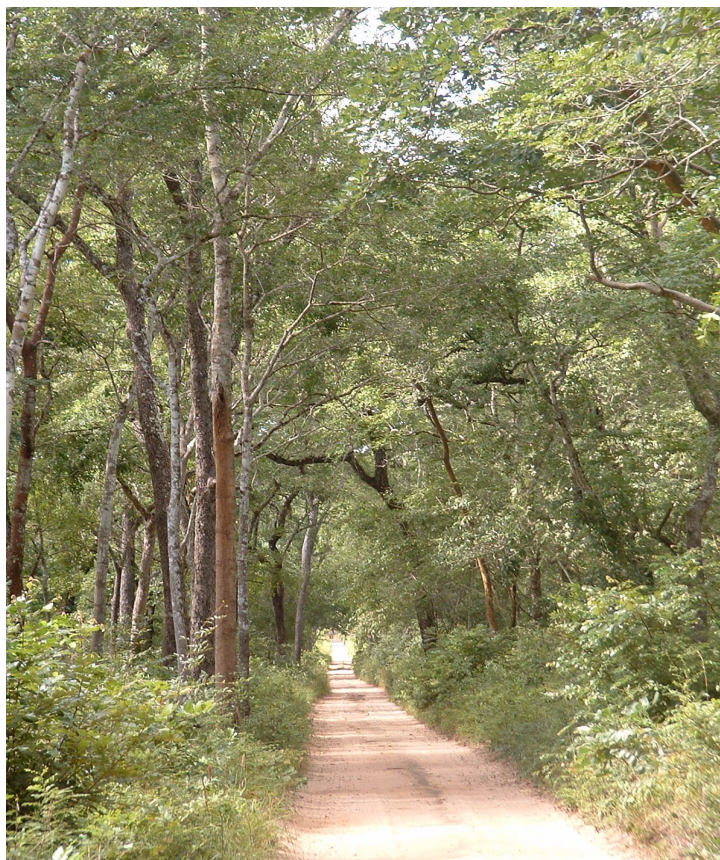


# **Forestry legislation in Mozambique: compliance and the impact on forest communities**



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**May 2004**

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## Executive Summary

The scope of this study is an impact analysis of the Forestry and Wildlife Law of 1999 (10/99) and Law Regulations of 2002 (12/02) regarding the legal intent and actual security of the legal rights and benefits of the forest dependent rural population in Mozambique.

The main rights and benefits of the forest dependent communities envisaged under Law 10/99 are the following: subsistence level use of the resources; participation in co-management; community consultation and approval prior to allocation of exploitation rights to third parties; development benefits derived from exploitation under a concession regime; return of earmarked 20% of forestry tax revenue to the communities; and 50% of the value of fines received by the individual contributing to law enforcement.

The introduction and establishment of private concessions is one of the few tangible results of the 10/99 Law that has an everyday impact on the life of the forest dependent populations. While other legal provisions aimed at benefiting communities are yet to be put into practice, the granting and management of concession areas is now an important element of the development of the forestry sector and one which can already be examined from the point of view of the actual success of legal implementation and the security of legally provided community rights and benefits.

The main shortcomings identified in securing community benefits stemming from recent legal provisions are the lack of: adequate consultation procedures; clear guidelines on how stakeholders are to engage with each other; and clearly defined responsibilities at local government level (both provincial and district) to assist and monitor the process. In addition, stakeholders do not demonstrate sufficient capacity to fulfil their legal obligations vis-à-vis community engagement and development issues. Government forestry staff is only trained to deal with natural resource issues, communities do not have the capacity to create the appropriate representative and legally recognised bodies and private sector does not have the experience or incentive to play the role of a development agency without properly defined parameters of intervention and support.

Finally, the formulation of Law 10/99 on Forestry and Wildlife must be examined in conjunction with the 1997 Land Law and the state decentralization reform currently underway. Local government and community structures need to have clearly defined powers, responsibilities and institutional context within which to function. Therefore, clear relationships must be established between the proposed institutional developments at community level and the newly defined decentralised district level state organs.

In light of the above, the main challenge Government faces is to successfully implement and enforce existing legal provisions, closing the gap between legal intent and reality. In doing so, this study proposes that priority must be given to:

- i) Community consultation must be defined as part of a process of establishing a working relationship between government, private sector and the community;
- ii) Better definition of roles in monitoring and evaluation, encompassing social development aspects and mechanisms for effective conflict resolution;
- iii) Capacity-building of local government, community organisations and private investors on issues of social consultation and sustainable multi-stakeholder cooperation;

- iv) Co-management structures and related statutes should be formulated in accordance with the principles and practice of the broader decentralisation process;
- v) Transparent and publicly available information that provides clear and assessable data regarding the state of forestry exploitation and provides regular and uniform information flows between provincial and national levels;
- vi) Financial systems – separation of the earmarked 20% community tax return from the general revenue basket by opening of separate accounts and accumulation of this revenue stream until mechanisms for distribution and use are put in place and made operational;
- vii) Concession allocation through open competitive process based on set criteria with independent review;
- viii) Investor screening strategy as part of measures targeting compliance and securing benefits for the forest-dependent poor.

## 1. Introduction to scope and methodology

The focus of this study is the implementation of the Mozambican Forestry and Wildlife Law of 1999 (10/99) and the associated Regulations of 2002 (12/02). The intention is to analyse the legal intent of these instruments and evaluate their contribution to date in improving the livelihoods of the forest dependent communities in Mozambique.

This study is funded through the Forest Governance Learning Group (FGLG) - an alliance of independent agencies and partners in Sub-Saharan Africa dedicated to learn how to make forest governance work in practice. Forestry can contribute to the eradication of poverty and environmental sustainability, but this requires good forest governance - decisions and actions that remove the barriers and install the policy and institutional systems which spread local forestry success. Good forest governance can also be an important lever for larger governance and democratic reform. Whilst there is much attention being given to a few big international issues in forest governance - there is an inadequate supply of practical approaches, and preparedness to use them, to address the underlying problems. The FGLG aims to help fill this gap.

In its first year, national teams of the FGLG are conducting policy research on forestry regulation and its impact on forest communities. Regional meetings will be used to present and share findings both in West and Southern Africa (including: Mali, Niger, Ghana, Nigeria, Cameroon, Mozambique, Malawi, South Africa and Zambia). National teams are also developing some specific practical governance guidance materials and tools that can be shared and used more widely to improve governance.

This report is the first two in a series of eight steps for scrutinising and improving the practical outcomes of forest legislation for marginalized forest-dependent communities. The full eight steps are to be written up as a specific governance tool called 'the GAB' which can be used to identify what is working, what is missing and what legal changes are required to improve the situation in a particular country.

Considering the novelty of this new regulatory framework, the study is necessarily limited in its ability to judge issues of impact and the extent of compliance; there is as yet no effective implementation process in place and state structures have not been able to effectively respond to the new laws and regulations and translate them into practice. Experience in applying the law is therefore limited and exploratory in nature and thus so is its impact to date. This is particularly valid in relation to those provisions that are intended to directly benefit local communities and engage them in the forestry management process. This study is therefore primarily based upon an evaluation of existing legal implementation proposals rather than tangible implementation experience.

The methodology is largely based on a review of the existing legislation and draft proposals for further regulations, relevant literature, reports on compliance and levels of implementation, as well as a number of case studies that have been analysed with the participation of various stakeholders and that highlight the issues relating to the impact of legislation and compliance on the forest dependent poor.

