

Supporting the Policy Environment for Economic Development (SPEED+)

Better, Stronger, Faster, Smarter: A New Way to Create Legislation in Mozambique

Proposed Law-Making Process

The proposed transparent and predictable evidence-based process includes the following steps:

- Start by identifying and assessing the problem, confirming that government action is the best solution. Consider alternative non-legislative solutions that can be designed and implemented within Ministries.
- Develop a policy paper describing the problem, the rationale for new legislation, its objectives and its likely content. Circulate the policy paper broadly among the groups most affected by the new legislation.
- Conduct public consultations, presenting the findings of the policy paper, responding to questions and concerns, and documenting the feedback received.
- Draft the legal instrument integrating the findings from the policy paper and the public consultations.
- Assess the impact of the new legislation on government budgets, other related regulations, gender considerations and the environment.
- Make the draft legislation and supporting assessments publicly and easily available for comment. Organize a new phase of public consultation before promulgating the final legislation.

A Better, Stronger, Faster, and Smarter. This describes Mozambique’s exciting new initiative to bring citizens, the private sector, and civil society together with government to create laws and regulations that are more effective in solving our economic, social, health and environmental issues and that have support and appreciation throughout our society.

Mozambique has never had a formal process for creating laws or regulations. Usually government ministries draft legislation themselves, asking for inputs from only a few key stakeholders. This process doesn’t benefit from the experience, creativity, and diversity of opinion that the citizens can offer. For many years, civil society and business organizations, supported by USAID, advocated for more public participation in the legislative process. As a result, in February 2019 a draft law on the making of legislation, the *Lei de Legística*, was completed with strong support from the Parliamentary First Commission of Constitutional Affairs, Human Rights and Legal Affairs and the Ministry of Justice, Constitutional and Religious Affairs.

The proposed law would establish for the first time an evidence-based, gender inclusive, participatory and transparent process for considering and creating legislation (see brief summary in side box). Laws, ordinances, decrees, ministerial orders and other legislation that have been written with inputs from many different stakeholders inside and outside of government can be reviewed and approved more quickly, will be more easily integrated into existing government activities, and will be implemented more readily because citizens, businesses, and civil society organizations will feel ownership and support for the new laws. Having equal access to information and a predictable law-making process will also increase investor confidence and encourage business growth.

Even though the law is not formally approved, the recommended steps are already aligned with Mozambican law and can be used, even if they aren’t yet required. Therefore, SPEED+ has supported a training on this “better, stronger, faster, smarter” way of drafting legislation. 350 participants from the legal departments of many ministries, the Mozambican Association of Judges, the Institute for Judicial and Judiciary Training, the Mozambique Bar Association, the Eduardo Mondlane University Faculty of Law, the Confederation of Business Associations, the Chamber of Commerce and others have already benefitted from the training. Participants received a handbook with all the tools and

templates required for creating new legislation in accordance with the proposed new process. 38 participants were selected for a training of trainers to continue replicating this work, which enabled ministries, lawyers, notaries, academics, and businesspeople to begin building the practice of an inclusive and representative legislative process.

The *Lei de Legística* may be considered for approval in 2020, and it is recommended that the implementation include an online source for citizens to access all up-to-date information on proposed legislation and opportunities to provide inputs.