired right. This situation is however far from clear in the law.

- Need for annual tax payment

Land titles awarded by the state are normally subject to an annual tax payment, the value of which depends on the size of the land, the use to which the land is put and the nature of the land-holding entity. Some entities are exempted completely and this includes the stipulation in article 29(c) of the Land Law that the use of land "shall be free" when it is intended for "family uses, local communities and the individual persons who belong to them". In addition, in accordance with the same article, national small-scale agricultural and livestock cooperatives and associations are also exempt from paying annual fees. This stipulation ought to mean that the beneficiaries of the project, both individuals and associations, are exempted from paying the annual land taxes, but this was not entirely clear in the CLUSA project and the *despachos* provided to the beneficiaries were silent on the matter.

- Land transferability

Titled land can be inherited both by men and women. The application of inheritance (and family) law is, however, subject to the documentation of marriage (traditional, civil and religious

marriages are recognised, but need to be documented to prove their existence). There is anecdotal evidence that traditional marriages are not always documented. Transfers of titled land inter vivo are more complicated and by law require the approval of the public institution that has issued the land title. This may turn out to be complicated in rural areas.

2.3 Sustainability and institutional capacity at local level

There are some significant concerns regarding the sustainability and independent capacity of local level institutions in regard to the commercialisation of produce. Local cooperatives or associations in rural areas invariably start from a membership of simple farmers. They are ill-equipped to start up and manage commercial enterprises or establish value chains. Mozambican NGOs are also poorly-equipped to assist them in this. Box 8 below contains some recent quotes regarding a rice-producing initiative in Angoche.

Box 8: Some quotes from a recent evaluation of a cooperative rice production project in Angoche

“Perhaps the greatest lesson learned from this exercise is that entrepreneurial capacity cannot be passed down through technical assistance. Technical assistance can, at best, improve organizational aspects. The idea of creating a 100% farmer owned enterprise is an unrealistic objective unless, among the owners, there are a sufficient number of entrepreneurs that are willing to sacrifice their time and talents to help guide the enterprise.”

“Creating an enterprise from elected farmer representatives, trained by an NGO without any entrepreneurial capacity and managed by salaried outsiders, was an unworkable formula. A farmer-owned enterprise makes no sense unless a significant minority of those in command take an entrepreneurial approach to running the company.”

“NGOs are technical assistance providers not surrogate entrepreneurs”

“NGOs are normally seekers of funding and providers of information. At best, in a project promoting private sector activities, they could be expected to provide business development services - if they have good experience in this area. The project document foresaw two NGOs without any entrepreneurial capacity, let alone BDS provision experience, to create a company, capacitate its owners in thinking like entrepreneurs and to help the company tackle 5 areas of entrepreneurial activity that are usually done separately by specialists knowledgeable in each area (purchasing, transporting, processing, marketing and retailing)...

“... the task of establishing a profitable enterprise engaged in all aspects of the rice value chain is simply beyond the capacity of national NGOs”

Source: “End of Term Evaluation - Wiwanana Wanamalima Rice Project”, Fion de Vletter, Sep 2012

Because of the failure of the cooperative movement in many countries in Sub-Saharan Africa, more recent donor and NGO-funded programmes have tended to focus on the formation and promotion of farmer groups that are not related to the cooperatives of the past. However, the formation and strengthening of farmer groups has often appeared to be an objective in itself, and the concerns and needs of the private sector have been neglected. Consultation with the private sector has been very limited or non-existent, with few successful linkages between smallholder farmers and private sector companies.

From the perspective of the private sector, experiences in working with NGOs have not always been positive. Some NGOs are said to have ‘masqueraded’ as agribusiness enterprises, cross-subsidising their business activities with donor funding, and thus in effect undermining private businesses. Other negative experiences relate to the creation of market distortions to the disadvantage of commercial outgrower companies, or failing to provide for appropriate exit strategies. In all instances the private sector is in effect directly undermined, resulting in an unsustainable industry in the longer term, once the NGO pulls out (Agridev Consult, 2005).

Despite these criticisms, it is suggested that donors and/or NGOs still have an important role to play, especially in remote areas, in the following areas:

- Facilitating group formation;
- Assisting in reducing transaction costs;
- Adding value at producers' level through promoting quality control and/or processing;
- Technical assistance, establishing a bridge between research and extension;¹⁶
- Promoting savings by farmers; and,
- Understanding of the role and use of credit to make such farmer groups stronger.

According to Kaarhus & Woodhouse (2012), it is important that the role of each partner is clearly defined in a context where an intermediary partner gets involved in building new, or strengthening existing, market linkages between smallholder farmers and private sector companies. If this is not done:

- Farmers will expect companies to give them assistance or services that the company has neither the intention nor the capacity to provide;
- Companies will expect farmers to take on roles which the farmers are unable or unwilling to perform; and,
- Both farmers and companies will expect the NGO to fill the gaps and to perform roles which are or should basically be the responsibility of either the farmers or the company.

Sometimes the facilitating intermediary partner (NGO or otherwise) finds itself obliged, in order to get the partnership going, to take on additional roles in the early stages of the partnership, which should rightly be performed by the company or by the farmers. Kaarhus & Woodhouse suggest that the temptation to do this should be avoided as much as possible, as it is often difficult to transfer the role back to the company or the farmers once the precedent has been set (ibid). If the NGO does take over some of the company's or the farmer's roles, it should always pass on at least part of the cost of the service provided to the company or the farmers to give them the incentive to take on the role themselves, and to avoid market distortions (Van Damme & Dirckx, 2000).