Three case study scenarios will be selected on the basis of their perceived success in terms of securing the rights and benefits to which communities are entitled under the provisions of the 1999 Forestry Law. The analysis will focus on the implementation and impact of legal mechanisms determining the role and relations between the stakeholders. The impact of these legal provisions will be assessed on the basis of the security of the rights and benefits communities are entitled to as a consequence of commercial forestry exploration in the area. The first case will

examine where there has been a positive impact and will then be compared to two others, where difficulties have emerged in applying the law or securing community rights. The objective is to examine and compare the three scenarios in order to identify what circumstances and approaches have had a positive impact, how this was achieved and how these 'good practices' could feed into overcoming existing obstacles and challenges. Ultimately, the objective is to inform the future effective implementation of the law.

## **2. Livelihood benefits derived by the forest-dependent poor: traditional uses of natural resource**

In Mozambique 10,823,475 people, of a total population of 15,278,334, live in agricultural areas<sup>1</sup> and are primarily reliant on subsistence agriculture for their survival, using low cost, labour intensive traditional agricultural techniques for the maintenance and cultivation of their land. As the majority of the population resides within 40 kilometres of the coastline, artisanal fisheries are also a major economic and subsistence activity, with fisheries products providing much needed protein to local diets and an alternative source of income.

As in most traditional rural societies, local communities in Mozambique have strong bonds with their traditional land and fishing zones and are deeply dependent on their access and use of the natural resources available in these areas, for a variety of cultural, spiritual and subsistence reasons. A major part of the traditional staple diet of the population is based on cassava, mushrooms, game meat and edible fruit. In addition to food, one of the main forms of dependency on forest products is the use of woody biomass which provides about 85% of the total energy consumption, through the production of charcoal and collection of firewood, and is an indispensable part of not only rural but semi-urban and urban everyday life.

Furthermore, traditional medicine, which is widely practiced throughout society and which, in the majority of remote areas, is the only medical service familiar and available to the population, is purely based on the use of wild products such as medicinal plants. In relation to this, certain forests and species have a specific spiritual significance for local people and their access and use are strictly regulated and managed through a traditional system of beliefs and hierarchies.

Other forest resources such as timber and precious woods are also used daily by rural populations in the construction of their homes and in traditional arts and crafts, such as the world-renowned Maconde art in the North.

In most areas local communities have developed small-scale commercial ventures based on forestry products such as poles, beams, charcoal, twine, honey and the distillation of traditional alcoholic beverages. The nature of these commercial transactions is usually rather limited and contributes to the daily subsistence of the population, by providing a source of cash used for the purchase of family necessities such as food products not grown locally, clothing or medicine. Access to these resources and ability to have cash income represent one of the very few opportunities for the local people to generate a local money economy and earn a subsistence level income.

On the other hand, as the vast majority of these entrepreneurial ventures are conducted without regulation and in an unlicensed manner, they also have a negative impact in two main areas: one is the issue of tax evasion and the loss of potential state revenue and the second is the issue of uncontrolled resource depletion. This

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<sup>1</sup> II Recenseamento Geral da População e Habitação 1997, Instituto Nacional de Estatística

issue is particularly relevant to charcoal making activities, which will be examined in more detail in Section 4.

Nonetheless, access to natural resources and particularly land and its products has been the main asset of the rural poor and has ensured their physical and economic survival. This has been taken into consideration by the Land and Forestry and Wildlife Laws, which to different degrees protect and uphold the rights of people to live off the land and associate legally with it. This legal environment is hugely important in today's economic terms as it represents one of the few valuable commodities rural communities can claim for themselves.

### **3. The formulation of diverse recent legislation and its intent to secure benefits for the forest dependent poor**

Natural resource management, particularly in regard to land and forests, has been on the agenda for discussion since the early 1990's, culminating in two main legal frameworks – the Land Law of 1997 and the Forestry and Wildlife Law of 1999.

#### *Legal Rights to resources - Legal Intent vs. the Reality*

Mozambican legislation provides for the protection of community access rights to natural resources – land, forestry, wildlife and fisheries. However, the various laws governing these resources regulate the extent and nature of community access in significantly different ways.

The Land Law provides legal recognition and protection of traditional rights to habitation and subsistence and creates a mechanism for transforming them into real rights, thus also creating the potential for local communities and commercial entities to negotiate agreements which produce tangible benefits for communities resulting from the third party use of their natural capital<sup>2</sup>. The ability of local community groups to acquire a real right for the use and benefit from the land (known as a 'DUAT'), effectively gives them private ownership rights, despite the fact that root title to the land remains in the hands of the state.

The Forest and Wildlife Law, while creating the mechanisms and environment for local communities to participate in the co-management of the resource, maintains stronger *de jure* state ownership of the resources, granting only subsistence level user rights to the community. Further to this, the Law itself is heavily reliant on various regulations, annexes and diplomas to clarify the issue of community benefits and how these are to be brought into practice.

Hence, there are significant disparities in the treatment of local community rights and in the approach to resource access and use; while the Land Law enables the transfer of real rights to land (which can subject to transaction), the Forest Law erodes those by restricting resource use to non-commercial subsistence levels. The potential for commercial gains from forest resources remains dependent on the successful application for a concession or a simple licence, thus effectively putting communities on the same playing field as the private sector. The definition of subsistence resource use in the law allows merely for the immediate consumption or use of those materials, without the right to benefit commercially from them. Therefore, while survival is ensured, development is hampered.

In the absence of ownership rights over forest resources, the benefits intended for the forest dependent poor remain indirect and mainly based on the generation and distribution of related tax revenue, as well as the establishment of mechanisms for

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<sup>2</sup> Examining access to natural resources in Mozambique and linkages to livelihoods, S. Norfolk, 2003

community participation in the co-management of the resources. In summary, the legal intent to secure benefits for the forest dependent poor is based on the successful implementation of the following:

- Co-management of resources;
- Community consultation prior to allocation of exploitation rights to third parties;
- Favours of concession vs. simple licence regimes
- Return of earmarked forestry tax revenue (20%) to the community and provision of financial benefits from law enforcement efforts;
- Community co-participation in law enforcement.

### *Community participation in co-management of resources*

The intended benefits arising from the Forestry and Wildlife Law 10/99 are further elaborated and developed in the associated Decrees and Technical Annexes. These cover issues such as the creation of co-management councils (COGEP – Comité de Gestão Participativa)<sup>3</sup> which are to be one of the main pillars of the implementation structures proposed and which is to represent the local communities, private sector, associations and the state, and to defend their interests regarding the use and exploration of the natural resources.

While not explicit in the legislation, it has been suggested that these co-management councils are to be created at district level, and be transformed into multi-sector associations. In addition, there are speculations that the envisaged functions and responsibilities could become another facet to the district Forum on Planning and Development, bodies which are to be created under the government decentralization process and which are intended to have representation from the same stakeholder groups that will comprise the COGEPs. In either case, what remains unclear in relation to the functioning of the COGEPs is how the inherent contradiction between the role of the state, as a participating party on the one hand and as regulator of this type of association on the other<sup>4</sup>, is to be reconciled.

The issue of local community representation and organisation, which goes hand in hand with District level structures, has also received some attention from the Ministry of Agriculture and Rural Development, which has drafted a manual that examines the concept of a CGC (Comité de Gestão Comunitária or Community Management Committee) at local level and makes proposals for the way in which these should function, basing this structure on the community participation Articles 95/96 of the 12/02 Regulations.

