

REFORM MEMORANDUM

SPEED+ I7-RM02

SUPPORTING THE POLICY ENVIRONMENT FOR ECONOMIC DEVELOPMENT (SPEED+)

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REF: AID-656-TO-I6-00005, Supporting the Policy Environment for Economic Development (SPEED+)

DATE: November 9, 2017

SUBJECT: Proposed SPEED+ Support for Reform of Land Sector Legal Framework

I. Introduction

The purpose of this Memorandum is to request written approval for SPEED+ to undertake a series of activities aimed at legal, regulatory and institutional reform in Mozambique's land administration sector. Following a period of analysis beginning with USAID's own assessment mission, conducted in November 2016, and continuing through May 2017 with an in-depth scoping mission undertaken by SPEED+ consultants, we recommend support for legal framework reform beginning in 2017, coupled with small-scale local level implementation to validate the reform approach.

The work would begin with drafting and advocating approval for a series of new or amended legal instruments, aimed at bringing more clarity and transparency to the land sector. The legal instruments targeted would range from lower level administrative rules, such as "Ordens de Serviço" or "Circulares" issued by the Director of DINAT (*Direcção Nacional de Terras*), to higher-level ministerial "Despachos" and "Diplomas," and eventually to "Decretos" by the Council of Ministers that would amend the 1998 Land Law Regulations and other relevant regulations. In addition, the program should consider at least initiating a debate about adjustments to the 1997 Land Law which would have to be approved by the national Assembly.

SPEED+ also recommends a simultaneous small-scale intervention at the local district level to validate certain aspects of the recommended reform approach, such as decentralization of land administrative functions and registration of *all* land rights (community, individual, public and corporate) in a given geographic target area, whenever systematic regularization campaigns are implemented.

The overall goal of the effort is to stimulate an increase in land-based investment, primarily agriculture, but would also include other investments such as housing or light industry which require secure access to land. Bringing more transparency and clarity into the process of acquiring secure leasehold access to land via DUATs (*Direito de Uso e Aproveitamento de Terra*) will lead to increased transactions of leaseholds and eventually to a more market-oriented allocation of land rights, while still protecting the

rights of the most vulnerable, including women and the poor. The more efficient allocation of land rights, accompanied by increased investment, will lead to greater productivity and thus economic growth.

2. Policy Discussion

A. The need for adjustment in Mozambique's legal framework for land administration

Mozambique is widely regarded as having a modern and progressive land law, following the enactment of the 1997 Land Law and related legal instruments. However, implementation has not always lived up to the promise of the original law. Twenty years of experience have revealed a number of areas in which the legal framework would benefit from revision.

With increasing demand for access to agriculture land – whether from national investors, international investors, or just a local smallholder wishing to increase the size of his farm to gain efficiencies of scale – the demand for clarity and transparency in land administration has correspondingly grown. Revision of the governing legal framework to clarify procedures and facilitate transactions of DUAT leaseholds can be expected to spur greater investment and thus productivity in the agricultural sector. The majority of these revisions can be implemented via lower level administrative rules or ministerial regulations, though the time may also be ripe to initiate a wider discussion of market-oriented reforms to the Land Law itself.

Although all land in Mozambique is owned by the state in trust for the people, citizens (as well as foreigners and corporate entities) may acquire DUAT rights. (The Portuguese acronym is typically translated into English as “Land Use and Benefit Right”). DUATs, essentially leaseholds granted or recognized by the state, are for varying periods of time (the time period depends on a variety of factors and can even be of indefinite duration under certain circumstances).

It is worth emphasizing that the constraints to secure tenure and a more fluid land market (or its functional land rental equivalent) in Mozambique do *not* result from the technical ownership of the land by the state, but rather from the partial restrictions on DUAT transferability and certain inefficiencies in the land administration which consequently lead to actual and perceived weak title (i.e. insecure tenure).

Therefore, we believe it possible to make significant strides toward promoting increased investment in land (and thus ultimately greater productivity) by making revisions to the current legal framework but leaving the fundamental premise of the 1997 Land Law – the state's unequivocal ownership of all land – completely untouched.

In analyzing the policy environment for land-based investments, the following investor-driven criteria for secure access to land stand out:

1. Certainty and Transparency
2. Protection of Investment
3. Community Consent and Participation
4. Sustainable Land Administration

If these land access issues are properly sorted out, than the investor (be it a corporate producer or even a smallholder making small investments to a family farm) can focus on its core business: (a) determining market demand; (b) production; and (c) supplying product to the market.

Note that when we refer to land-based investments, we primarily mean agricultural investment but many of the issues would be similar for other investments requiring secure access to land, such as for mining, housing, or industry).

In analyzing the four investor criteria for land access listed above, we prioritized approximately a dozen different legal instruments that need to be revised or drafted and categorized them by these principles. For the most part, these revisions were found among the DINAT's own list of nearly 40 instruments which it has determined should be created or amended (see PEA discussion below with respect to DINAT's own reform agenda).

1) Certainty and Transparency

The investor strives to reduce unknown risk to the extent possible: the “rules of the game” should be known to all players and should be enforced in a consistent manner. Even if some rules are not favorable to the investor, they can be budgeted for in advance if they can be predicted. Furthermore, if the rules are issued in official documents, then they can be appealed (and perhaps modified over time).

In the context of land tenure in Mozambique, stakeholder interviews and research show that updated norms for DUAT acquisition – whether for systematic regularization (RDUAT) or sporadic application (via “pedido”) – are not clearly and comprehensively expressed in definitive regulations or administrative instruments.¹ This leads to a variation in the way cadaster services are implemented across the country, posing risk for the investor. Of even greater concern to the investor are the procedures for approval of DUAT transfers in rural areas, which is not automatic and currently involves significant discretion by cadastral officials. Variations in how transfer applications are treated may be the result of innocent shortcomings in resources (lack of capacity), or may occasionally be the result of rent-seeking. Clarifying and simplifying the procedural standards for rural DUAT transfers, with the aim of also reducing discretion the approval criteria, would go a long way toward reducing the investment risk.

An even more basic investor need is confidence that the land in question will not be subject to potentially legitimate competing claims by a third party – particularly after time, money and effort have already been spent. In the absence of title insurance (either provided by the private sector as in “deeds” jurisdictions such as the United States, or by the government itself as in a title system), an investor is left to rely on the cadaster's completeness and integrity. The direct issuance of a DUAT to the investor by a Mozambican government official may not be a sufficient guarantee if the government's own cadaster records are not diligently kept up to date. Moreover, Mozambique has not set up any title insurance fund to guarantee its title issuance. If a prior claim is overlooked when the investor is issued its DUAT, the older land right may take precedence over the subsequently-issued DUAT. Therefore, it is critical that DINAT's cadaster system is complete and maintained. Of course the investor can visit the land in question and verify if there is any conflicting occupation. The investor can also go a step further and question neighbors and local officials about any potential third party land rights they may be aware of. However, only a fully reliable cadaster will reveal the absence of competing claims. Unfortunately, we found in visits to the provincial cadaster offices that the digital “SiGIT” land information system is not being uniformly updated with all new DUATs issued, nor have all the DUATs prior to SiGIT been successfully migrated. The lack of single reliable repository, with accurate spatial (geographic) data for DUAT grants raises the possibility of conflicting land rights claims

¹ The most recent time official technical norms were issued by the cadaster services was via an “Ordem de Serviço” signed by the head of the then corresponding government department, DINAGECA, in 1989.

and arguably deters land-based investments. Information about land use restrictions is similarly difficult for the investor to access.