¹⁶ Improved crop varieties and new crops (e.g. sesame) have improved productivity and given options to farmers. Food crop production and FS have been improved through disease resistant varieties (e.g. cassava)

Kaarhus & Woodhouse set out possible roles and responsibilities for each partner as follows (quoting Van Damme & Dirckx, 2000):

<p>Farmers</p> <ul style="list-style-type: none"> – Grow the crop on their land; – Sell the crop to the company; – Repay company loans; – Contribute to the costs of services provided by the companies; – Contribute to the costs of services provided by facilitators; – Join producer groups for consultation, negotiation, training, and economies of scale in input and output distribution. 	<p>Facilitators - from the farmer's perspective</p> <ul style="list-style-type: none"> – Advise and train farmers (capacity building); – Facilitate negotiation on contracts and prices; – Mediate between partners where necessary; and – Monitor progress.
<p>Companies</p> <ul style="list-style-type: none"> – Demonstrate the production opportunity; – Recruit and contract farmers; – Supply production inputs (crop financing); – Support production (extension); – Purchase the crop (provide a guaranteed market); – Process and market the end product. 	<p>Facilitators - from the company perspective</p> <ul style="list-style-type: none"> – Support existing farmer-company linkages (attitude change); – Assist in producer group formation; – Assist in reducing transaction costs; – Promote quality control (value adding at producer's level).

2.4 Future support for land and investment activities

This section provides brief details on some on-going and future projects and initiatives to address land administration and land management issues within the CARE area of interest (that is, northern Mozambique).

2.4.1 Dutch/Swedish Institutional Strengthening of Cadastre Project

This proposed project seeks to develop an operational programme for a National Land Administration Strategy and provide effective and relevant land administration services at provincial, district and municipal level, mostly in the north of the country (see below). The programme will include some immediate measures to ensure that work currently being completed through the MCA programme will be carried forward and integrated into an appropriate future organisational and management structure (the Land Tenure Regularisation programme in the Northern provinces and the rolling out across the country of a new Land Information Management System).

In addition it will support the work of the Consultative Forum on Land and its longer term institutionalisation as the entity responsible for overseeing the development of policy and providing a forum for multi-stakeholder discussion and debate of key issues.

Geographically, the project will focus on areas deemed as of high demand, namely the Zambezi Valley, the Nacala Corridor (where the PROSAVANA programme is expected to be implemented) and possibly the so-called Rovuma Corridor. This means at least 38 districts, distributed as follows:

Zambezi Valley:

- Tete: 12 (all) districts: Angónia, Cahora-Bassa, Changara, Chifunde, Chiuta, Macanga, Magoé, Marávia, Moatize, Mutarara, Tsangano, Zumbo
- Manica: 2 districts: Guro and Tambara;
- Sofala: 3 districts: Chemba, Caia and Marromeu;
- Zambézia: 3 districts: Morrumbala, Mopeia and Chinde;

Nacala Corridor (ProSavana):

- Nampula: 8 Districts, two of which already under the MCC project: (Malema), Ribaue, Lalaua, Rapale, Muecate, Meconta, (Monapo), Nacala-Velha;
- Niassa: 7 districts, one of which already under the MCC project: (Chimbonila), Ngaúma, Mandimba, Cuamba, Maua, Marrupa, Nipepe.
- Cabo Delgado: 3 Districts: Balama, Namuno, Chiúre.

2.4.2 iTC in the future

The iTC in Nampula has been funded through the Compact Agreement between the Millennium Challenge Corporation (MCC) and the Mozambican government. It is a replication of the iTC established earlier by the consortium of donors led by the DFID and the Dutch Embassy. A mid-term review (MTR) of the DFID-led iTC was carried out early 2010, which concluded that, while the foundations of the fund were in place, it still needed consolidation to allow continuation beyond project completion. It therefore recommended that the project be extended until 2013, with three main objectives: (i) to transform the pilot project into a streamlined financing facility with cost-effective tools and procedures; (ii) to increase iTC outreach and impact by focusing on priority areas where interventions could benefit larger numbers of communities and help them in using their land rights for economic development; and (iii) to incubate a new national institution to take over project operations beyond project completion. Currently, the position is that the DFID-led consortium will pick up the financing of the Nampula/Niassa/Zambézia components of the iTC, when funding from MCC comes to an end in 2013, and guarantee this until the establishment of a new national institution, slated for 2014.

During the extension period, the iTC will be focussing on delivery of a core set of responsive services that will help local communities seize the opportunities offered by the progressive land and natural resource legislation. This streamlining of iTC's core mandate will help the Fund in building specificity, in increasing effectiveness and outreach (as resources will be redirected to support core activities in more communities) and in developing a value added that will further justify that iTC evolves into a national institution. iTC services will focus on:

- **Services implemented at community/association level** and aimed at:
 - securing community/association land and resource rights in accordance with national legislation (including delimitation and demarcation but also accompanying activities such as mapping and planning, or the creation and legalisation of natural resource management committees or producer associations);
 - facilitating receipt of the 20% forest tax; and
 - partnerships for natural resource-based business development. These are typically services that will be implemented for a cluster of communities sharing common resources, through a contract established for the purpose and detailing the specific activities to be carried out with the communities;

- **On-call advisory services to communities and associations** in the field of land and resource rights, such as services to support participation in a community consultation or other types of negotiation with a private investor, mediation services, legal assistance or regular backstopping to paralegals. These are services that can be accessed on call by communities in situations where a rapid response is required, without having to go through the cumbersome procedure of establishing a specific contract. They will be provided by a pool of service providers, through a framework contract ensuring that they can be mobilised at once and bill their services according to actual demand. This is a new feature for iTC, for which the Fund Manager will design an appropriate setting, closely monitor it, and make corrections based on lessons learnt;
- **Information and capacity building services**, including services to:
 - disseminate information about land tenure legislation and natural resource rights, iTC services and good practices;
 - strengthen the capacity of stakeholders, whose intervention is needed to secure community/association land and natural resource rights, including service providers or government at district and provincial levels.
- **Strategic studies and events** to reinforce and add value to key iTC activities and/or to be used as a basis for policy influence. These are services that can be provided by iTC upon request (as was the case, for example, for its contribution to the Nampula Land Meeting) or upon its own initiative.