The CGC, as the most grass-root institution proposed, is envisaged to give the forest dependent population a legal and united voice. It is to assume a wide range of responsibilities on behalf of the community; negotiation, representation, coordination, the planning and management of forestry and resource use issues, including the destination and accounting for the use of the 20% of community earmarked tax revenue. The composition of the CGC and its relation to other existing CBOs and the traditional

#### ***Summary***

- *Community bodies lack legal definition;*
- *No strategy for establishment and capacity-building of community (CGC) & co-management (COGEP) bodies;*
- *Participation in policy process and benefits are constrained by the need to create COGEP & CGC*

<sup>3</sup> Article 31 10/99 and Article 95&96 12/02

<sup>4</sup> Meeting of the National Institute of Agronomy of the 1st of December 2003



authorities is still under debate. For example, concerns have been raised regarding its proposed democratic nature, which might be at loggerheads with the hierarchical nature of traditional social organisation. Most importantly, it is still unclear who is to lead and assist the organizational process and help create the necessary capacity at community level to assume, on a voluntary basis, the heavy administrative and financial responsibilities mentioned above.

So far, CGCs do not appear as such in any of the existing legislation and are therefore without a specific basis in the law. The joint-ministerial diploma, which is to set forth the relevant rules regarding the channelling of the 20% tax revenues, is still being harmonised between the various ministries involved. Thus, a continuing lack of clarity on the role of CGCs, as well as the provision of benefits, constitutes an essential gap in the legislation, resulting in the widespread failure to date to secure community-level benefits.

Overall, the legal mechanisms for the establishment of co-management of the resources rely on the setting up of a complex administrative and committee structure without a clearly defined level at which this should be created, which for the time being leaves the procedural and participatory links between district and local levels unclear.

#### *Consultation prior to allocation of user rights to third parties*

In securing further participation and strengthening the rights of the communities, the legislation is explicit in its demand for a consultation process between a potential investor and the local community, both in cases of logging based on a concession award, as well as the previously existing simple licensing regime (Regulation Article 35 & 36). This framework of engagement is a key element in the attempt to secure benefits for the forest dependent populations arising from the commercial exploitation of their traditional resources.

The intent of the above legal requirement is to avoid the disenfranchisement of traditional users by giving them a more central role in the future management and development of the area, while leaving it open and making it attractive for commercial investment. The envisaged win-win situation is to bring social benefits (such as employment and social infrastructure) to the locality, the level and nature of which are largely dependent on the outcome of the initial negotiation and the effectiveness of the envisaged co-management structures.

However, despite the fact that all approved concessions and simple licence applications must present a report demonstrating the positive results from the community consultation process, in practice, due to lack of incentives on the part of the investor, lack of technical skills on the part of local government and lack of awareness or bargaining power on part of the community, the consultation process is weak and in many instances substituted by the adoption of a readymade document merely brought to the community leaders for signature.

In addition, as currently formulated in the law, the process of community consultation is only required at the beginning of the application process for resource user rights, without any explicit legal demand or mechanism for follow up or monitoring and evaluation regarding the fulfilment of the obligations assumed

#### **Summary**

- *Well defined consultation process is essential to securing long-term community rights;*
- *Consultation must be established as a regular part of the ongoing management process;*
- *Need for a clear negotiation framework establishing roles, responsibilities and scope of*



by both sides. Therefore, especially in the case of concession rights of 50-year duration, a legal framework setting clearly the mechanisms of checks and balances necessary for monitoring the implementation and periodic re-evaluation of the local social and economic context is paramount to making the consultation process worthwhile and securing the benefits communities are entitled to.

From a private investor perspective, compliance with these provisions (and the production of tangible benefits) would only be effective if the investor sees the promotion of long-lasting and viable socio-economically relations with the community as making sound economic sense, or if legal provisions are introduced to make the legislation much stricter in terms of securing and not only promoting community rights.

#### *Concession vs. simple license in terms of the intended benefits*

Presently, the introduction and establishment of private concessions according to newly instituted procedures and requirements is one of the few tangible results of the 10/99 Law that has had an impact on the local forest dependent populations. While other aspects of the Law are yet to be put into practice, the granting and management of concession areas is now an important element of the development of the forestry sector and one which offers early lessons regarding the success of implementation attempts.

One of the main new aspects of resource management envisaged in the legislation is the introduction of concessions as a means of a tighter, more responsible, exploitation regime, within a well documented and mapped out area with clearly defined development and management plans. The recent policy on forestry gives preference to concessions over simple licences as an exploitation regime. The philosophy behind this is based on the belief that, given the type of commitment concessions represent, they will encourage a more sustainable and hence environmentally and socially responsible type of approach to forestry.<sup>5</sup>

The concession application process as described in the Forestry and Wildlife Law (Art 16 of 10/99), and the Regulations (Article 25 – 34 of 12/02) is a necessary but nevertheless involved and expensive list of legal requirements, which include: timber resource inventory, a topography map, technical and industrial capacity to process timber within the concession area, a favourable opinion of community residents in area (consultation process), a successful negotiation process with the holder of the DUAT for the area in question (if such exists) and a management plan (to be presented within 180 days of public announcement of the application).

The concession contract must include *inter alia*, a description of the benefits for the community and their co-participation, mechanisms of control and fiscalization, quotas for the first 5 years, as well as the social and industrial projects that are planned. While all simple licenses can be authorised at the level of Provincial Governor, only concessions of up to 20,000 hectares can be dealt with at this level. Requests for larger exploitation areas must be presented for approval by the Ministry of Agriculture or, if above 100,000 hectares, by the Council of Ministers.

Notwithstanding these comprehensive legal requirements, the allocation and management of forest concession rights have not been a straightforward process and arguably have not yet established a convincing example of a more sustainable forestry management practice, or one that is providing tangible benefits to the local communities.

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<sup>5</sup> Operacionalização do sistema de Concessões Florestais em Moçambique, Siteo, Bila e MacQueen, Julho 2002

This state of affairs can be attributed to a number of factors that set legal intent apart from forestry in practice. For instance, one such factor is that the choice of concession areas is generally led by the private sector. Relevant government institutions have little detailed knowledge of the biological and socio-economic characteristics of the area and hence their capacity to review and control the exploitation of resources and oversee its sustainability is severely limited. This is further exacerbated by the failure of concession applicants to provide a complete and thorough resource inventory and comprehensive management plans, a failure often blamed on the high costs involved. Currently, only about 33% of the operational concessions have presented and received approval of their management plans<sup>6</sup>, thus leaving the majority without a clearly stated long-term vision regarding issues such as production, conservation and community benefits.

Various recommendations have been made to try and deal with these problems. These include tightening of deadlines for submission of management plans, the cancelling of exploitation rights upon failure to submit these, the reservation of certain productive forest areas exclusively for exploitation under concession regimes and the linking of taxation rates to the size of the concession area as a means of controlling sizes and ensuring an appropriate operational capacity.<sup>7</sup>

There are also proposals concerning the minimum contents of a concession management plan, including an internal and external audit of the planned outputs. However, given that there are no legal mechanisms through which a concession licensee is obligated to maintain the relationship with the community and re-evaluate changing priorities and needs, the consultation process remains a precarious one-off bargaining opportunity rather than a backbone for sustainable positive social impact. Furthermore, the failure to fulfil agreements regarding community benefits does not constitute an infraction of the law as described in Article 41 of 10/99 and Articles 114 & 115 of 12/02. In light of this, community benefits gained through negotiation are not secured under the existing legal provisions.

In relation to the above, it is also important to note that the quality of the management plans and consultation documents submitted are not always effectively evaluated by the licensing authority, partly due to the lack of technical capacity to provide an expert opinion on their contents. Furthermore, their relative advantages in terms of social and economic benefits brought to the area do not play a role in the selection of the private entity that is to be awarded the concession. Because the system includes the preclusion of more than one application to an area all competition is eliminated and those who receive the exploitation rights to an area are in fact doing so merely on a first-come first-serve principle. The award of rights is conditional simply on the submission of a complete set of the required documents, which in itself devalues the importance of their contents in terms of securing and maximising community benefits and ensuring sustainable development.