It must be emphasized that secure land tenure is not only an issue for direct investor access to land but also in outgrower schemes when an investor contracts with smallholders. We found that the investor may very well insist that the smallholder obtain a DUAT or other title documentation, to avoid cases where the smallholder's land right claim is challenged and production ceases while the conflict is resolved.

While the integrity and completeness of the cadaster is not primarily a legal framework issue, there are some administrative rules that could be put in place to encourage its integrity and sustainability, as described further below in the "Proposed Activities" section. Moreover, the legal framework, even if only through administrative rule-making, could be strengthened to require more and better public access to cadaster and land use information. SPEED+ advocates the support of an internet-accessible public portal to display cadaster and land use planning information.

2) Protection of Investment

In the context of the Mozambican land sector, a potential investor needs confidence about the following issues:

- Ability, if necessary, to recoup its investment by selling improvements on the land (buildings, irrigation infrastructure, planted crops). In practical terms, only reasonable along with the DUAT transfer;
- flexibility to transfer use rights over part of its granted DUAT (i.e. subdivision of DUAT);
- flexibility to change its development plan (wholly or partially) within reason without excessive fear of DUAT revocation;
- protection against expropriation without just compensation;
- clarity on compensation and resettlement guidelines to occupants of land earmarked for development;
- ability to challenge arbitrary or arguably "wrong"/"illegal" acts in a timely fashion (in court or via alternative dispute mechanism).

The issue of being able to transfer DUATs in rural lands, already mentioned above, is particularly important in the context of being able to sell improvements (buildings, irrigation infrastructure, planted crops). A willing buyer for the improvements will likely only be interested if it can also become the DUAT-holder. In urban areas, there is an automatic transfer of the underlying DUAT, but as noted in rural areas, this transfer is subject to a variety of discretionary approvals and thus introduces a risk that may impede the initial investment. An investor will prefer the security of knowing that if it is running short on capital mid-way through a project, the improvements and DUATs can be sold to another interested entrepreneur. There are many examples in Mozambique of "abandoned" improvements and infrastructures (which ultimately revert to the state if the DUAT is revoked), but it is not clear if these improvements would have been "abandoned" if the DUAT transfer procedures in rural areas were automatic or at least less discretionary. We therefore reiterate the need for simplifying the procedures for rural DUAT transfers to make the process more similar to urban areas, including the procedures of subdividing and transferring part of the initial DUAT. If rural DUAT transfers were made automatic, this would also open the possibility for a credit market in which lenders would be able to foreclose not only on the infrastructure but also on the underlying DUAT leasehold. If access to credit could be increased, this would increase investment and thus productivity.

The possibility of DUAT revocation is another area that would benefit from revision of the legal framework. DUAT-holders are essentially at risk of losing their leasehold rights if they are in violation of their “plano de exploração,” or development plan. Once again, the standards for when a DUAT-holder is in violation of their *plano de exploração* varies in practice among the provinces, with opportunities in rent-seeking resulting from the discretionary power of government officials. While the state surely has a legitimate interest in how land is used, these interests can be served in many instances by greater attention to, and enforcement of, district land use plans. At present, a *plano de exploração* must be submitted with all DUAT applications, regardless of size. (If the DUAT is being recognized via good faith occupation in state-initiated regularization programs, then parcels below 5 hectares are being exempted in practice, though it is not clear on what legal authority this distinction is being made). If the land use plan indicates agricultural use for a given area, it is not clear why a smallholder, or even a medium-sized investor, should need to submit a *plano de exploração* committing it to details about the crops it intends to plant.

The investor needs the flexibility to adopt to changing market conditions without having to worry about the risk of revocation in the event of violating its *plano de exploração*. When a DUAT is revoked, whatever improvements may exist on the land revert to the state without compensation. While the legal framework certainly acknowledges permissible exception to compliance with the development plan, these rules allow for too much discretion. If compliance with land use and zoning plans are used to protect the state’s interest instead of the *plano de exploração*, then such *planos de exploração* are arguably unnecessary for all but the very largest projects. However it should be emphasized that reliance on land use plans to safeguard the state’s interest, including environmental and conservation concerns, must be accompanied by more attention paid to updating such land use/zoning plans regularly and by greater efforts for monitoring and enforcement of the plans.

In addition, the current legal framework requires that a *plano de exploração* be refiled and reapproved in the context of a rural DUAT transfer – even if the new DUAT holder does not intend to change the plan. The same is true in the various drafts of the *cessão de exploração* regulation (namely the “cessionario” or assignee would have to refile a *plano de exploração* under all circumstances). Once again, this introduces discretionary approvals, delays, and opportunities for rent-seeking, with limited benefits for the state or general public. We therefore recommend a revision of the legal framework applying to the *plano de exploração* to exempt its requirement for small and medium sized parcels, as well as to clarify and simplify the rules for its application to large-scale investments. We also suggest that any proposed *cessão de exploração* regulation loosen the requirements of having to refile a *plano de exploração*, unless one does not already exist or if the assignee desires to make substantial changes to it. In addition, if the “cedente” or assignor of the concession already has a DUAT title (as will typically be the case for private assignors as opposed to a community), then it appears superfluous to have the contract approved by the governor or other entity that approved the DUAT in the first place. The assignor retains the DUAT and remains responsible and accountable to the state.

One further area related to protection of investment involves the standards for compensation in the event of expropriation. Any investor – whether it be in Europe, America or in Mozambique – realizes that a land-based investment is subject to the risk of expropriation if the state decides the land in question must be dedicated to a public purpose, such as new roads, railways, water or electric infrastructure, or similar uses. Mozambique’s expropriation guidelines are not sufficiently clear as to the valuation methodology, or adequate to address value in the context of large-scale investments. We therefore recommend support for ongoing efforts to revise this legal framework. The flip side is the compensation guidelines to private sector investors seeking resettlement of occupants on land

earmarked for projects. These guidelines are also in the process of reevaluation and USAID may wish to consider supporting this effort as well (which we understand would be under a separate scope). Any potential engagement in this area would seek to ensure that the guidelines are consistent with the UN “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests, and Fisheries in the Context of National Food Security” (VGGT) and USAID’s “Guidelines on Compulsory Displacement and Resettlement in USAID Programming”.

A final area of concern for the land-based investor is knowing that if conflicts do arise, there is a reliable and fair system for resolving such disputes. The first preference should be for quick out-of-court alternative dispute resolution (ADR), particularly community-based mediation which (unlike arbitration) does not produce winners or losers per se, but rather a mutual agreement that should be sufficiently satisfactory to both parties such that going to court is avoided. We therefore recommend capacity-building for mediation-focused ADR. However, if cases do eventually find their way into the formal court system, it is important that judges be well-versed in the land legal framework, which is why we also recommend judicial training as well as training of NGO-provided paralegals who can support community members to navigate formal judicial processes.