2.4.3 World Bank Growth Poles Project

This \$100 million project is aimed at improving planning, coordination and implementation of public investment programmes in the Zambezi Valley and the Nacala Corridor. It targets Municipal and District level land use and infrastructure planning, the strengthening of the capacity of the Zambezi Valley Development Agency and support to the GAZEDA (Special Economic Zones Office) in implementing the Nacala Special Economic Zone (SEZ).

Part of the project is a Priority Infrastructure Programme, to support targeted local infrastructure investments in selected growth poles, focusing on upgrading selected feeder roads and expanding electricity and water supply networks. The objective of these infrastructure investments is to support increased smallholder production and agro-processing through linking smallholder farms to emerging supply chains in high growth potential zones.

In the Zambezi Valley, investments will be focused on the districts of Angonia, Caia, Moatize and Marromeu, which are deemed to represent the highest-potential areas for growth in the short to medium-term. Along the Nacala corridor, investments will probably be focused on Ribaua, Lalaua, Rapale, Muecate and Meconta, which act as collection points linked to major transport routes.

The WB is fully cognisant of the potential risks that this project represents to local land rights holders and has commissioned the design of a 'land sub-component' to the project that will address these; likely activities are the strengthening of local consultation processes, support to local level participatory land use planning exercises and, potentially, support to community land delimitations in strategic areas.

2.4.4 ProSavana

The ProSavana initiative has caused some recent disquiet amongst those concerned with the potential impact on smallholders and rural dwellers in the project area. Much of this disquiet has

arisen as a result of what ProSavana staff refer to as the 'irresponsible statements' of the Mozambican government, in suggesting that there were vast areas of unoccupied land which could be duly allocated to commercial agribusiness operations. The truth is rather more nuanced and the joint JICA/Brazil/Mozambique team responsible for developing a Master Plan for the project are fully aware of the potential and constraints inherent in the current land occupation patterns. The team are concerned that the approach of ProSavana, should it actually come to pass, fully takes into account the rights, mechanisms, safeguards and opportunities offered by the existing legal framework, including in particular the land legislation, the land use planning framework and the environmental regulations.

3 What does this mean for CARE-Mozambique?

3.1 Programming and strategic implications

This report has attempted to highlight a number of issues that CARE-M should bear in mind in designing its future programme. Some of these issues relate to the appropriate tools and instruments that can be used to secure land rights and prepare communities for outside investment, whilst others are issues of strategy and focus. They include the following:

- Support for communities that are engaged in consultations in respect to land allocation is an important element in preparing community groups for outside investments. These consultations have been widely criticised as superficial, conducted without sufficient preparation or representation on the part of the community, not incorporated into legal agreements and not followed up. See Sections 1.3.3 and 1.7.1 above. CARE-M should examine how to establish a capacity to respond to these needs.
- CARE-M should take care to ensure that, where they are supporting the demarcations of DUATs (normally for associations of farmers), these are always accompanied by the delimitation of the relevant (broader) community. As noted, associations often involve a smaller group of better-organised people, there is often clear demand, and their establishment may be very appropriate in the context of possible outgrower schemes. However, as this report notes, the titling of DUATs could also carry a significant risk if not accompanied by delimitation.
- CARE-M should seek to include the development of a community territorial plan/land management plan/local level territorial agreement in any community delimitation activity. As explained above and as also set out in Knight et al., 2012, the process of development and agreement on a community territorial plan has many advantages. Protecting the interests of more vulnerable groups is one of these. See Section 2.1.2 above.
- CARE-M should be cautious about promoting individual DUATs for rural women, as explained in Section 1.6. See further below. Whilst this report has shown that the rights of individual land owners, including women, can be effectively secured through LTR processes and individual land titling, there are other tools available. The different options are a combination of titling (demarcation) or certification (delimitation) and individual or group approaches. There will be a number of elements that may determine whether one or the other of these options is more appropriate. These include:
 - the associated risks of reduction/loss of rights in the future (major differences exist between titling and certification)
 - costs: demarcation is significantly more expensive than delimitation
 - strategic choices: different situations may require targeted responses
 - perceptions: the land administration services continue to consider a certificate of lesser value than a title
- Delimitation of individual land on the basis of good faith occupation may be “the” alternative to individual titling, for a number of reasons. The process itself is less bureaucratic than titling, does not need approval from provincial government, does not require demarcation and can rely more on local oral testimony to confirm existing land rights. Delimitation of good faith occupied land, as well as for communities, is exempted

from annual tax payments, is perpetual in nature, is not necessarily subject to administrative auditing and in principle is difficult to revoke.

- Delimitation of collective land held in good faith combines the virtues of delimitation and reduces costs as bigger blocks rather than individual smaller parcels are delimited. Delimitation of community land is by far the cheapest and arguably the most expedient and simplest way to secure land tenure simultaneously for larger groups. Previous doubts and uncertainties that have administratively blocked community land delimitation have recently been clarified by the land administration at national level.
- Cooperation among farmers, whether as formal cooperatives, farmer associations or farmers groups can go a long way in alleviating some of the problems associated with working with individual smallholder farmers. In encouraging any legal group formation, CARE-M should ensure that the appropriate tools are used for establishing the group. For example, farmers associations should not be established where the expectation of the group members is that they will benefit from a distribution of profits that accrue to the group – in these instances, the cooperative tool is more appropriate. See Section 1.7.2 above.
- CARE-M may decide that it is appropriate, in the context of ProSavana and other large scale agricultural initiatives, to become involved in organizing farmers so that they can participate in proposed outgrower schemes or other forms of contract farming. CARE-M should maintain an impartial role in this process and ensure that there is a clear exit strategy that sets out their eventual withdrawal from any brokerage role within the partnership. See section 2.3 above.