The conceptualisation of the concession regime as a means to sustainable, environmentally and socially responsible forest resource exploitation is seriously weakened by these shortcomings. In fact, there is a considerable danger that the strategy will backfire, by granting long term exploitation rights to entities that could treat the resource as a means for a quick gain at the expense of others, without any effective legal recourse to mitigate the situation.

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<sup>6</sup> Data presented by the DNFFB during the IV Consultative Forum on Forestry and Wildlife, Maputo, 25 March 2004

<sup>7</sup> Operacionalização do sistema de Concessões Florestais em Moçambique, Siteo, Bila e MacQueen, Julho 2002

For example, an important benefit for local communities from the presence of a forestry concession in the area is the creation of employment opportunities. However, while there is no real enforcement of legislation regarding the installation of a sawmill on-site, or specific guidelines on the contractual rights and duties of local workers, employment opportunities vary greatly in their nature and benefits. In practice there are also no clear mechanisms for enforcing labour laws, making the resolution of labour disputes difficult. As majority of local labourers are recruited without formal contracts, they remain vulnerable to rights abuse and non-payment.

Perhaps, in order to maximise the intended socio-economic and environmental benefits derived from the new exploitation regime, an incentive scheme should be put in place to encourage forest areas to become certified for legality and sustainability of forest management and above all move towards a more transparent process of allocation of concessions. This could be based on competitive bidding or a technically experienced panel to review the proposed management plans, judging each proposal on its own merits and determining its socio-economic viability. This process could be based on a set of firmly established criteria, requirements and guarantees, the fulfilment of which could be entrenched in the law and the disregard for which could have legal consequences.

Article 15 of the Law and Articles 16-24 of the 12/02 Regulations deal with the rules and procedures regarding Simple Licences. As already mentioned, in comparison to a concession, the simple licence is seen as unsustainable in the long run. There are a number of reasons for this, such as the lack of delimitation of the precise area of cutting and a lack of protection for recently exploited areas, which also makes control of the activities difficult. Further to this, considering its short duration (12 months), this type of exploitation regime does not promote any social investment.

However, while on the one hand the simple licences are harder to control and add less value to the sector, on the other hand, and very importantly, simple licences are the main entry point for Mozambican private entrepreneurs into the forestry industry. As such, they have an important role in the potential development of a national forestry private sector. The main reason for this is the fact that simple licences can only be awarded to nationals and present a cheaper and simpler process for obtaining exploitation rights.

Nevertheless, despite their simplicity and encouragement for the development of a national forestry private sector, simple licences do not hold the positive long term potential embedded in the concession contract. Management plans and resource inventories are reduced to the elaboration of a list of species to be exploited and community involvement is not a requirement. There is also no need for infrastructure or timber processing installations, thus requiring no investment and often limiting the simple licence exploitation to low density, easy access areas that also tend to be the ones preferred for community use.

On the whole, in terms of community benefits, the concessions represent the type of commitments that have the potential to bring long-term sustainable benefits, which under the simple licence regime does not exist. Therefore, legislation should focus further on the establishment of a better selection process, meaningful

#### **Summary**

- *Need for a clearly determined process of elaboration, evaluation and monitoring of the implementation of Management Plans;*
- *Need for support in developing a national forestry private sector;*
- *Greater transparency in concession allocation process;*
- *Selection criteria must be based on technical merits and a competitive process.*

community consultation process and procedures for tighter control on the fulfilment of contractual obligations.

### *The 20% of tax revenue earmarked for community development*

The payment over to local communities of 20% of local forestry tax revenues is one of the main tangible benefits of the contemporary policy for the forest-dependent poor.

The policy objective is to provide communities with an additional source of revenue based on the exploitation of the forestry and wildlife resources by third parties. The mechanisms for payment and the use of the real values referred to are still to be defined by a joint ministerial diploma from the Ministries of Agriculture, Tourism and Finance. While there is a draft diploma, which so far has only been approved by the Ministry of Agriculture, there is as yet no approved legal instrument to this effect. As a result, this important aspect of the 10/99 Law is still not implemented and communities are still deprived of the envisaged benefits. (see Annex 3)

The existing draft diploma, stipulates that the 20% tax return should not influence government budget and investment for the area or its commitment to the provision of public infrastructure and services as planned. The activities, goods and services to be supported through these funds are envisaged to be transparently identified by the community in order of priority. However, as public services and infrastructure are on the top of most communities' priority lists, there is little doubt that some expectations would be raised that these additional funds could fill in the gap in local public investment.

There are no clear guidelines on how communities are to allocate these funds or how they are going to identify and manage sustainable investment projects. Therefore, there is a need for the identification of appropriate mechanisms, not only to channel the revenue but also to provide the necessary financial management skills required in order to spend this money wisely, while avoiding potential internal conflicts or domineering external influences. (See Section 5, p.22)

The draft diploma also proposes that each community benefiting from the 20% tax return must be represented by a local management committee. While not made explicit in this draft, it appears that the committee referred to is in fact the CGC described in the manual drafted by the Ministry of Agriculture regarding community organisations, which specifically mentions the management of this revenue as one of the responsibilities of the CGCs that are to be established. Hence, the benefit from the 20% through local investments aimed at improvement of community livelihoods is directly linked to the nature and effectiveness of these community-based organisations.

The mechanisms for distribution and use of the earmarked tax revenue at local level are still under discussion, these funds are not yet separated from the common tax basket, amounting to years of lost additional income for the forest-dependent poor.

According to the present approach, the issue of establishing effective channelling mechanisms for this tax return goes hand in hand with the need for the establishment of the

#### ***Summary***

- *The community body envisaged to receive and administer the value represented by the 20% tax return is the CGC;*
- *There are no clear financial or institutional mechanisms in place yet;*
- *Distribution and use of these values is linked to the legal identification of entitled communities and appropriate mechanisms for guaranteeing these rights and their exclusivity;*

CGCs. While there are no clear systems in place to support the successful establishment and functioning of these bodies, the issue is effectively left up to the ability of each community to organize itself and successfully take advantage of the possibilities open to them.

### *Co-participation in enforcement and related benefits*

Central to the new legal instruments is the principle of sharing responsibilities and benefits from the use and management of the forest and wildlife resources. It is recognised that while effective enforcement constitutes a crucial variable for the success of implementation of any legislation, due to the State lack of material and human resources<sup>8</sup>, enforcement in Mozambique is dominated by weakness and inefficiency. Within this context, co-participation in enforcement efforts by community agents and private forestry guards has an important role to play, especially in areas rarely visited by state officials<sup>9</sup>.

The issue of co-participation in enforcement activities by various stakeholders, including the forest-dependent population, has been given particular attention within the recent legislation<sup>10</sup>. The recognition of the potential that an inclusive approach may have in promoting a sustainable and equitable use of the resources, has been translated into a number of joint legal instruments such as: the Diploma on Statute of Community Agents<sup>11</sup>, Diploma on Sharing Benefits from Apprehension of Offenders to the Legislation<sup>12</sup>.

Other proposals focus on the establishment of private enforcement officials (*fiscais ajuramentados*) and their role within the framework of resource management. It is expected that local communities have a vested interest in ensuring the sustainable use and management of the resources, which coupled with a sense of ownership and benefits from the exploration efforts, would create an incentive to collaborate in law enforcement. In addition, 50% of the value of fines issued are made payable to the state or community enforcement agents involved, thus providing a financial incentive for community collaboration in law enforcement efforts.