3) Community Consent and Participation

One of the most critical issues for investor confidence and security, as well as for the protection of community members’ land rights, remains the mechanism for community consent. The Land Law in Article 30 anticipated that the mechanisms of representation of local communities with respect to land rights would be defined by the enactment of future legal instruments to regulate such procedures. However, no such law has ever been enacted. There has been some guidance as to the procedures for conducting a community consultation within the context of awarding a DUAT to a third party on land that may affect or involve community land, and there is guidance (in the Technical Annex to the Land Law Regulations) on the process by which a community delimits its land. Strictly speaking, these are two different processes, though in reality they may often occur at the same time and the differing guidelines may create confusion in their practical application.

Procedures for the community consultation process were elaborated by a 2010 decreto whose effect (somewhat controversial) was to change the requirement that the minutes or conclusions of community consultations would be signed by members of the “Conselhos Consultivos” as opposed to directly by member of the communities, and a 2011 Diploma Ministerial which elaborated on the 2010 decreto and required at least two stages to the consultation process².

The 1998 Land Law Regulations originally specified that the minutes or written results of community consultations would need to be signed by between 3 and 9 representatives of the community as well as by title-holders or occupants of neighboring land.³ The provision did not specify how the representatives would be chosen, though the implication was that the mechanism for representation was to be determined by, or from within, the community. *Decreto 43/2010* and *Diploma Ministerial 158/2011* retained participation of community members, but the actual signing of the community consultation is by members of “Conselho Consultivos de Povoação e de Localidade”. While naturally this body would almost surely include members of the local community, this council is, technically speaking, an extension of the state apparatus whose composition is determined by the *Regulamento da*

² See Decreto 43/2010 (CM) and Diploma Ministerial 158/2011 (Ministry of Agriculture). For further discussion (and criticism) of the substitution of the *Conselhos Consultivos* in place of the original language of community members, see Baleira, S. & Chiziane, E. (2011); Norfolk & Bechtel (2013).

³ RLT, Article 27(2), as originally enacted and before amendment.

Lei de Orgãos Locais de Estado,⁴ in effect a representation imposed from above (and thus more politicized) as opposed to self-determined representation from below. Moreover, the requirement that occupants and title-holders from adjoining areas also sign the documents resulting from the community consultation was dropped. On the positive side, the *Diploma Ministerial* 158/2011 mandated at least two phases to the consultations (recognizing the need for a preparatory and informational phase) and warned that consultations not following the procedures in the *Diploma Ministerial* would be invalid (thus presumably invalidating the DUAT application process itself).

The bottom line is that the procedures for community consultation and community land delimitation should be harmonized, and procedures should also be clarified for the community to become a legal entity capable, for example, of opening a bank account and receiving funds it is entitled to (either because of contracts with outside investors, or via the percentage of mining, forestry, and tourism-related fees it is entitled to under those corresponding laws). We heard that in some cases banks had refused to open accounts for communities, insisting the legal framework was not sufficiently explicit⁵.

SPEED+ strongly believes that consultations must be genuinely participatory and foster informed consent. It is important to note that informed and effective consent by the local community of a proposed project is not only a protection for members of the local communities – it's also a protection for the investor who does not want to see an initial investment of time, money and effort wasted if, at a later time, disaffected members of the community object to the project and successfully pressure community leaders or the state to cancel the contract, citing insufficient consultation. In short, hasty and incomplete community consent, as well as one-sided (unfair) negotiations will backfire later with community opposition. For that reason, we recommend a revision of the community consultation guidelines to better ensure reliable community participation and clarify procedures for the benefit of the investor. SPEED+'s interventions in this activity area will be informed by USAID's "Operational Guidelines for Responsible Land-Based Investment" as well as the New Alliance's "Analytical Framework For Responsible Land-Based Agricultural Investment".

We also believe that community members' interests would be better protected if community delimitation were routinely followed by demarcation of all holdings within the community's delimited land – namely individual household holdings, public holdings (such as schools and government buildings), churches, associations, corporate holdings, protected areas, and common land. Too often community delimitation has not been followed by demarcation of individual holdings. That practice has slowly started to change, first with the demarcation of DUATs for productive associations and more recently the demarcation of good faith individual holdings below 5 hectares within the community. However, in many regularization programs (such as Terra Segura), holdings over 5 hectares are not entering the cadaster database, nor are the other types of holdings described above.⁶ The potential for encroachment by third parties on individual holdings within community land, and thus the risk for future disputes, increases when such demarcations are not done. In effect, it is the community's common land which is most appropriate for investor projects, but this land can only be defined properly and reliably once the other holdings are clarified. Whether the investor accesses the land via a DUAT, or via a *cessão de exploração contract*, the granted land must be defined carefully.

As already noted above, resettlement and compensation procedures, and related valuation issues, should also be revisited in the context of community land.

⁴ Decreto 11/2005 of 10 June.

⁵ Interview with iTC on 28 April 2017.

⁶ Interview with Maputo Province SPGC Chefe Jossias Cossa, 2 May 2017.

4) Sustainable Land Administration

If Mozambique is to provide an attractive venue for increased land-based investment, than it must perform its land administration functions – many of which have been discussed above – in a sustainable fashion. This includes maintaining its digital cadaster database (SiGIT), as well as staffing district, provincial and national positions with sufficient numbers of well-trained staff. Unfortunately, these government offices have not been given sufficient human and physical resources to run the land administration services at the optimum level, and the demands will only increase – for example, as greater numbers of parcels enter the formal system via the massive Terra Segura titling program, and foreign investors continue to look to Mozambique for opportunities.

However, increased formalization of land rights does hold out the promise of greater revenue opportunities. Increased land-based taxes and fees are a natural source of funds to help sustain Mozambique's land administration services. The World Bank, in 2011, published a "Policy Note" examining the issue of rural land taxation, and made a number of recommendations which are still relevant today.⁷ Among other suggestions, the Note recommended efforts to: (a) increase the rate of collection; (b) increase the level of taxes; and (c) tailor tax rates more proportionately to "real" or market-oriented values. The Note estimated collection rates to drop from an already low 33% in 2006 to an even lower 16% in 2009. Although this data is not recent, interviews with SPGCs officials by SPEED+ consultants this year suggest that collections remain low. Apart from the collection issue, the World Bank note described individual tax payment amounts as "negligible" for DUAT-holders.

The Mozambique legal framework already exempts the vast majority of parcels from the DUAT tax because they fall under the categories of "exploração familiar" (family use) or the DUAT-holders are local communities or members of local communities.⁸ In the first place, Mozambique would benefit from more clearly defining the exemption categories of family use and members of local communities (and frankly being less generous with them). Although the philosophy of generous tax exemptions may originally have been conceived to guarantee universal access to land for productive use, the impact of the generous exemptions appears to have the contrary result -- namely the lack of a disincentive to leave the land unproductive. The same can be said of the low tax rate if indeed the parcel is taxed. Furthermore, hardly any fees are charged in connection with DUAT transfers, which is a common method in other countries to raise revenue for land administration services. The issue of revising the land taxes, both procedurally and substantively, have been on DINAT's agenda and the time is now ripe, in the context of the national Terra Segura program and other developments, for SPEED+ to support this process. However, it should be noted that initiatives to raise land-based taxes must be analyzed and planned carefully, such that a potential unintended consequence, namely pushing transactions into the informal sphere, is avoided. Increased tax burdens are more likely to be accepted if they result in visible and tangible improvements in land administration and other public services. Citizens are more willing pay additional taxes if they receive better services. It may be advisable to couple any tax increases with a well-organized SBCC (Social and Behavior Change Communication) campaign to facilitate public acceptance.