3.2 How best to deal with gender and land issues

CARE-M has defined the focus of their future intervention as “socially, economically and politically excluded women experiencing food and nutritional insecurity, who are highly dependent on natural resources”. Section 1.6 above summarises the principal land and gender issues identified. The main practical conclusions are:

- The process of participatory land use planning needs to include a representative section of the community, including women of different ages and groups. This can be promoted and monitored through any eventual support to delimitation activities. The delimitation process as outlined in the Technical Annex and described in the ‘Manual de Delimitação’ produced by the InterMinisterial Commission for Revision of the Land Law already contains a number of safeguards and mechanisms to ensure that women, as well as other vulnerable groups within communities, are fully involved in the process. These mechanisms need to be better understood by many NGO staff, however, whose own cultural and social backgrounds lead them sometimes to overlook the need to implement them.
- The participation of women in community land and natural resource committees, including the so-called G9s, the CGCs or other local associations, (as required by law) is reportedly useful in building their knowledge, confidence and skills and progressing from tokenism to a real change of status, voice and power within the community. If community institutions receive support, the inclusion of women must be a principle.
- Individual titling (either provision of DUATs for women, or joint titling of husband and wife) should not necessarily be an immediate priority. Such titles may have little social acceptance in many rural areas, and the formal legal system is remote from the lives of

most rural women. Moreover, previous experience of titling programmes has been that they can actually worsen the position of rural women and their ability to negotiate within traditional mores.

- Securing land access and tenure rights for women can be achieved through local level negotiations with community leadership structures. CARE-M can work with local partners to develop and encourage interventions that specifically cater for women's needs, which could include the identification and demarcation of land for associations comprised of local women. The associations could focus on widows from a community, or merely be an independent means for all women to access some land within a community. These arrangements can be negotiated with the broader community and the land rights secured over suitable land areas. Further support and inputs might then be provided, particularly in terms of reducing the labour burden involved in the initial clearing of land.
- The co-titling of family land may also offer a similar solution as that proposed above; in the CLUSA project in Lioma (see 2.2.4 above), for example, 5 female members of the same family opted to title their total land area of 11 ha as one unit, whilst maintaining internal parcel divisions of varying sizes.
- Changing attitudes and awareness of rights is a key to changing practice. There would appear to be two main entry points for CARE-M:
 - Training and support to community 'champions' in the legal framework for gender and land rights. A Phase 2 of the CFJJ work (see Annex 4) in respect to gender is currently under design; the approach will involve the contracting of NGOs to provide on-going support, in specific geographic areas, to paralegals (the community 'champions') that have undergone the gender training provided by the CFJJ. CARE-M could either
 - consider replicating this approach by establishing agreements with local NGOs to provide targeted support to community members that have a gender advocacy and support role, and/or
 - seek to become one of the contracted NGOs under the CFJJ programme, perhaps as an intermediary organisation with responsibility for a relatively wide geographic area
 - Broad awareness-raising of land rights including gender and rights issues. One of the most cost-effective means of doing this is by radio (see Annex 4). Radio soap operas are a particularly good means of promoting learning and attitudes around complex and sensitive issues, and they have been successfully promoted by the ZADP programme in the early 2000s and more recently by the iTC. CARE-M could look to build on previous initiatives and establish partnerships with community radio stations for transmitting these programmes.

3.3 Some intelligent partnerships

In a future programme, CARE-M should examine the possibility of forming close working relationships and even formal partnerships with a number of other organisations working at provincial and national level. It will also be important for CARE to stay informed about the progress of the Dutch/Swedish project for the institutional strengthening of land administration, given there are geographic linkages and potential synergies between this project and future CARE-supported activities.

These partnerships could include:

- **The iTC**, both during its extension phase as a donor-funded project and in the longer-term as a national institution. Although CARE-M has been a service provider and grantee of iTC in the past, a new programme may have more impact if it works alongside the iTC in some way. This could perhaps be achieved through replicating some of the services/grants that the iTC provides in the geographic areas that it does not cover. Even if CARE-M is not willing to provide actual funds in this manner, the iTC may welcome having an intermediary service provider through which it could work in particular areas. The current focus for the iTC, which is unlikely to change in the medium term, seems particularly suited to the challenges of preparing communities for outside investments. These are (see Section 2.2.3 above) the support for services implemented at community/association level (securing community/association land and resource rights), the on-call advisory services to communities and associations in the field of land and resource rights (such as services to support participation in a community consultation or other types of negotiation with a private investor, mediation services, legal assistance or regular backstopping to paralegals) and the conducting of strategic studies.
- **CFJJ**, which
- **Centro Terra Viva**, which has begun to scale-up its policy interventions in the land and natural resource rights area, but has relatively little reach and presence at grass roots levels. CTV often has finance and staff available for impact studies, etc. and may welcome a close working relationship with CARE-M in the future.
- **The Fórum Consultivo de Terras**, which is likely to take on a stronger monitoring role in the future in respect to large-scale land acquisitions and which offers a ready audience of policy-makers to which evidence-based policy proposals could be directed. CARE-M could usefully identify representatives from community groups, CSOs and local NGOs and support their participation in events and processes that are organised by the FCT.
- **CLUSA**, which has a long history of working with smallholders in northern Mozambique and some experience of assisting them to secure their land rights in the face of threats from commercial agricultural ventures.
- **ORAM** and **UNAC** are obvious strategic partners in strengthening land rights for rural dwellers and producer associations. As well as support that helps them to play a more effective role in provincial and district level networks and consultation processes, these are organisations that should be part of a broad advocacy strategy.

