

## SUMMARY OF COMMENTS ON DRAFT AGRICULTURE, FOOD SECURITY AND NUTRITION LAW

### 1. BACKGROUND

In January 2014 the Agriculture, Economic and Environment Commission of the Parliament issued a draft law on Agriculture, Food Security and Nutrition for comments. An initial high level analysis of the legislation indicated a number of concerns related to its likely legal and economic impacts. Therefore two analyses, one legal and one economic were undertaken. A summary of their findings is included below.

### 2. LEGAL ANALYSIS

- Significant **conflicts exist between the draft law and the Constitution**, particularly in respect of the constitutional right to freedom of initiative and to undertake business, and the transferring of state powers to other actors. Such conflicts result in the draft being potentially unconstitutional and therefore impossible to implement.
- **Potential conflicts arise from overlaps with sectoral legislation** (such as environment and land) and the Commercial Code. The draft does not include any revocation or transitional arrangements meaning that if promulgated it would result in direct conflict between this and other legislation of equal value (i.e. other laws). In such cases the Civil Code provides that the later law is the valid one meaning that the Law on Agriculture, Food Security and Nutrition could potentially set aside existing laws such as those on environment, water and land. **This would result in significant legal uncertainty.**
- There is potential **conflict with Mozambique's international obligations** within SADC and the WTO where the draft envisages introducing barriers to imports and exports.
- The draft legislation cannot be applied without significant subsequent regulation, meaning that its impacts cannot be fully determined until such subordinate legislation is developed.
- The draft, and subsequent legislation **imply potentially significant additional costs to the state budget** in terms of creation of infrastructure and new public sector bodies.
- The draft focuses almost entirely on food security and nutrition without taking account of agro-industry.
- The focus on food security and nutrition is entirely restricted to the role of agriculture, and does not take account of other major issues such as economic development, business environment, education and public health.

### 3. ECONOMIC ANALYSIS

- **Several of the specific ways to achieve the objectives of the draft work against each other.** There is a conflict between improving consumer access to food at affordable prices and restricting imports of food, since restricting imports raises food prices. There is also a conflict between guaranteeing minimum prices for basic foods through acquiring and publicly storing agricultural products and managing their distribution on the one hand, and on the other the objective of reducing government interference in the free market.
- The draft **does not consider the cost to the state budget** of the proposed measures.

- The draft proposes raising barriers to agricultural imports in order to boost self-sufficiency – aside from distorting free trade this **risks increasing the cost of food to the poorest consumers** by increasing the cost of imports of staples. This measure would also reduce the range of food types available thus **potentially worsening nutrition**.
- To deal with short-term fluctuations in prices and outputs of farm products, the main measures proposed in the draft law are rural credit and agricultural insurance subsidies, minimum producer price guarantees, government food reserves, and variable restrictions on food trade. These measures would **increase government involvement in markets** which could dampen investment incentives and thus output and income growth, **thereby slowing poverty alleviation**.
- Government purchasing and storing of food in the hope of being able to sell it at a higher price in the future **distorts the market price** at both the buying and reselling times, and **dampens the incentive for private agents to invest** in storage.
- Proposed **restrictions on exports might increase local consumption, but at the expense of export earnings**.

#### 4. CONCLUSIONS

- There should be **significant public debate** about methods of promoting agricultural development, food security and improved nutrition. The debate should centre on **why current policy and legislation has proven inadequate** to address the needs of these areas and how the situation can be rectified.
- **The current draft should not be promulgated**. Instead measures such as effective implementation of existing legislation, improvements to the business environment and infrastructure should be considered. International best practice on food security and nutrition should be taken into account.
- **Food security initiatives which enhance economic growth should be sought, along with alternatives to price-distorting proposals** found in the current draft.