Statistics reflecting the efficiency of issuing and collecting fines show that of the total value of fines issued by the SPFFBs, only a very low amount is actually paid (see ANNEX 4). In addition, there is no desegregation between state enforcement and cases in which the community has been the reporter (or informant) of the infractions. The lack of follow-up and penalisation has immediate negative results, not only for the State in the form of lost revenue, but also for the forest dependent poor. Such a situation generally discourages and demoralizes the enforcement effort. This apparent lack of effective information and financial management systems is likely to hamper the delivery of the 50% share when the Diploma comes to be approved.

#### **Summary**

- *Legal enforcement centred exclusively around resource use issues;*
- *There are no legal mechanisms yet in place for delivering the 50% value of the fine to the 'whistle-blower';*
- *Delays in defining necessary legal mechanisms can result in disengagement of the community from the law enforcement process.*

<sup>8</sup> Bila and Salmi, 2003

<sup>9</sup> Nhantumbo and Macqueen, 2002

<sup>10</sup> See articles 31(1); 37(2) and 39(4) of the Forest and Wildlife law (Law 10/99)

<sup>11</sup> Article 37(4) of the Forest and Wildlife law (Law 10/99)

<sup>12</sup> Article 39(4) of the Forest and Wildlife law (Law 10/99).

This Diploma also contains additional incentives designed to encourage the active and efficient involvement of community agents, such as training and provision of subsidies (the value of which had not yet been determined). In addition to the approval of legal instruments, the provision of material resources and training of co-participants in enforcement activities is also generally lacking and urgently needed. The only training centre nationwide currently fulfilling these needs is at Gorongosa National Park, where private sector or NGO financed participants can receive the necessary training and develop their skills.

Another challenge for making community co-participation in enforcement effective, is the role that local COGEPs and CGCs are designed to play in the process. As their organization and functioning is delayed, so is the proper engagement of the community in the law enforcement process.

#### **4. The principal types of non-compliance by different groups of key actors and repercussions of non-compliance for the forest dependent poor**

Combating illegal logging is a major policy issue to be resolved, as the resource values are completely removed from the tax revenue unless they are recovered through fines. In relation to community benefits, this has a trickle down effect by lowering the overall tax revenue and hence the payment of the 20% destined for community use. Generally, illegal practices contribute to unsustainable resource use and depletion, thus potentially depriving the forest-dependent population of its most valuable natural resource.

Illegal activities in forestry resource use and management impact negatively on the community in a number of ways depending on the type of illegality committed and who is involved. The table below presents an overview of the general types of non-compliance with forestry legislation, the actors involved and the effect the failure to apply the law has on the local community. (also see Annex 4)

**Table 1: Main types of non-compliance, reasons and effect on local communities:**

Actor	Non-compliance type	Reason	Effect	Potential Solutions
<b>State</b>	<ul style="list-style-type: none"> <li>Disregard for legal requirements in user rights allocation process</li> <li>Failure to ensure adequate community consultation and fulfilment of community rights</li> <li>Lack of enforcement</li> </ul>	<ul style="list-style-type: none"> <li>Lack of technical capacity &amp; clear mechanisms</li> <li>Lack of financial and technical resources</li> <li>No guidelines on framework &amp; process of consultation</li> <li>No direct accountability</li> <li>No clear division of responsibilities between local government departments</li> <li>Corruption</li> </ul>	<ul style="list-style-type: none"> <li>Disenfranchisement of communities by denying the possibility of benefiting through effective negotiation</li> <li>Weakening of trust between the community and government</li> <li>Lack of support to communities in benefiting from and applying legislation</li> <li>Postponement of community benefits has overall negative effect on poverty reduction</li> </ul>	<ul style="list-style-type: none"> <li>Creation of clear guidelines for the implementation of the consultation process</li> <li>Capacity building for government, private sector &amp; communities</li> <li>Establishment of formal cooperation with independent technical assistance bodies</li> <li>Establishment of mechanisms of accountability</li> <li>System of checks and balances in implementation process</li> </ul>
<b>Private Sector</b>	<ul style="list-style-type: none"> <li>No community engagement</li> <li>Failure to honour consultation promises</li> <li>Excessive exploitation</li> <li>Disregard for labour laws</li> <li>Failure to deliver the benefits described in the management plan</li> </ul>	<ul style="list-style-type: none"> <li>No clear mechanisms to implement legal provisions regarding local community benefits</li> <li>Lack of experience in community consultation</li> <li>Overbearing bureaucracy</li> <li>Corruption</li> <li>Lack of effective state control</li> <li>Not the role of business to promote sustainable rural development</li> </ul>	<ul style="list-style-type: none"> <li>Non-fulfilment of consultation promises</li> <li>Few community benefits</li> <li>No guaranteed payment for labour</li> <li>Social conflicts</li> <li>No infrastructure development</li> <li>Depletion of resources</li> </ul>	<ul style="list-style-type: none"> <li>Clear mechanisms for consultation</li> <li>Clear definition of responsibilities</li> <li>Technical assistance on establishing community relations</li> <li>Introduction of business incentives linked to tax and certification</li> </ul> <p>(Ref: Revenues from Forests of Mozambique, A. Rytönen, 2003)</p> <ul style="list-style-type: none"> <li>Effective state control on social &amp; labour benefits</li> </ul>
<b>Community</b>	<ul style="list-style-type: none"> <li>Tax evasion</li> <li>Illicit association with third parties</li> <li>Resource use beyond the definition of subsistence use</li> </ul>	<ul style="list-style-type: none"> <li>Lack of understanding of legislation</li> <li>Lack of confidence in state ability to protect community interests</li> <li>Need for immediate gains</li> <li>Lack of alternatives</li> <li>Corruption</li> <li>No conflict resolution mechanisms</li> </ul>	<ul style="list-style-type: none"> <li>Internal conflicts</li> <li>Weakening of local social and management structures</li> <li>Depletion of resources</li> <li>General disregard for the law</li> <li>Mistrust of government officials</li> </ul>	<ul style="list-style-type: none"> <li>Legal information dissemination</li> <li>CBOs capacity-building</li> <li>Simplification of implementation mechanisms for benefits</li> </ul>



The main issue underlying all the above problems is the lack of effective governance in the sector. It appears that while all the desirable socio-economic and ecological aspects of developing a sustainable and profitable forestry sector are covered by the law, there is an apparent lack of political will and capacity to implement and deliver. The main reasons for non-compliance are linked to the lack of established legal mechanisms, especially in relation to community benefits and effective co-management. The necessary legal instruments and clear guidelines to implement the Law 10/99 are still not in place and the failure of the various government ministries and departments to issue these demonstrates a lack of real concern and capacity to effectively apply the law.

There is also a general lack of transparency in the consultation process, and the organisation and management of the exploitation regimes. In relation to concessions, the poor application of labour laws and the non-fulfilment of development commitments have a detrimental impact on the forest dependent population and can only be overcome by providing clear consultation guidelines and tangible business incentives to engage constructively with the community and ensure long-term sustainable use of the resource.

In relation to commercial logging, there are a number of problematic issues that have already been touched upon in this report and have also been the subject of other investigations<sup>13</sup>. Amongst those is the issue of corruption. Disregard for the law and avoidance of the prescribed operational mechanisms are occurring at all levels. At the local level, the lack of tight implementation procedures, capacity and support for the development of mutually beneficial relations between the investor and locals often leads to bribery as a means to resolve disputes, hire local labour or get away with excessive logging. The same occurs at higher levels, where a lack of transparency and accountability allows for the granting of exploitation rights without government acting upon its responsibility to ensure that the agreements provide for and consequently fulfil their obligations vis-à-vis the community.