3.4 A lobbying & advocacy agenda

The development of a clear advocacy agenda in respect to gender, land and large-scale land-based investment issues should be part of a future programme. But CARE-M will need to develop some strategic partnerships in this regard and avoid being perceived as just another foreign institution pushing an ideological agenda – the land issue is a very sensitive one, especially in respect to American institutions (e.g. the MCC experience). The emphasis should be on giving voice and support to evidence-based research and policy lessons that are rooted in practise. The FCT should be seen as a key target in this regard.

Strategically, CARE-M can also avoid ‘overstepping the mark’ by anchoring the policy and advocacy agenda in agreed international and regional agreements and protocols. These include the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and

Forests in the Context of National Food Security¹⁷ and the African Union Declaration on Land Issues and Challenges in Africa in accordance with the Framework and Guidelines on Land Policy in Africa.

The main focus for this agenda¹⁸ could include the following issues:

- Women who live under traditional and collective forms of land tenure and agrarian systems must have their land and resource rights protected by traditional authorities
- The land and resource rights of local land users must be recognised and protected, with the state acting as a facilitator of development.
- The government should enshrine the right to development, the right to dignity, the right to justice, and the right to land in all investment codes - with specific reference to the enhancement of rural women's rights.
- Land acquisitions for speculative purposes should be prevented - the state must take action to effectively monitor and cancel or reduce DUATs where investment plans have not been fulfilled.
- Agricultural and land-based investments from commercial entities must clearly demonstrate the added value they bring to participatory integrated rural development plans that enhance women's rights, promote food self-sufficiency and protect the environment. These elements of the investment proposals presented to CEPAGRI must be made available for independent scrutiny.
- The results and agreements made as part of consultation processes must be enshrined in independent agreements established in writing between investors and communities.
- The government, in consultations with communities, must implement proper participatory land use planning, and place appropriate statutory limits on the total areas of land allocated for different land-based investments and the duration of these.
- All land acquisitions should include the value of thorough, gendered cost-benefit analyses to compensate any losses that women might face as a result.
- The government must ensure compliance with the timeframes and stipulations of the detailed work plan and implementation mechanisms agreed under the Nairobi Action Plan to Promote Land-Based Investments that Benefit Africa.
- The government must provide specific support for women involved in the land allocation consultations, providing them with information and ensuring that they consent to any development projects that may affect their access to and control over land and natural resources, food security and economic opportunities.
- The government should further develop and support the use of tools to identify the land use patterns in communities so that all the resources that women require to sustain and care for households, expand their economic activity and ensure food security are identified and protected.

¹⁷ These Guidelines were adopted by the Committee on World Food Security at its Thirty-eighth (Special) Session on 11 May 2012.

¹⁸ These suggestions are based on a more generic list of advocacy issues included in "From Under Their Feet: a think piece on the gender dimensions of land grabs in Africa", ActionAid, April 2012

3.5 Developing a mapping capacity

One of the key areas of weakness, within both state institutions and the NGO sector, is the lack of organised mapping capacities, using and harnessing the power of imagery and GIS packages as part of planning and rights-based approaches to land and natural resource use.

CARE-M should consider the development of a strong mapping capacity within a future programme. This need not be expensive, since open-source software (QGIS and Google Earth) offer sufficient flexibility and the appropriate tools for the purposes of the programme.

There are a number of purposes to which mapping could be applied:

- There are several local NGOs, including provincial and regional platforms bringing several NGOs together, which could benefit tremendously from being able to access a mapping service for various purposes. These could include producing base maps with imagery as a tool for local level participatory land use planning and the mapping and monitoring of payments to local communities as a result of local resource use.
- The compilation of maps and the sharing of spatial data are good mechanisms for ensuring transparency around the allocation of land and resource exploitation rights, much of which is in the public domain but little of which is in an accessible form.
- Maps are also very useful tools for advocacy.

As part of this process, CARE-M could also consider financing the acquisition of high resolution satellite imagery for various purposes, either through contact with CENACARTA or the Nairobi-based Regional Centre for Mapping Resources for Development (RCMRD), to see which imagery is available. Imagery may in fact be available at very little or no cost.

References in text

See also further reading and additional bibliography in annexes.

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Annexes

Annex 1: Terms of Reference

Annex 2: Delimited community areas - Nampula (to 2009)

Annex 3: Land issues and gender

Annex 4: Selected initiatives on land issues and gender

Annex 5: Additional bibliography

Annex 1: Terms of Reference

Background

CARE International in Mozambique with financial support from CARE Denmark and funds from Danida has been implemented the **Forestry and Agriculture Programme in Mozambique (FAPIM) since April 2009**. The main objective of the project is the reduction of poverty and vulnerability of the population living in or nearby forests by increasing the sustainable benefits by communities from woodland resources. The project was designed to achieve this objective by enhancing the flow of revenues from forest resources to the community and promoting the creation of added value in combination with the strengthening of existing farming practices in a context of mutual accountability of government agencies, forest operators, and communities.

FAPIM is implemented in Meconta district, Nampula Province in collaboration with two local partner organizations, Associação Nacional de Extensão Rural (AENA) and Associação Rural de Ajuda Mútua (ORAM). FAPIM is now in its final phase as the project will end in December 2012. A final evaluation was concluded in June to inform the development of a five years proposal for the period January 2013-2018, which is currently developed by CARE Mozambique and CARE Denmark.

The future five years program will use food and livelihood security as an entry point to sustainable management of natural resources. The program will use a right based approach to NRM with components of civil society strengthening and participatory governance, evidence based advocacy, women's empowerment and gender. The right to land, as the basis for sustainable management of natural resources and secured livelihoods, in the context of Mozambique's mega projects will be a central theme.