As mentioned above, a key piece of sustainable and transparent land administration services is the maintenance of the digital cadaster, SiGIT. Unfortunately, the system has suffered from discontinuity in the contractual relations between DINAT and the private sector company (EXI) that developed the system. Although SiGIT has room to improve, there was consensus (not complete, but nearly so) in

⁷ "Policy Note: Rural Land Taxation in Mozambique," World Bank, May 2011.

⁸ Art. 29 of the Land Law.

the SPEED+ stakeholder interviews that technically the system's performance was satisfactory. Improvements and modifications are needed – but the contractual problems have delayed those improvements. If the parties believe it would be helpful, including the Dutch Embassy which leads the Dutch-Swedish GESTERRA program with funds earmarked for SiGIT, then SPEED+ may consider exploring ways to a speedy resolution of that relationship. A durable long-term relationship is necessary. If the parties cannot come to an agreement, then serious thought should be given to substituting SiGIT.

B. Applied Political Economy Analysis

The above discussion recommends a series of reform activities. However, critical questions remain as to whether these interventions are timely and feasible. We take our cue from USAID's recent "Applied Political Economy Analysis (PEA) Field Guide," which observes: "Many of the decisions that determine whether progress is made are shaped by multiple stakeholders with varying degrees and types of influence. This includes a number of often conflicting views, a complicated mix of incentives and interests, and ways of doing things that are likely to be rooted in past experience and rules, but molded by powerful contemporary forces, outside of formal institutions or legal frameworks"⁹.

In the context of the proposed reforms, SPEED+ attempted to answer the following questions during its meetings with stakeholders:

- a) what is the extent of support for these reforms at the MITADER ministerial level (and higher);
- b) what is the extent of support for these reforms at the DINAT directorate level;
- c) at the lower levels of institutional government bureaucracy, what forces will be supportive or resistant to change;
- d) which elements of the private sector may support the reforms and which may oppose;
- e) whether there will be support among civil society organizations; and
- f) whether there is demand for reform at the community level.

A natural starting point for this applied PEA is the recognition that the current administration, soon after the 2014 general elections, emphasized secure land tenure as one of its priorities. In April 2015 President Nyusi himself launched the "Terra Segura" program which promised 5 million DUAT titles in 5 years. Although this in itself does not demonstrate political will for the reform, *Terra Segura* provides a window of opportunity established at the presidential level to move forward a land sector reform agenda that will simultaneously assist in the achievement of *Terra Segura's* goals and enable a streamlining of the legal framework to facilitate a more fluid dynamic in the acquisition and transfer of rural land DUATs.

Terra Segura provides a gateway for engagement, since the clarification and streamlining of procedures recommended in the above discussion benefits both the regularization campaign of *Terra Segura* as well as investor-initiated acquisition of DUATs. In addition, the goals of *Terra Segura* to demarcate individual land holdings lend critical weight to the argument that a stable and reliable digital cadaster must be maintained. The registration of 5 million DUATs under *Terra Segura* – it can and should be strongly argued – means little unless the cadaster is maintained with up to date information, such as changes in DUAT titleholders due to death, marriage, divorce, transfers, expiration, revocation, and other modifications. In other countries, typically, between 3% and 7% of land right holders change per

⁹ USAID Applied Political Economy Analysis (PEA) Field Guide, Version: February 1, 2016, p.3.

year.¹⁰ The sustainability of the *Terra Segura* achievements provides a reason to support the recommendations above related to maintaining the integrity of SiGIT, the digital cadaster database, as well as the recommendations related to reforming the land tax revenue base, because the enormous influx of formal titles into the cadaster system will require a much higher volume and level of cadaster services.

Regarding will at the ministerial level for more general reform of the legal framework, informal stakeholder meetings conducted by SPEED+ indicated that MITADER Minister Celso Correia was committed to reform. SPEED+'s consultants did not speak directly to Minister Correia, but did meet with Carlos Serra, a top level legal advisor to Correia, who said he was leaving MITADER's *Gabinete Jurídico* in order to head up a new unit under MITADER's *Fundo de Desenvolvimento Sustentável* with a specific mandate to push forward a broad legal reform agenda in the various sectors under MITADER's purview, including land. Serra asserted that Minister Correia was committed to reform, and in fact the tentative name of the unit refers to policy and "legal reforms" in its title (*Unidade de Reforma Legal*). Revision of the legal framework was also highlighted by Minister Correia as one of five critical areas in a document presented by MITADER to donors for which technical assistance is being sought.

At the level of DINAT, the openness to reform appeared to be a mix of outward cautiousness to donors while internally preparations are underway to consider a vast range of reforms, including not only changes to regulatory instruments but also amendments to the 1997 Land Law itself, once considered almost sacrosanct. In fact, DINAT has internally prepared a list of approximately 40 legal instruments in need of revision (or in some cases to be newly created), including 5 separate proposed changes to the Land Law (requiring approval by the national Assembly) and 9 separate *decretos* that would need approval at the Council of Ministers level. Although the list may be overly ambitious, it certainly reflects the realization within DINAT of the need for revision of the legal framework. *Nearly all of the legal instruments which this Reform Memo recommends for change or introduction can be found among the list in the internal DINAT document.* The recommendations of this Reform Memo may stretch the limits of what precisely DINAT intends for the final drafts of these revisions, but the general direction is consistent.

Furthermore, MITADER / DINAT also commissioned a document called "Road Map para a Revisão da Lei de Terras" which was finalized in mid-2016 and focuses explicitly on reforming the Land Law and a series of related legal instruments. It is being evaluated by MITADER and contains similar analyses and conclusions to this Reform Memo. The Road Map draft is one of the background documents that form the basis of the current plan to include revision of the legal framework for land as one the topics for this year's government-led "Fórum Consultiva sobre Terras" (FCT). The different working committees of the FCT's "Grupo de Reflexão" include one dedicated to legislative revision. Given that revision of the legal framework is indeed on the FCT's agenda (and SPEED+ can certainly play a role in maintaining support for that decision=, the FCT itself will also provide an ideal moment to push forward the reform agenda.

Complementary to the above, DINAT and MITADER are also in discussions about a revision of the "Política Nacional de Terras" (National Land Policy) which was adopted in a resolution by the Council of Ministers in 1995 (Resolução 10/95). SPEED+ obtained a draft copy of the DINAT presentation to MITADER's consultative council, scheduled for 24 May 2017, in which a series of public consultations is proposed, during which policy changes will be openly discussed. The draft DINAT presentation proposes to revive and reconstitute the "Comissão Interministerial de Revisão da Legislação de

¹⁰ Studies have reflected annual turnover rates ranging from a low of 3.0% in the Netherlands, to 4.9% in Thailand, 6.1% in Sweden and 7% in the UK. See "Costing and Financing of Land Administration Services (CoFLAS) in Developing Countries, Working Document prepared for the Global Land Tool Network (GLTN) by Land Equity International, 2015, p.39.