However, while there is no effective law enforcement and the nature of the investments is short-sighted and mainly concerned with making quick and easy money, business incentives would be of limited effect, if non-compliance with the law is viewed as the easier option.

Therefore, while law enforcement comes first, the necessary mechanisms of implementation checks and balances must come hand in hand with a real business case stimulating a sustainable forestry in Mozambique. An example of such a proposal already exists, made by *TCT Industrias Florestais Ltd* at the request of the Sofala Provincial Directorates of Industry & Commerce and Agriculture, which shows that profitable, responsible and fair business can be done within the established legal framework and what additional measures need to be taken to create the right national and international environment to support this. Among the measures proposed are: a structured protection package, industry specific investment zone, developing a certified brand and labour training<sup>14</sup>. Such proposals, albeit debatable in nature, make for a strong case that it is feasible to transform the short-sightedness of current investors by promoting business incentives and empowering stringent law enforcement at national level.

Further to this, an analysis of the revenues from forestry in Mozambique done by Antti Rytönen<sup>15</sup>, suggests that a system of tax reductions has already been

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<sup>13</sup> An Evaluation of Commercial Logging in Mozambique, David Reyes, 2003

<sup>14</sup> Proposal of Methods to Stimulate the Timber Industry on Mozambique, TCT Industrias Florestais, 2003

<sup>15</sup> Revenues from Forests of Mozambique, A. Rytönen, 2003

designed to provide incentives and support policies that produce tangible positive effects on social, economic and environmental sustainability.

However, as the monitoring of these positive effects at national level would bring more complexity to a process that already struggles with issues of human and technical capacity, a possible, albeit limited solution could be the introduction of forest certification. This internationally recognised environmental and socio-economic standards set by the Forest Stewardship Council (FSC) of operation is not only a ticket to more socially aware and demanding, but also to the better priced European and other markets. In addition, internationally recognised rules also offer a mechanism of ensuring responsible forestry which can be monitored by independent national, regional or international bodies on contractual basis with the state, thus offering a potential solution to the problem of the lack of human and technical resources and expertise at national level. Thus, efforts by DNFFB in promoting certified forestry in Mozambique<sup>16</sup> must be encouraged and developed further in the light of monitoring and evaluation of legal compliance as a whole.

In addition to the complexities of managing concessions within the legal framework, another set of problems is dealt by the fact that simple licences are seen as an opportunity to gain quick and easy access to forestry resources. There is even less control of the practices under this exploration regime, and among other things, over-exploration and disregard for the ban on logging during the rainy season are common. The lack of effective control and surveillance of current activities leaves the door open for abuse of the resources and promulgates the hit and run mentality which characterises both the small-scale and commercial activities in this sector at the moment. The system of allocation of simple licences exclusively to nationals, which was meant to give an entry to national private forestry entrepreneurialism, has unfortunately been also vastly abused by illicit arrangements between national and foreign investors, whereby the latter encourages and finances logging beyond the remits of this exploration regime. An example of this is the increase of the number of simple licences issued in Zambezia Province, despite the general philosophy of cutting these numbers down. The explanation for which, was the fact that the presence of foreign buyers encourages illicit logging by nationals, which can only be countered by the stricter and wider issuing of simple licences as a means of legalising an already existing activity.<sup>17</sup>

A major factor in non-compliance with the law has been the inability of government for effective enforcement. For example, in relation to charcoal production, which is one of the main economic activities, a comparison between the amount licensed in Maputo Province and the urban consumption show that only about 1% of the coal supplied to the city is actually licensed.<sup>18</sup> This demonstrates the losses of state revenue incurred due to the deficiencies of the present system of tax collection and law enforcement.

In addition, the forestry taxation and fine structure is heavily dependent on the roadside checkpoints, at which transported timber and relevant documentation must be presented for inspection. However, as these checkpoints are only manned during the day, it is not too difficult to imagine how unchecked truckloads can go past unnoticed on a regular basis.

Finally, as mentioned in the above table and text, corruption and poor understanding of the law allows for illegalities to persist and undermine the authority of the relevant legislation.

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<sup>16</sup> Promoção de Certificação Florestal em Moçambique, DNFFB, Junho 2000

<sup>17</sup> Governor of Zambezia, meeting of Forestry Forum on 25 March 2004

<sup>18</sup> Chaposa Research Project Report – Mozambique, Carla Pereira, UEM, 2001

Non-compliance with legislation by the various actors involved - the state, private investors and community members, results in overall loss of state revenue, negative impact on poverty reduction, social-economic tensions, unsustainable resource use and disenfranchisement of local communities. It contributes to erosion of trust between the state and the community and perpetuates general disregard for the law.

The reality of forestry in Mozambique in terms of the relationship between the use of resources and community rights/benefits and duties does not reflect the spirit of the Law. Practices and development of mechanisms for implementation have not caught up with the legal intent as of yet.

## **5. Best bet strategies for the formulation, implementation and enforcement of legislation so as to secure benefits for the forest dependent poor**

According to the World Bank, lost revenues through illegal logging alone costs governments between 10 and 15 billion dollars annually. The environmental and social costs, though more difficult to quantify, are immense.”<sup>19</sup> The role of legislation in curbing illegal practices should not be overlooked or at the same time overestimated (FAO, 2002). A more profound analysis of legislation demonstrates that it is not always the case that the problems linked to non-compliance are based on the lack of implementation capacity. Rather, issues such as political will and the nature of the legislation itself, formulation and general socio-economic environment have also a large role to play.

### *Formulation*

Implementation and compliance can be significantly influenced by the way legislation is formulated. The process of formulation should be open and transparent and take into account the reality and needs of all stakeholders involved. It must have not only a punitive role but must actively protect and serve the basic rights and needs of those it affects. Perceptions of the law as a guarantee of ones rights and a just system for management of the resources is important in creating positive behaviour and a conducive attitude towards law compliance.

Clarity of the law and its definitions is an essential element to the successful formulation of new legislation. A transparent process of wide consultation and public debates helps determine the best and most accessible formulation of the legislation, thus making it publicly accepted, widely understood and more easily applicable by the various stakeholders involved.

Moreover, when assessing legislation effectiveness, Lindsay, Mekouar and Christy outline a number of principles to be taken into account, the main one of which is based on avoiding legislative overreaching observed in legal provisions, which:

- Exceed national capacities for implementation;
- 
- Go beyond the reasonable and legitimate objectives of the law;
- Neglect existing traditional practices by imposing unnecessary new social norms.
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Keeping these factors in mind, the formulation of legislation is a process that should be seen as the cornerstone for successful subsequent implementation and enforcement. In the Mozambique context of continuous legal development and the

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<sup>19</sup> Why Law Matters: Design Principles for Strengthening the Role of the Forestry Legislation in Reducing Illegal Activities and Corrupt Practices, J.Lindsay, A. Mekouar, L.Christy, April 2002

revision and adoption of fundamentally new legal and state structures, a thorough process and flexibility in formulation is paramount to success. Future applicability and effectiveness of legislation is strongly dependent on establishing strong links and logical continuity between different areas of the law which are interdependent. Implementation and enforcement regimes can only function well if good synchronization is established between the various laws.

Thus, the formulation of Law 10/99 on Forestry and Wildlife must be examined in conjunction with other laws such as the 1997 Land Law, and very importantly, the decentralization reforms currently underway. The significance of making this inter-relation is demonstrated by the fact that all these laws and processes target the reorganisation and creation of local government and community structures that need to have clearly defined powers, responsibilities and an institutional context within which to function. Therefore clear relationships must be established between the proposed institutional developments at community level, which then need to be able to fit-in neatly with the newly defined decentralised state organs.