CARE is now looking for consultant's services to conduct different pieces of analysis and documentation necessary to inform the further development of the program's next phase.

Objectives of consultancy

There are three main objectives to this consultancy:

1. A learning and documentation objective linked to activities that FAPIM implemented and that are likely to continue but need to be approached differently to improve effectiveness and ensure women's inclusion;
2. The development of approaches and tools that will be used in the next five years programs;
3. An advocacy objective aiming at producing short briefs to be distributed and presented to relevant stakeholders;
4. A mapping of "hot spots" or areas with existing investments or potential for future large scale investments in Nampula and Cabo Delgado

Specific tasks

1. Learning and documentation of experiences with collection of 20% tax rebates and 15% reforestation tax by communities

Under this objective CARE seeks to document the approach employed by FAPIM to support communities access the 20% tax rebates on investments and on the collection of the 15% reforestation tax. FAPIM has been supporting communities of Meconta to claim and collect the 20% tax paid by investors to government. This has been a challenging process characterized by lack of transparency to determine the basis of the calculation of the 20% rebate (20% of what?). FAPIM also attempted to support communities access the 15% tax return for reforestation but it clear that this is dysfunctional and effectively disregarded by district and provincial authorities as well as by the concessionaires. CSOs are already engaging with the government on the issue but more documentation from actual experience is needed to advocate for enforcement of these legal provisions. The consultant is therefore requested to document in details the process used by FAPIM and other organizations supporting communities to access these two funds. Successful experiences should be identified and factors for success described. The documentation should also include what the process should be as per the law (summarizing steps and institutions involved) and compare it with the actual practice. The consultant will also document lessons learnt by CARE and others and will use these lessons to formulate recommendations to improve the process and make it more effective. A short brief with recommendations to be addressed to relevant stakeholders, including government, will be formulated.

Deliverables:

- One report documenting the process of access to 15% reforestation tax and the 20% tax rebate on investments, including lessons learnt b CARE and others and recommendations;
- One advocacy brief (maximum 4 pages) on how to improve enforcement of these two instruments.

2. Learning how to best prepare communities to get maximum benefits from investments

In the face of increasing demand for land in Mozambique from international companies, a key step in preparing communities prior to the arrival of investors is to secure their land rights through the facilitation of community land delimitation. FAPIM local partner ORAM is already experienced in this and already supports communities targeted by CARE's programs. The consultant is expected to document and evaluate the land demarcation process as conducted by ORAM. The consultant is also expected to compare ORAM's approach with other organizations conducting similar work in Mozambique so that experiences can be shared and compared to improve. A particular area of focus in this documentation of the land demarcation process is women's participation. In the next phase of its program, CARE will be working with socially, economically and politically excluded poor women dependent upon natural resources. Designing a land demarcation process that is inclusive of poor women whose land rights are often abused is critical. Therefore the consultant is expected to formulate recommendations to improve the land demarcation process in order to ensure participation of the most excluded and marginalized groups, women in particular.

While community land demarcation is a critical step to prepare communities for potential investments, it is not the panacea and more needs to be done. The consultant is required to identify the different steps needed to prepare communities for existing or future investments in their communities and capacitate them to negotiate terms that will maximize the potential

benefits from these investments for both the people and the natural resources they depend upon. These steps need to be grounded in relevant legal instruments and can include things like training community members and leaders on the land law, on the process for land acquisition by investors and related communities' rights and investors and government obligations, on the family law, on women's inheritance rights, on negotiation skills and techniques, on the principles of transparency and accountability, on the importance of land delimitation, on the need for environmental assessments for certain types of investments, particularly for the extractive industry, on investors' social corporate responsibility, etc). A "how to" guide to prepare communities for investments will be produced by the consultant building on legal instruments and ORAM and other partners experiences, to be refined during the next five years program that CARE is currently designing. The documentation of the land delimitation process mentioned above will be a component of that guide. Existing training curricula on the land law, the family law, etc will be identified and refined when needed, ready to be utilized in phase 2. As for the land demarcation process, the guide will need to pay particular attention to the involvement of women.

Deliverables:

- An evaluation report of ORAM's land demarcation process with lessons learnt and recommendations for improvement and inclusion of poor women;
- A "how to guide" on preparing communities to maximize the potential benefits of investments;
- One advocacy brief (maximum 4 pages) summarizing the key steps to prepare communities for investments.

3. Identification of hot spots in Nampula and Cabo Delgado

The consultant is required to conduct a mapping of "hot spots" in the provinces of Nampula and Cabo Delgado. This mapping will be used to inform CARE's decision on where to focus its program in the next five years. It will also be used for advocacy purposes and to invite other stakeholders and partners to engage and support communities where CARE and its partners may not be able to intervene because of limited financial resources.

The main criterion for the identification of these geographic areas is the conduction of an economic activity at scale or the construction of major infrastructure, likely to have a significant impact on communities' natural resource base and their right to land and NRM. This includes investments in the extractive industry, in agribusiness, exploitation of timber, investments in the tourism industry, major infrastructural construction like roads, train rails, etc. Identified hot spots may include areas with existing investments or significant potential for attracting investors in the next 10 to 20 years. For each identified area, the consultant will provide detailed information on:

- The type of investment and the investor when existing;
- The impact the investment is likely to have on people's livelihoods, both positive and negative: how many people are likely to be affected or benefitting, how, are people at risk of losing their land, being relocated, of losing their right to exploit an existing NR like a forest, a mangrove, are families at risk of being split due to labor migration, etc. Are people likely to get jobs or have benefits? Which ones? Is the investment likely to attract people and more investors / service providers from outside the community?

- The impact the investment is likely to have on natural resources: Are there environmental risks? Which ones? Is the investor likely to try to mitigate these risks? Can the investment have a positive environmental impact?
- Potential other civil society actors already working with communities and investors in these identified areas

The consultant will use this mapping to formulate recommendations for CARE's next five years' program geographic concentration.