Terras,” the Inter-ministerial Commission for the Revision of the Land Legislation, created by Council of Ministers Decreto 6/96 and which spearheaded the drafting of the 1997 Land Law. The 1995 National Land Policy also refers to an autonomous entity that would be responsible for the “National Cadaster,” an institutional reform described as still pending in the draft DINAT presentation.

All these developments indicate that MITADER and DINAT are well aware of the need for reform and taking the first steps toward tangible action. SPEED+ can play a catalytic role in moving from debate to concrete results.

At the lower levels of bureaucracy, SPEED+ senses an environment open to change. SPEED+ visited one SPGC who had a new *Chefe* committed to the integrity of the new digital database and who was insisting that all DUATs issued, not just RDUATs, be registered in SiGIT.¹¹ The importance of maintaining the cadaster is becoming more widely understood among cadaster technicians, though clear instructions at the Directorate level, as advocated in this Memo, would help. At the District level, the SDPI appear eager to take on the new cadaster responsibilities (transferred to it from the SDAE, as a result of the MITADER reorganization), but lack sufficient resources and capacity. The Activity Two proposal is meant to provide a “proof of concept” in favor of delegating this responsibility along with adequate resources.

SPEED+ also heard that certain previously taboo subjects – such as the sale (not just “transfer”) – of DUATs is now being openly discussed and advocated among university faculty.¹² The existence of informal rural land market is now widely acknowledged as fact, and there is a growing understanding that bringing the informal transactions into the formal sector can increase tax and fee revenues to the state, as well as provide more security to smallholders wishing to consolidate and grow to medium-sized business. The demand for formal title among communities and small holders is also growing as external investors insist on formal title (or at least some assurance of land rights) in outgrower schemes¹³.

Despite what appears to be a growing consensus for reform, some pockets of resistance should be expected. For example, the reduction of procedural discretion (and corresponding process simplification) will reduce rent-seeking opportunities enjoyed by some cadastral officials. In addition, it is still widely mentioned that an element of the political elite prefers a lack of transparency in land transactions such that deals favorable to these elite, that might not survive public scrutiny, can be cut in relative secret. The public access for cadastral information advocated in this Reform Memo, will make these transactions more difficult. Nevertheless, the bulk of investors, and particularly foreign investors, welcome more transparency as enabling increased opportunities throughout the provinces. Another dynamic is the institutional pride within DINAT about the widely-acclaimed progressive Land Law. However, this pride (and occasional defensiveness) is gradually being tempered by the realization that after 20 years, the revision of any law is not something to be ashamed of.

The overall conclusion of our PEA indicates that the foundations for reform are solid and genuine, despite the referenced challenges. The semantics of the legal framework revision will be important – for some audiences, the word “reform” will be entirely acceptable, while others might prefer less explicit terms such as “adjustment” or its Portuguese equivalent. Likewise, while some audiences may be comfortable talking about land markets, other may prefer to add an extra word and talk about land leasehold markets. Largely in recognition of these nuances, and in light of this PEA, SPEED+ proposes

¹¹ Chefe Jossias Cossa of Maputo Province SPGC, visited on 2 May 2017.

¹² Interview with Andre Calengo, a prominent land law figure, on 2 May 2017. He referred to a group of Mondlane University faculty who wished to open a public discourse on the sale of DUATs.

¹³ Interview with head of Manhica SDAE, as well as with representative of producer association, both on 4 May 2017, in relation to contracts with Maragra.

a robust program of consensus-building events (see description of “Cross-cutting” component of Activity One below).

3. Proposed activities

In order to support its proposed reform initiative, SPEED+ recommends a two-year programmatic intervention in the land sector with two complementary activities: (a) Revision of land sector’s legal and procedural framework; and (b) Small-scale district level implementation to validate the reform approach.

A. Activity One: Revision of land sector’s legal and procedural framework

SPEED+ proposes technical assistance to draft new legal instruments, or revisions to existing legal instruments, to address the policy and legal framework gaps discussed earlier in this memorandum. The below summarizes more explicitly which instruments should be created or revised with SPEED+ assistance, following the organization by categories in the above discussion section.

I) Certainty & Transparency

- Issue official technical norms for DUAT acquisition, addressing both systematic regularization (RDUAT) and via sporadic application (“pedido”). The norms could be in the form of a “Ordem de Serviço,” “Circular,” or Ministerial Diploma, or most likely some combination. It should cover both urban and rural contexts and clarify such issues as accuracy requirements for surveys, eligibility for free registration under state-initiated regularization programs, the appropriate use of GNSS/GPS technology, and when the need for physical “marcos” may be waived. This would necessarily involve the updating and amendment of the Technical Annex to the Land Law Regulations.
- Obligatory use of SiGIT (digital registry) for all DUAT issuance. This could be mandated in phases, if there is continued concern of SiGIT’s capabilities. However, if the DINAT-EXI contract were renewed, this should not be a concern. The obligatory use of SiGIT is most appropriately addressed in a DINAT “Ordem de Serviço” or “Circular”.
- Public online access to Land Use Planning Instruments and Cadastral Data. Privacy concerns have to date complicated the public dissemination of cadastral data via on an online portal. One approach would be to authorize online secured read-only access via SiGIT of the geographic borders of *all* DUATs with the names of the holders, but without any further personalized information such as identification numbers. A more cautious approach might be to withhold names (but not the geographic information) of private individuals, but not of corporate holdings. In principle, DUATs should be published in the *Boletim da Republica*, thus the authority for public dissemination on an online platform essentially exists already. The practice of publishing DUAT authorizations in the BR varies from province to province, and is almost never done with RDUATs. The use of an online portal to disseminate such information could in effect substitute for the publication in the BR, which is done inconsistently in any case. Further consultations with DINAT and MITADER should determine whether any formal administrative instruction is necessary to implement this proposed policy.
- For land use planning maps, SPEED+ can undertake an initial assessment of the current inventory of such maps to determine which are not outdated and then support geo-referencing and online publication of plans deemed useful and relevant, given the absence of privacy concerns and in fact the state’s clear interest in their widespread dissemination. This work would need to be coordinated with MITADER’s DINOTR directorate. Public access to the planning maps developed

by the Ministry of Transport and Communication's Spatial Development Program should also be included.

2) Protection of Investment

- Revise procedures for modifying and transferring DUATs (and selling improvements, i.e. buildings, other infrastructure, crops) in rural areas. The aim will be to simplify the process by: reducing numbers and types of approvals (such as eliminating need for *plano de exploração* if the transferee does not wish to change the plan); reducing discretion in the approval process (thus reducing rent-seeking opportunities); and applying timelines whose non-compliance can result in tacit approval without a justification for delay (at least for parcels below a certain size). The goal is to encourage the nascent, existing and informal rural leasehold land market, making the rural "market" more similar to the existing urban market.
- *Cessão de Exploração*. Review the latest circulating draft with the aim of: eliminating the need to refile a *plano de exploração* (unless the assignee desires a revision, or no plan was ever filed in first place); and eliminating need to go seek approval from the original DUAT-seeking authority (unless the "cedente" was never granted a DUAT title, such as in the case of most communities). Note that advocacy and consensus-building activities in support of this and other reforms is discussed in the "cross-cutting" activities section below.
- Relax *Plano de Exploração* requirement, eliminating for small and medium parcels in favor of compliance on land use planning instruments. This should be coupled with greater enforcement of land use plans. Overall, the approach is to favor post-facto compliance over the requirement of prior approvals. This accelerates the timeline from an investment decision to ground-breaking.
- Clarify criteria and procedures for a DUAT's revocation and the reversion to the state of improvements in such situations.