In light of this, one of the fundamental prerequisites is the clear definition of legal terminology and its uniform use across the various areas of the law. One such example is the definition of “community”. While community is defined in virtually the same terms in both Law 10/99 and Law 19/97<sup>20</sup>, the definition is arguably unclear and appears to link the issue of belonging to a community with the process of delimitation of ‘community land’. While discussing the intricate complexities of defining a “community” is not the objective of this paper, it is important to note that the issue is highly relevant to the applicability of the Forestry and Wildlife Law 10/99, especially in terms of benefits for the forest-dependent population.

Other issues include how to define the subsistence level use of resources, which is relevant not only to forestry legislation, but indeed to all other natural resource management regimes. The use of forestry products is characterised by activities and practices with long history and traditions. Subsistence use as described in Law 10/99<sup>21</sup>, is somewhat insufficient and leaves the door open for interpretations of the nature and scale of the activities that are to be considered of subsistence rather than commercial value. For example, is a *curandeiro* or a traditional doctor, entitled to the collection and use of medicinal plants without acquiring an exploitation licence, and is this type of activity classed as traditional use and practices or not?

While it is not in the scope of this paper to attempt to clarify the above uncertainties in relevant legal definitions, it is important to note that in terms of strategies of formulation, the resolution of these issues is fundamental in securing benefits for the forest dependent communities under the Law 10/99.

One of the real hurdles in respect to implementation of the law has been the slow and fragmented formulation of the ancillary support legislation necessary to establish the full legal framework. The regulations for application of Law 10/99 were only promulgated in 2002 and the majority of further legal diplomas in relation to community benefits are still in draft form, nearly five years after the adoption of the main Law. Such a protracted process of legal development ultimately raises doubts

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<sup>20</sup> “**Local community**” means groups of families and individuals living in a limited territorial space, with the size of a locality or smaller, and who wish to safeguard common interests, through the protection of their areas of residence, agricultural land, both under cultivation or fallow land, forests, sites of cultural significance, grazing fields, water sources, hunting and expansion areas.

<sup>21</sup> Law 10/99 Article 1/9. “**Self consumption**” means the non-profitable exploration of fauna and forests by the local communities in order to meet their needs in terms of consumption and production of handicrafts, based on their customs.

about the existence of sufficient political will or necessary capacity to see things through.

Despite the loopholes in the implementation mechanisms, the legal regime sets out a number of provisions regarding concession awards, tax returns to local level and community participation in resource co-management. However, all of these provisions deserve closer examination to identify potential problems that can stem from legal overreaching in the formulation process.

The legal overreaching principle is important to consider when examining the possibility of legal intent to exceed the realistic capacity to deliver. Based on the observations made so far in this paper, there appears to be an imbalance between the legally prescribed procedures and institutional arrangements and the human, financial and technical resources available for their implementation. Thus, while legislation should be forward looking and progressive, potential to implement legislative requirements, which currently surpass capacities, must be assessed in view of the conditions created for change leading to their fulfilment.

Despite the obvious gap between the necessary conditions for implementation and government and civil society's ability to deliver, the provisions could with time be implemented if a coherent and carefully fine-tuned set of procedures is put in place to create the implementation capacity required. In the case of Law 10/99 most of the implementation strategy detail is formulated through technical annexes and diplomas, majority of which are still in draft form and the careful formulation of which could effectively offer the necessary flexibility to close the gap between intent and reality.

An example of this discrepancy between intent and capacity is the provision relating to one the main tangible benefits envisaged by the law regarding the forest dependent population. The 20% of earmarked tax revenue requires a set of financial mechanisms, institutional arrangements and technical capacity at sub-national and community levels, which arguably do not exist at present.<sup>22</sup> In addition, it is only through the formulation of clear mechanisms for implementation that compliance with the law can be expected, especially if coupled with provisions enhancing the transparency and accountability of the decision-making process.

This particular aspect of Law 10/99 needs to be analysed within the general legal and institutional context of the country and in terms of its compatibility with Law 19/97 and the state decentralization process (as defined in various documents of the Ministry of Planning and Finance and the State Administration, such as Decree 15/2000).

While Law 10/99 proposes the establishment of a number of bodies at district and local levels, so does the Land Law 19/97 and so does the newly proposed local government reform. There seems to be a lack of coordination between the various proposals, and despite the fact that albeit differences in the technical areas of competence, in reality neither will exist in a vacuum and there needs to be a clear and practical form of complementary co-existence and functioning.

At the community level, each sector (such as water, land, fisheries, forestry) appears to have a strategy aimed at creating separate local committees, responsible for the management of the relevant resources and activities. Despite the sector-specific logic justifying the need for such bodies, the result is the creation of a highly confusing and potentially conflicting institutional environment. The existence of parallel community based institutions can be described as a "bottom-heavy" approach, which puts more institutional responsibility and pressure for management and legal implementation at the bottom rather than at the top levels. This lack of

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<sup>22</sup> An opinion expressed, amongst others, by UNAC at the Forestry Forum Meeting, 25 March 2004

harmony between the various natural resource laws and other legislation could have a detrimental effect on CBOs, and result in 'overkill' at community level.

All these laws face a similar issue of "defining the community". Before implementation and enforcement of legislation, the question of community identification needs to be properly addressed and formulated in legal terms. Additional legal instruments are needed to define the criteria applied to a community that may be eligible to benefit from revenue allocations, and to provide instruments through which conflicting views on eligibility at local level can be resolved. In order for the law to successfully achieve its objective of benefiting the population, an assessment must be made of the potential problems that could arise from the application of the proposed legislation and some preparation needs to be made for resolving potentially conflictual issues. For example:

- What is to be done about future migration of population across from non-entitled areas to areas entitled to benefit from the 20% revenue?
- Are communities living adjacent to concession areas but which use and are dependent on the delimited forestry and wildlife resources, eligible to benefit?
- If not, how is the law going to overcome problems resulting from perceived social injustice stemming from inequality of opportunities and state help?
- What mechanisms need to be in place to assist with CBO capacity building as well as conflict resolution or fraud?

Hence, before issues of implementation and enforcement can be considered, formulation must be a thorough and well-accomplished exercise. When the law being formulated is as far-reaching in its impact and as complex as the management of forestry and wildlife resources, the piloting of proposed strategies must be an integral part of the process.

In the fluid and fast-changing legal environment in Mozambique, cross-sector awareness is essential for the future smooth functioning of the legal system. For example, the creation of district level development and planning forums is currently under consideration as part of the government decentralization programme, under which all local stakeholders, including community, private sector, NGOs and government are to join in the identification of development and planning priorities for the district. It may be that the channelling of the 20% community tax return would be more effectively applied if managed through these newly empowered organs at district level. This could be further strengthened by the introduction of more accountable, locally elected state officials, responsible for the democratic and sustainable development of the district along the lines identified by the local population.

A potential marriage between the Forestry and Wildlife legislation and the revised role of local government could be a creative exercise, which benefits both sectors, produces more equitable and sustainable results for the rural poor and avoids the potentially problem-ridden and bottom-heavy approach envisaged for the application of the benefits resulting of Law10/99.

An important aspect of the 1999 Forestry and Wildlife legislation is its objective to enhance the stake of local civil society and non-government actors in sustainable forest management through recognising local rights over resources. However, while the recognition of local peoples' importance to resource management is essential, so is the creation of incentives for those people to comply with the law and actively participate in compliance and enforcement efforts.