Deliverables:

- A hot spot map and accompanying report with recommendations for CARE's geographic concentration

Recommended approach

The consultant is expected to use a participatory approach, eliciting reflection from CARE's staff and partners. When relevant and possible, the consultant is expected to build on existing documentation and must be prepared to conduct a literature review. Identification of and consultation with other relevant actors, both from government as well as from civil society, from whom to learn will be critical. The consultant is expected to have an existing knowledge of relevant actors in Mozambique. Logistics support can be provided by CARE when traveling to CARE's project area. Otherwise the consultant is expected to be working autonomously and making his / her own logistics arrangements. Costs for this can be included in the financial proposal.

Timeframe

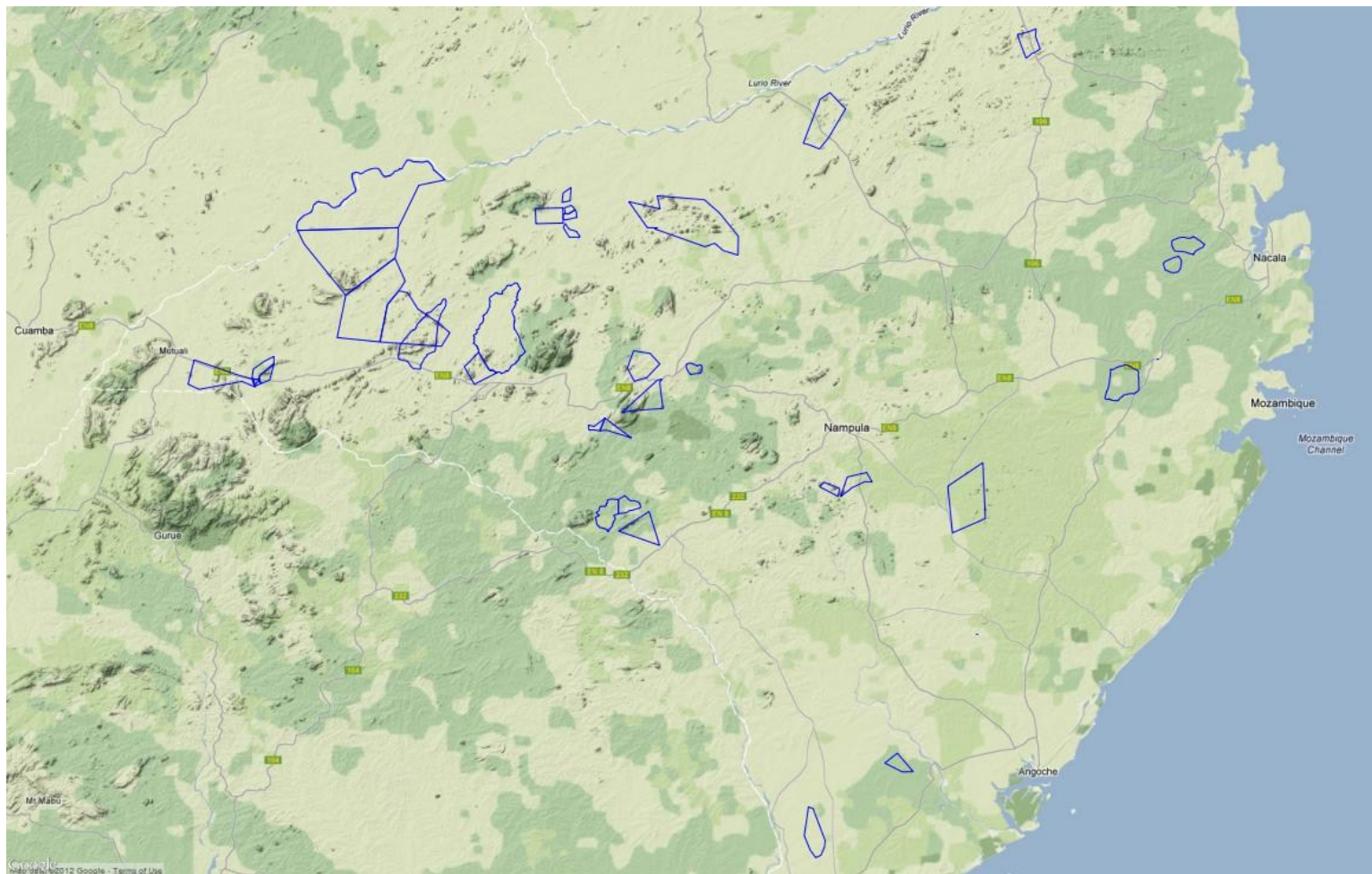
The consultancy should start in September 2012 and be finalized latest by mid November 2012

Consultant's profile

Considering the tasks at hand, a team of consultants is a welcome approach. A suggested role repartition would be for one consultant to work on specific tasks one and 2 and a second consultant to tackle task 3 (hot spot mapping).