3) Community Consent and Participation:

- Harmonization of procedures for "Consulta Comunitária" in the context of DUAT attribution to a third party, on the one hand, with community consultations in the context of community delimitations, on the other hand, assuring genuine participation of community members in both instances. The "Conselhos Consultivos de Povoação e de Localidade" should be involved in these consultation processes – but their authority should not eclipse the authority of the community itself, which is a separate concept and entity.
- Clarification of rules regarding representation (mechanisms) for local communities, including formation of legal entity and ability to open bank accounts, receive and use funds, and execute contracts with investor companies.

4) Sustainable Land Administration

- Decree establishing norms for the creation of Public Cadaster Services (in municipalities and in districts). This will enable better implementation of Land Law Art. 23 which delegates authority to municipalities and districts which have urbanization plans and "serviços públicos de cadastro."
- DUAT taxes – clarification of exemptions (definition of "exploração familiar" and members of local communities); procedures for collection; improved valuation methodology and higher effective rates; allocation of revenue to provincial and district cadaster services. (Note that higher

taxes must be followed by improved services and should be accompanied by a SBBC campaign to promote public acceptance).

- Judicial training and ADR capacity-building. SPEED+ will organize a series of trainings on land-related law designed for judges. Although training will be extensive in the area covered by Activity One, the goal will be to include a sample of judges from each of the 10 provinces in a national training. In addition, capacity-building for both court-annexed Alternative Dispute Resolution (ADR) and community-based mediation-focused ADR will be included in such trainings. For the community-based ADR modules, local NGOs will be invited to participate and technical assistance will be given by SPEED+ to enable such NGOs to establish ADR programs in their districts¹⁴.

5) Cross-Cutting

Stakeholder consensus-building: Across all the legal framework revision initiatives discussed above, SPEED+ proposes to support robust stakeholder discussions, with participation from government (all branches, executive, legislative and judicial), the private sector, professional organizations (e.g. lawyers, surveyors), academia, NGOs, and other civil society organizations.

Currently the “Fórum Consultiva sobre Terras” (FCT) provides the principal space in which land law issues are discussed and debated in Mozambique. As noted above, the upcoming FCT for this year (scheduled tentatively for November 2017) intends to include the revision of the legal framework as one of the main agenda items. Grupo 2 of the “Grupo de Reflexão” (GF), one of a few working committees comprising the GF, is tasked with leading and organizing this agenda item (i.e. for legislative revision). Grupo 2 is being coordinated by Alda Salomão (affiliated with *Centro Terra Viva*, but also an independent consultant). The group’s other members include a SPEED+ representative (Rui Brito) as well as other key actors, such as Carlos Serra from MITADER’s *Unidade de Reforma Legal*. The FCT process, and in particular the working committee of the *Grupo de Reflexão* on legislative revision (Grupo 2), thus provides a natural and logical point of entry for SPEED+ support. Grupo 2 of the GF is beginning its work by pulling together a “Justification” document for the legal reform, which will draw upon other recent studies (such as the MITADER-commissioned “Road Map”). This effort could be supported by SPEED+, along with assistance in preparing discussion papers and contributing presentations at the forum on the reform topics proposed by SPEED+. The GF, both before and after the FCT, might also be able to play a coordination role in the commissioning of the drafts of the legal instruments noted above. This would need to be discussed with DINAT and MITADER’s *Unidade de Reforma Legal*.

The FCT is essentially organized and led by government. Thus, to a great degree, at least in the past, the FCT (and its preparatory processes) tend to be dominated by government. While there is nothing inappropriate with that orientation, other venues for discussions, both on a national and regional level, should be created in order to form a stronger consensus for change. SPEED+ thus proposes to engage universities, NGOs, and private sector associations to host alternate venues for debate, discussion and consensus-building on these critical issues. These alternative venues should not be seen as competition to the FCT, but rather as complementary spaces to strengthen the consensus-building process.

B. Activity Two: Small-scale district level implementation to validate the reform approach. [This Activity shall be placed on hold pending progress on the legal reform agenda in Activity One.]

¹⁴ For example, as part of the responsible land-based investment pilot at Maragra, the NGO ORAM has performed this role.

The goal of Activity Two is to: (a) provide tangible evidence of benefits on a local scale of those reforms being advocated on a national scale; and (b) provide a “proof of concept” with regard to decentralized cadaster services and to a “no exception” regularization approach to community land registrations. The proposal is to select one district and carry out the below activities:

1) Community Land Delimitation:

- Regularization (and insertion into the cadastral database) of *all* land parcels within approximately three communities, e.g. individual holdings regardless of size; state and public land; common land; protected areas; land held by associations and corporate entities.
- Use mobile fit-for-purpose data collection, per revised and clarified norms developed under Activity One.

2) Decentralization of Cadastral Services to District Entities: ¹⁵

- Provide access to SiGIT at the district level with appropriately modified interface;
- Printing and Distribution of DUAT titles at the district level;
- Certification of cadastral services under Art. 23 of the Land Law (and per proposed regulations developed under Activity One), and thus, if possible, approval of DUATs at district level.

3) Improved Land Use Planning:

- Revision and updating if necessary of District Land Use Plan and development of *Plano Pormenorizado*;
- Ratification of planning instruments;
- Incorporation of Land Use Planning instruments into SiGIT;
- Implementation of Land Use Plans, including risk mitigation measures where appropriate followed by full regularization (coordinate with INGC);
- Preparation for potential resettlement/compensation where relevant (including piloting of more precise and fair property valuation methodologies). This issue is likely to be treated under a separate scope, but in that case should be closely coordinated with the land reform activity.

4) Completeness and Transparency of Cadaster:

- Migration of historic SPGC data into SiGIT;
- Ensure all *pedido*-initiated DUATs are processed completely to point of issuance and printing within SiGIT (in addition to RDUAT, which is now done routinely within SiGIT);
- Public access to cadaster information (issued titles can be geographically visualized online).

5) District – Municipality Coordination

- Clarification of common borders between the selected district and: (a) all bordering municipalities; and (b) all (other) bordering districts. This will involve coordination of several institutions, including MAE, CENACARTA, and INE, which at present do not all use the same boundaries;
- Planning coordination with bordering municipalities or districts, e.g. for urban expansion areas, protection areas, and land use consistency or compatibility along common borders.

6) Judicial training and ADR capacity-building.

¹⁵ Note that the increased opportunities for rent-seeking potentially introduced by delegation to local authorities must be counter-balanced by introduction of anti-corruption audit, control, and grievance mechanisms

- One to two local NGOs will be selected to be trained in Alternative Dispute Resolution (ADR), specifically geared to land disputes. Training via case studies, and if possible actual disputes, will be preferred method of training;
- Judges and relevant court officials having jurisdictional authority over the district will be trained in land related law, including use of simulation cases.

