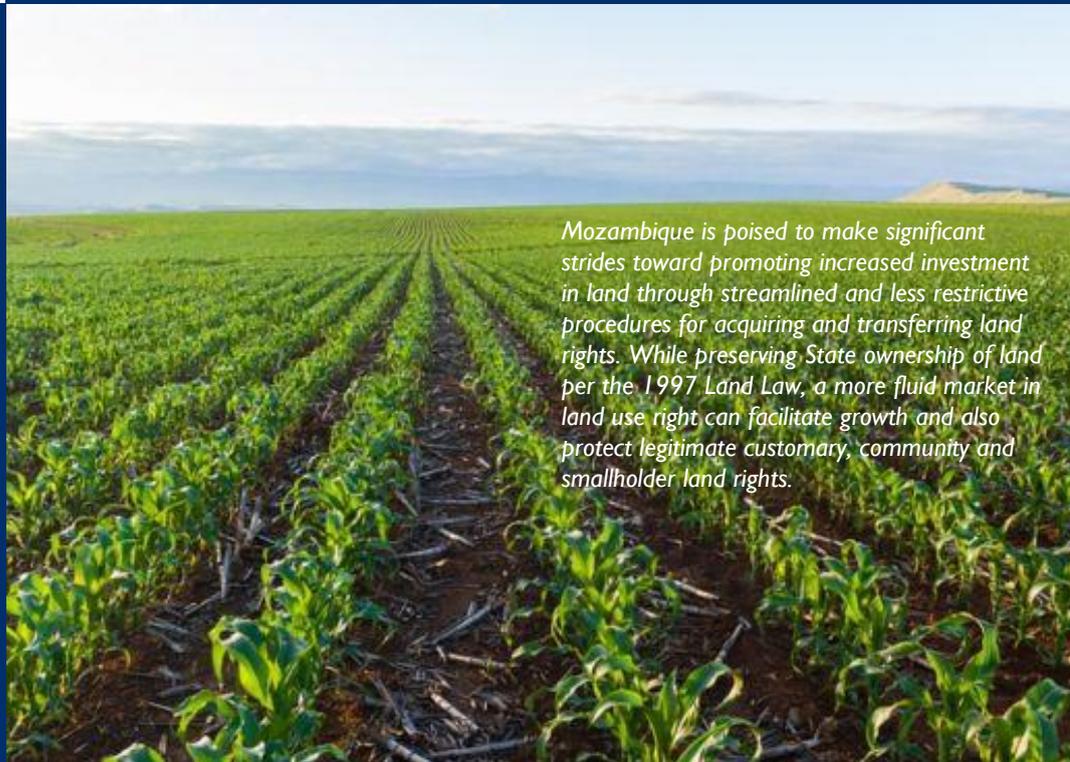


SECURE LAND RIGHTS SPUR ECONOMIC GROWTH

THE POLICY CHALLENGE

Mozambique has enormous potential for agriculture-led economic growth, but lack of secure land rights is a persistent barrier to investment. Demand for arable land is increasing, from large investors as well as from emerging commercial farmers. But lengthy, inconsistent and opaque procedures to acquire secure tenure through formal Land Use and Benefit Rights titles (DUATs) deter investments. Even if an agribusiness is granted an initial DUAT, they remain vulnerable to its revocation through arbitrary enforcement of complex land use planning regulations. Rural DUATs cannot be sold, or easily transferred, to future buyers, greatly reducing the value of development on the land. This also prevents the use of land as collateral for credit, which is fundamental to agriculture investment. Finally, although most agribusinesses seek to invest in areas with community-held land rights, there are no standard mechanisms for creating fair and sustainable community land use agreements.



Mozambique is poised to make significant strides toward promoting increased investment in land through streamlined and less restrictive procedures for acquiring and transferring land rights. While preserving State ownership of land per the 1997 Land Law, a more fluid market in land use right can facilitate growth and also protect legitimate customary, community and smallholder land rights.

✓ INCREASING SECURE ACCESS TO LAND

- Using political economy analysis, SPEED+ agreed with the Ministry of Land, Environment and Rural Development to focus on the processes and procedures governing Land Use and Benefit Rights (DUATs), specifically Acquisition, Revocation, Transfers, and Community Consultation.
- A Consolidated Policy Justification was completed with technical analysis and draft legal instruments for each of the four areas, developed through extensive stakeholder and public consultation.
- Simplifying Procedures for the Processing of DUAT Applications streamlines DUAT acquisition with 13 chapters clarifying procedures from the initial application for DUAT acquisition to the registration and tax payments, including use of technology.
- DUAT holders also face rent-seeking behavior based on the discretionary power of government officials to threaten DUAT revocation. The Report on DUAT Revocation and “Plano de Exploração” recommends revisions to the Land Regulation to increase clarity and certainty around land use plans and DUAT rights.

✓ COMMUNITY LAND: A WIN-WIN APPROACH

- A critical issue for investor confidence and security, as well as for the protection of community members’ land rights, is obtaining fair and durable community consent through well-defined consultation procedures.
- SPEED+ drafted legal instruments, as foreseen by Article 30 of the Land Law, which clearly establish the processes for community consultation during initial community land delimitation and subsequent DUAT attribution to a third party and propose mechanisms for community representation and decision-making.
- Two technical notes, DUAT Community Consultation and Community Representation Mechanisms in Land, provide justification for the proposed mechanisms for: (a) technical and legal preparation of local communities; (b) mediation by an independent third party.; (c) requirements for sharing economic benefits defined in a written contract; (d) guarantees for meaningful participation by women and vulnerable groups.

✓ CREATING A MARKET IN LAND USE RIGHTS

- DUAT transferability is both the most important and most sensitive of the proposed reforms. SPEED+ analyzed the legal framework (Constitution, Land Law and Land Regulation), and recommended revisions to the Land Law Article 16 as the most efficient option, as presented in Land Transferability and Cessão de Exploração.
- SPEED+ technical analyses and participatory research processes have stimulated broader discussion of easing restrictions on transferability to encourage a market in land use rights and use of land as collateral. This was in evidence at the 2018 Conferência Anual do Sector Privado (CASP), the 2019 announcement of the Land Reform Commission and the large-scale consultations on land reform expected in 2020.
- The implementation of DUAT transfers will require harmonization of legal/regulatory changes with the existing cadaster system, and linkages/transparency between the cadaster and other systems used by local and national government. SPEED+ will support the World Bank MozLand project as needed on this effort.

KEY INSIGHTS

- **Poorly designed community/investor consultations on land use rights have backfired and local opposition has caused losses for both parties.**
- **Investors need flexibility to adapt land use to changing market conditions without risking land rights revocation based on an initial land use plan.**