- Expert level knowledge of Mozambique's land law;
- Good knowledge of other relevant laws (related to NRM, to foreign investments, etc)
- Knowledge and practical experience in Natural Resource Management
- Understanding of the implications of the mega projects in Mozambique
- Familiar with women's land rights issues in Mozambique
- Familiar with key actors involved in land, NRM and women's rights issues in Mozambique
- Excellent writing skills in English
- Proficient in Portuguese
- Willingness to travel to Nampula and Cabo Delgado

Annex 2: Delimited community areas - Nampula (to 2009)



Annex 3: Land issues and gender

Livelihoods capital	Issue
Natural capital	<p>Decision-making powers over the use of land and land-related assets are traditionally wielded by men, even in the matrilineal areas of northern Mozambique.</p> <p>Factors such as age, kinship and marital status affect women's rights to use land. In particular, widows and divorced women often lose their effective land tenure and other property rights to relatives (although this may be less brutal in matrilineal areas).</p> <p>Shared access to water, and to common property land for activities such as wood-gathering and picking wild fruits, is vital for many poor men's and women's livelihoods.</p> <p>Under the Mozambican constitution women have equal rights to men. However the majority of women have little if any knowledge of or contact with the formal legal system.</p>
Physical capital	<p>Legally, any payment for transfer or rent of individual parcels of land under the 1997 Land Law has been for the "improvements" (constructions) on the land, not the land itself. In most areas, men traditionally build houses and other constructions, and are considered as the main owners.</p> <p>Both the ownership and technological productivity level of key equipment which rural people need to cultivate and sell the produce from their land is low (e.g. hoes), with ownership levels being lower for women than men. Women also have much lower access to means of transport to market (e.g. bicycles).</p>
Human capital	<p>Women's educational level is on average much lower than men, with about double the levels of illiteracy in rural women; less than a quarter speak Portuguese. This affects both their ability and confidence, including for example for making contracts and requesting formal land titles.</p> <p>Fewer women than men have formal documents such as an Identity Document (BI), and this can affect their ability to engage in written contracts.</p> <p>Women are traditionally allocated land in order to cultivate it, so if they or their families have long-term health problems this will reduce their labour availability and may also affect their effective tenure rights.</p> <p>The high prevalence of AIDS has greatly accentuated the problem of young widows who lose their property rights, including through diminishing the practice of 'widow inheritance' (as surviving male relatives may be reluctant to marry a widow they suspect of being infected with HIV).</p>
Social capital	<p>Strong social pressures within families and in most rural communities are likely to deter women from seeking legal means to solve for land tenure disputes, even if legal help is available. This often includes domestic violence, and in extreme cases witch hunts.</p> <p>Women represent at best a minority in community structures, and are rarely represented in negotiations with outsiders interested in community land, even in matrilineal areas.</p> <p>Women's associations and some other community structures have helped women to mobilise to tackle property rights as well as other aspects of poverty, but have only involved a tiny minority of Mozambican women to date.</p>
Financial capital	<p>Access to land for food production is critical for income-expenditure balance, even in many urban households. Food accounts for over half of total household expenditure on average, and the majority of households produce at least some of their own food. Women take the major role in food production in most areas.</p> <p>Access to land for cash cropping is also critical for the production of cash crops. Men normally dominate cash cropping and the control of the resulting cash. (Dry season and peri-urban vegetable production is a partial exception.)</p>

Sources include: (Daley, 2011; Izumi, 2007; Kachika, 2009; Laksa & El-Mikawy, 2009; Waterhouse & Vijfhuizen, 2001; World Bank, 2005)

Annex 4: Selected initiatives on land issues and gender

Initiative	Description	Observations (drawn from available reports)
Mozambican Centre for Juridical and Judicial Training (CFJJ)/FAO	Integration of gender training into CFJJ's programme of judicial and paralegal training.	Integration of gender training into paralegal training is an efficient means of training the trainers and spreading knowledge.
Forum Mulher with partners FAO and 4 local associations	"One woman one DUAT" campaign. Plan to support 100 women to get DUATs	Kaarhus and Martins (2012) say that very little has been done to date (3 DUATs for women in one location in Sofala, for very small amounts (<1 ha) of land for agriculture, and 25 more processes initiated in Maputo Province.) The main point is that getting a DUAT is very challenging and often needs expert help, as well as finance. Forum Mulher has now reportedly taken up the issue of joint titling instead of individual DUATs.
CLUSA (Cooperative League of the USA) - Gurue District Soybean Production Project	Project planned to support 300 men and 300 women to acquire DUATs in 2007-11 to protect tenure rights due to external investors	287 'DUAT authorizations' issued (120 for women) with 9 of these (3 women) being final 'approved and demarcated' DUATs. Plot sizes ~ 5-10 ha. Kaarhus and Martins (2012) comment that this took considerable technical support and investment from the project, and that parts of the process (e.g. field visits by officials to groups of applicants) would not have been economic or possibly politically possible for individuals seeking DUATs.
Zambézia Agricultural Development Project (ZADP) Radio soap opera and magazine programme (2000-2003)	A variety of social issues, including gender and land tenure, were addressed in an on-going radio soap opera and subsequent panel/open audience discussions.	The soap opera reached an estimated 3 million listeners within two years of start-up. Evaluation surveys showed widespread listener recognition of characters and plots. Attitude changes were not formally assessed in the evaluation, but evidence from other countries is that radio soap operas have been very successful in improving understanding of complex social issues such as gender and land disputes. ITC has also reportedly funded a two-month radio soap programme in Manica province covering land issues.
GROOTS Kenya (Grassroots Organizations Operating Together in Sisterhood)	A network of women self-help groups and community organizations in Kenya.	Inter alia, work to educate women about their land rights, field community watchdog groups that report women (e.g. widows) dispossessed of their land and mediate in land disputes. 15 communities have watchdog groups and 85 cases of 'land grabbing' from women have been reported, with 70% brought to court (International Land Coalition 2011)
Uganda Land Alliance	Women's land rights programme, 2010-	Previous research from the Land Alliance found that customs and lack of awareness of rights meant that national legal changes promoting women's rights had little traction in rural areas. The focus of the current programme is on raising awareness, influencing customary, religious and opinion leaders and monitoring changes in women's awareness, titling and participation in committees, etc.

Sources: Kaarhus and Martins (2012), International Land Coalition (2011), Independent evaluation of Zambézia Agricultural Development Project radio component (2003), Uganda rights coalition [website and publications](#) (accessed 25/5/12).

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