4. Resources and Implementation Strategy

SPEED+ proposes that the two activities be implemented via a mix of Long-Term Technical Assistance, Short-Term Technical Assistance, Grants, and Subcontracts, tailored as appropriate to the specific tasks as described below and detailed more specifically in the budget material.

1) Activity One:

The bulk of assistance in Activity One will be through national expert STTA, supported by SPEED+'s own full-time staff (Rui Brito, Hercilia Hamela). Once this intervention is approved, SPEED+ will recruit for the appropriate STTA legal drafting assistance, with input from government counterparts. SPEED+ envisions legal drafting TA¹⁶ to both DINAT and to the new legislative reform unit being created at MITADER's *Fundo de Desenvolvimento Sustentável*. Level of Efforts are projected in the attached budget annex.

In addition, SPEED+ will support consensus-building stakeholder discussions on the reform issues, which should include support to the FCT (in the form of contributing discussion papers and presentations) as well as other stakeholder spaces, led by or including: private sector associations; professional organizations and national and local NGOs. Government should participate too in these other spaces, including judicial and legislative delegates. Grants may be an appropriate vehicle to support these stakeholder conferences and workshops. Please see annexed budget for details on LOE and costs.

The public online internet access to cadastral information and land use planning information should be subcontracted out to a national firm with experience in handling GIS and cadaster information. We have tentatively proposed to bundle this procurement with the improvements to SiGIT envisioned in Activity Two, which includes the incorporation of Land Use Plans to be visible in SiGIT. Please see annexed budget for details on estimated costs.

2) Activity Two:

The bulk of Activity Two's district level regularization activities are best implemented via a sub-contract to a national entity experienced in community land delimitation and individual tenure regularization. SPEED+ also recommends that the Activity be supervised by a directly-hired long-term Cadastral and Planning Advisor who will be accountable to and embedded in DINAT, while splitting his/her time between the central DINAT & DINOTR office in Maputo, the relevant provincial SPGC, and the District entities responsible for cadaster services. This will help promote institutional engagement with the planned cadastral activities.

The additional functionalities in SiGIT will need to be sub-contracted. The judicial training and ADR capacity-building are best implemented via grants. Please see annexed budget for details on LOE and costs.

¹⁶ Ideally the STTA will be performed by a lawyer with both drafting and land expertise.

5. Proposed timeline and budget

Please see the annexed budget document.

6. Expected results

The primary outcome of this reform effort would be a revised legal framework for the land sector increasing investor confidence in acquiring land rights and facilitating transfer transactions of rural land DUATs. The overall result of these outcomes will be a more fluid market in rural land leaseholds, the functional equivalent of a more fluid land market.

The expected results will include:

- Revised legal instruments streamlining the process for the transfer of rural land DUATs;
- Revised legal instruments limiting and simplifying the “plano de exploração” requirement;
- Increased reliability, integrity, and completeness of the national digital cadaster database;
- Increased public access to cadastral information and land use plans;
- Revised legal instruments governing community consultations which would improve genuine community consent and limit investor risk to subsequent opposition;
- Increased protection for vulnerable people resulting from robust community consultations and more transparent land administration services;
- Reduced time and cost for processing transactions for all users via the land administration services, as a result of clarified and streamlined procedures;
- Increased revenue from land-based taxes and fees to be invested in land administration services;
- Proof of concept of decentralized cadaster services at the district level, leading to more rapid processing of DUAT applications;
- Faster resolution of land conflict issues via alternative dispute resolution faster and better substantiated legal resolution of such cases in court;
- Registration of between 12,000 to 15,000 parcels in three community land delimitations, with corresponding individual plot demarcations within those selected communities.

7. Potential impact of reform

The potential impact of this reform effort would be a more efficient allocation of land assets and increased investment in land-based projects, ultimately leading to increased productivity. In addition, lower levels of under-utilized land are expected as a result of: (a) a more fluid land leasehold market re-allocating land to more efficient users; and (b) higher land-based taxes.

The following impacts could be expected:

- Higher volume of rural land DUAT transfers;
- Increased investments in agricultural projects in coordination with local communities;
- Decrease in under-utilized land;
- Increased number of small- and medium-sized business gaining access to land;
- Consolidation of small land holdings into medium-sized holdings;
- More efficient, higher-quality and better-resourced land administration services.

The SPEED+ project has identified four impact indicators to track:

1. Private-sector cost reduction;
2. Value of income increases;
3. Value of new investments;
4. Number of jobs created.

This proposed intervention is primarily expected to yield results measurable by the first and third indicators, namely “private-sector cost reduction” and “value of new investments”.

Private-Sector Cost Reduction:

The indicator’s “precise definition” includes “reductions in administrative compliance costs for the private sector due to the elimination or modification of government-imposed requirements.” The following proposed legal revisions, among the list above in Section 3A, are expected to reduce private sector cost per the just-cited mechanism:

- Streamlining procedures for modifying and transferring DUATs;
- Eliminating need for *plano de exploração* for all but the largest projects;
- Issuance of clear technical norms for DUAT acquisition in all contexts, including elimination of the automatic need for physical “marcos” (beacons) where appropriate;
- Public online access to Land Use Planning Instruments and Cadastral Data (eliminates risk of competing claims and the resulting expense of resolving such inconsistencies);
- Harmonization of procedures for “Consulta Comunitária” in the context of DUAT attribution to a third party, on the one hand, with community consultations in the context of community delimitations.

As and when these legal reforms are passed (as part of Activity One), the reduction in time and cost (which are inter-related) can be measured against the pre-reform costs.

Value of new investments

As described in the indicator’s “precise definition,” this indicator measures increased capital investments as a result of project interventions. This impact is expected as a direct consequence of the small-scale district level tenure regularization in Activity Two. The projected registration of between 12,000 to 15,000 parcels in three community land delimitations will result in strengthened tenure, encouraging increased land-based investment by holders of newly-titled land parcels. This increased investment can take many forms, such as planting of higher-value crops, installation of irrigation and drainage systems, and building improvements, all of which can be measured as compared to pre-intervention average annual investments.

8. Monitoring, Learning & Evaluation

The proposed activities will feed into four USAID standard performance indicators as illustrated in the table below:

Performance Indicator	Baseline year	Baseline value	LOA Target
Number of agricultural and nutritional enabling environment policies analysed, consulted on drafted or revised, approved and implemented with USG assistance (EG 3.1.12)	2017	0	TBD
Number of specific pieces of land tenure and property rights legislation or implementing regulations proposed, adopted, and/or implemented positively affecting property rights of the urban and/or rural poor as a result of USG assistance (EG.10.4-1)	2017	0	TBD
Percent of people with access to a land administration or service entity, office, or other related facility that the project technically or	2017	0	TBD

physically establishes or upgrades who report awareness and understanding of the services offered (EG 10.4-4)			
Number of parcels with relevant parcel information corrected or incorporated into an official land administration system as a result of USG assistance (EG 10.4-5)	2017	0	TBD (est. 12,000 to 15,000)

Note: Targets will be based on work to be done by consultants hired by SPEED+ and in consultation with USAID.

Use of indicators EG 10.4-4 and EG 10.4-5 are relevant with respect to Activity Two, the small-scale district-level land tenure regularization. The LOA target for EG 10.4-5 is estimated to be between 12,000 and 15,000 parcels, and will be measured by the number of parcels registered into the SiGIT system with project assistance.

Measurement of indicator EG 10.4-4 can be effected via a simple questionnaire/survey performed within the (single) target selection district, which will benefit from the institutional strengthening proposed by the project. (The indicator is applied at the local level only, i.e. where there is direct project intervention in the pilot district selected in Activity Two).

If this activity is approved and the scope refined in consultations with USAID and counterparts, then additional M&E indicators *may* be considered as additional means to measure performance.

Potential additional indicators:

1. Percentage increase of rural DUAT transfers approved;
2. Percentage decrease in approval time for rural DUAT transfer applications;
3. Percentage increase of number of contracts executed between external investors and communities (or with community member land rights holders);
4. Percentage increase of DUAT tax revenue collected;
5. Number of land use plans made available to the public on an internet-accessible portal.

9. Initial Impact Analysis of Selected SPEED+ Reform

Will this activity impact an international ranking?	Possibly	If "yes", which one?	World Bank Doing Business > Registering Property > Quality of Land Administration.
		If "yes", when will the impact be reflected?	The impact should be reflected starting with the end of the project intervention and fully reflected within 3 years of end of project.
		What do you expect the change in ranking to be?	Currently Mozambique's ranking is 9.5 out of 30. If the full reform package is implemented, we can expect a significant rise of several points.
Will this activity impact a national target?	Yes	If "yes", which one?	Terra Segura has a national target of 5 million DUAT titles issued in 5 years.
		If "yes", when will the impact be reflected?	The impact should be reflected in all three years of proposed intervention, as streamlined and clarified procedures for DUAT acquisition and better resourced cadastre services enable faster regularization.
		What do you expect the impact to be?	
Will this activity reduce costs for the private sector?	Yes	If "yes", how will it reduce costs?	Yes, streamlining the rural land DUAT transfer process and reducing <i>plano de exploração</i> requirements should reduce costs.

Will this activity reduce time for the private sector?	No	If “yes”, how will it reduce time?	Yes, streamlining the rural land DUAT transfer process and reducing <i>plano de exploração</i> requirements should reduce approval time.
Will this activity increase the number of jobs created?	Possibly	If “yes”, how will it increase the number of jobs created?	The expected impact of increase investment in land-based agricultural projects should create jobs.
Will this activity lead to increased national direct investment?	Yes	If “yes”, how will it achieve this?	Increased investor confidence in acquiring secure access to land should apply to both national and international investors.
Will this activity lead to increased foreign direct investment?	Yes	If “yes”, how will it achieve this?	Increased investor confidence in acquiring secure access to land should apply to both national and international investors.
Will this activity increase government revenue?	Yes	If “yes”, how will it achieve this?	The proposed land tax reform should increase government revenue.
Will this activity reduce corrupt practices?	Yes	If “yes”, how will it achieve this?	Reduced discretion (clearer approval guidelines) in initial DUAT applications, and in DUAT transfer applications, should reduce opportunities for rent-seeking.
Will this activity increase incomes for small farmers?	Yes	If “yes” how will it achieve this?	Increased investment should result in increased production, and therefore increased incomes.
Will this activity increase agricultural production?	Yes	If “yes” how will it achieve this?	Increased investment and more efficient of land allocation (via a more fluid land leasehold market) should result in increased production.
Will this activity increase the value of agricultural imports?	No	If “yes” how will it achieve this?	
Will this activity increase the value of agricultural exports?	Yes	If “yes” how will it achieve this?	Increased investment should result in increased domestic productivity, and therefore a higher volume (and net value) of exports.

10. Gender Analysis: Impact of Proposed Land Sector Reform Activities on Women

Question	Y/N/Don't Know	Comments (Optional)
1. Will stakeholders with an expertise in gender or civil society organizations serving women participate in the drafting of proposed policies/laws/ regulations? In their dissemination?	Yes	We have proposed extensive stakeholder consultations in Activity One (Legal Framework Review) to which gender specialists and CSOs serving women will be invited to comment on all drafts of proposed legal instruments (or amendments to existing legal instruments). Moreover, the technical experts hired by SPEED+ to draft such proposals will be required to take into account gender equity concerns both in the language of the drafts as well as in their impact (i.e. gender neutral language must be evaluated for potential disproportionate gender impact). Efforts will be made to ensure that public awareness and information dissemination targets women as well as vulnerable populations.
2. Will female entrepreneurs and/or women-owned businesses be consulted at any stage in the process (formulation, dissemination)? Are they involved in its implementation? How?	Yes	Female entrepreneurs and women-owned businesses will be specifically invited to participate in the stakeholder consultations envisioned in Activity One, and dissemination strategies will include such groups as target audiences. In the planned Activity Two Local Level Implementation, the selection criteria for the pilot district and participating private sector entities will prioritize female entrepreneurs and women-owned businesses.
3. Will the policy/law/regulation/implementation strive to avoid explicit gender biases? Might it improve existing gender gaps or make them worse? Are there any existing gender biases?	Yes	Systematic land rights registration may occasionally exacerbate existing gender gaps if care is not taken to address issues such as informal marriages or polygamous practices. Our proposed intervention in Activity Two will ensure that joint titling and other protective measures are used where appropriate.
4. Will it contain provisions that will create advantages for male or female business owners? Which ones? Or will it inadvertently create disadvantages for some? Which ones?	TBD	The provisions are likely to be gender neutral on their face (though Activity Two implementation is likely to create relative advantage for women over existing practices because of greater access and transparency).
5. Are small business owners likely to be disproportionately affected by the policy/law/regulation? Males? Females?	Yes	Small businesses are likely to benefit disproportionately from the greater transparency that the proposed legal framework in Activity One aims to effect. Currently, larger companies can often work "behind the scenes" to obtain DUATs while smaller companies may not have the connections or resources. Since males tend to dominate the government power structures, the increased transparency should also disproportionately benefit females.
6. Will steps be taken to avoid gender-based stereotypes in materials intended for dissemination? How are materials disseminated to illiterate?	Yes	We will consult or directly contract gender specialists in the design of public information material. In addition, radio and other multi-media will reach the illiterate audience.

7. Will consideration be made to ensure that male and female business owners have equal access to policy information?	Yes	Efforts will be made to ensure that public awareness campaigns and information dissemination targets women as well as vulnerable populations.
8. Are considerations anticipated as to the possible gender-biased effects of implementation on small business owners?	Yes	Small businesses as well as women are likely to benefit disproportionately from the greater transparency that the proposed legal framework revision in Activity One aims to effect. In general, the more powerful (including large companies and men in a patriarchal-imbalanced society) hide behind opacity.

Proposed Actions to Make SPEED+ Land Sector Activities 'Gender Smart'	Timeframe	Anticipated Results
1. Ensure strong representation of women and gender specialists involved in preparing revisions to the legal framework.	Year 1	Increased gender equity in enjoyment of land rights
2. Ensure that women and gender specialists are included in all stakeholder consultations.	Year 1	Same as above
3. Ensure final drafts of any proposed legal instruments are non-discriminatory – both on their face and in their projected impact.	Years 1-2	Same as above
4. Local level pilot implementation (Activity Two) is carried out with involvement of CSOs serving women.	Years 1-2	Same as above