In order to create the conditions for active participation in management there are a number of social factors to be considered, including the existence of a certain level of

community organisation, ideally based upon democratic principles of participation and decision-making. In rural societies, where traditional hierarchical structures are not necessarily modelled on the principles of modern democracy and co-management, the administrative, organisational and financial skills to run organisations such as those envisaged in the legislation might be trickier than it seems. For the creation of an effective and socially active network of voluntary CBOs, there is a need for well-planned and widely available capacity-building and technical assistance. In conjunction, the role of the organisations and the benefits they will bring to the community have to be considered in light of the time and effort the community members need to put into the creation of these new structures. Do the responsibilities and costs outweigh the benefits? Is government able to provide the necessary support network?

If the creation of CBOs and mobilization of the local population is to enable them to benefit economically and socially from the sustainable use of the resources, this benefit must outweigh the burden of management responsibility laid upon them. Very importantly, there must also be legally ensured "security of rights"<sup>23</sup>, which as defined by Lindsay, Mekouar and Christy, means the following:

- Clarity as to what these rights are;
- Certainty of deliverance;
- Reasonable duration;
- Rights must be enforceable and exclusive.

The formulation of legal documents establishing the mechanisms for receipt and use of the benefits must take the above conditions for security of rights into account, an important aspect of which is legal awareness. Since the formulation of Law 10/99 and relevant legislation, community awareness on the contents of these documents is somewhat ad hoc and sometimes confused with the Land Law. The delay in implementation mechanisms adds to the general lack of clarity as to what these rights are and has already been a source of conflict.

For example, during the Forestry Forum meeting in Maputo in March 2004, private sector operators from Cabo Delgado Province expressed concern over a serious conflict situation arising from the demands of local communities for the private operator to provide them with the cash value of the 20% tax, which they were aware that they were entitled to. What this situation demonstrates is that the rights and benefits envisaged in legislation have already raised community expectations but are coupled with misunderstandings about the law and responsibilities under it. Government procrastination or inability to give a timely legal follow-up to these provisions is now backfiring by unnecessarily straining the relations between communities and private investors.

In this regard, the legislation needs to put in place the mechanisms for delivery and community management of the financial benefits as well as mechanisms for conflict resolution. The law must guarantee and protect the right of all community members to take advantage and benefit from their legal entitlements.

Further to this, legislation should ensure the establishment of a system of checks and balances providing a mechanism for monitoring of legal compliance, as well as an incentive system that gives the law not only a punitive character but recognises and rewards positive compliance.

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<sup>23</sup> Why Law Matters: Design Principles for Strengthening the Role of the Forestry Legislation in Reducing Illegal Activities and Corrupt Practices, J.Lindsay, A. Mekouar, L.Christy, April 2002



Forest and wildlife concessions, as a form of exploitation regime, are a new example in the Mozambique national context of creating an environment intended to produce far-reaching and long-term positive results. The legal strategy for securing benefits for the forest-dependent population is based on the establishment of an application procedure that requires a comprehensive business-development plan and commitments benefiting the socio-economic development of the area, engaging the community in the co-management of the resources. The Law requires a process of community consultation prior to the allocation of user rights to third parties, as well as subsequent community participation in monitoring and enforcement.

However, while the legal intent of upholding community rights is clear, a closer look into the practical process shows that in addition to the lack of vital implementation mechanisms, there is also no effective system of checks and balances in place to monitor compliance.

For example, while community consultation is required at the beginning of a 50-year concession, there is no clear legal requirement for its reoccurrence during the rest of the exploitation period or for that matter in the case of renewal. In addition, while the initial assessment is based on the presentation of a management plan including provisions regarding local employment and development benefits, there is no stipulation of how this is to be effectively enforced and what the consequences are for not fulfilling the commitments made.

In short Law 10/99, and its supporting legal documents, do not yet provide a suitable monitoring and evaluation framework for the assessment of the intended positive impact of legislation on the forest-dependent poor. Further to this, there are no clear mechanisms for conflict resolution stemming from a failure to comply with the law or honour community (or individual) rights. Hence, while well-intended, the Law falls short of formulating an all encompassing environment that could secure the intended benefits.

Hand in hand with the above issue sits the question of providing strong legal incentives for the resource users to comply with legislation, especially in areas such as community rights and benefits. Linking compliance with legal requirements of social responsibility and environmental sustainability to improved overall business success of the industry can prove an effective method of improving compliance. Some of the existing proposals to this effect have already been discussed in this paper.

Finally, it could be argued that, in terms of clarity and depth of formulation regarding benefits for the forest dependent poor, Law 10/99 is vague and over dependent on supporting legal instruments. In the politically and socially complex, and economically underdeveloped national context, one of the principal strategies for the successful formulation of new legislation must be the piloting of new legal requirements in order to assess their practical value.

In addition, and very importantly, cross-sector legal harmonization must also be considered as a fundamental and integral part of the formulation strategy applied to any new legislation. For example, land delimitation is a process through which the issues of community legal identification, empowerment and organisation could be resolved should land delimitation be linked with the overall forestry exploitation and community benefits strategy.

#### *Implementation & Enforcement*

At present, implementation of the legal provisions aimed at securing benefits for the forest dependent rural population is extremely weak or non-existent. The section on

types of non-compliance, already presented in this document demonstrates clearly some of the shortcomings of implementation and enforcement efforts.

To summarise, the main constraint is the lack of legal definition for the implementation mechanisms that need to be put in place, as well as a number of factors previously discussed in this document, such as:

- ✓ Lack of legally defined implementation mechanisms
- ✓ Lack of national technical and material capacity for implementation
- ✓ Lack of institutional framework at sub-national level
- ✓ Lack of effective enforcement mechanisms
- ✓ Lack of dissemination of Law and low legal awareness at local level

In relation to concessions and community benefits derived from the commercial exploitation of resources under this regime, there is some level of compliance with the requirements for community consultation and presentation of a management plan (including community benefits) as part of the initial application process. However, what remains dubious is the quality of these documents and the effect this has on the community.

As already pointed out, there is no system of monitoring and evaluation of the implementation of the contractual obligations regarding community benefits, thus the commitment to local development is largely a paper exercise, while real implementation of the contracts' contents remains weak. Part of the reason for the chequered record regarding fulfilment of community development promises is the fact that the private sector lacks experience in building constructive community relations and government lacks the experience and technical capacity to assist the process. A further layer of complexity is also introduced by the lack, in some areas, of representative and clearly structured community bodies to engage with. These shortcomings can however be potentially overcome by the establishment of partnerships between the involved parties and NGOs or other bodies capable of assisting with the correct implementation of the process.

Therefore, while the track record of implementation of commitments in relation to community is generally poor, the causes for this stem from various difficulties with the formulation of legal mechanisms for implementation, the lack of practical capacity and experience in delivering the desired results as well as weak enforcement capacity that undermines the effectiveness of implementation.

Practice shows that complex or unclear legal requirements in practice lead to more illegalities and less local benefits. Implementation occurs effectively only in relation to legal provisions which have been well defined, are easy to follow and information on which has been disseminated across the spectrum of stakeholders.

Implementation is also heavily dependent on the availability of dedicated resources and the technical capacity to carry out the responsibilities at all levels. New legislation requires time before full implementation takes place, even after the formulation of all the necessary legal instruments. The dissemination of laws and training of government staff and community members (when appropriate) are necessary conditions for enforcement and fulfilment of these can take a long time. Therefore, the law and its implications to real life need a period to sink in and the more bottom-heavy and complex the implementation structure, the lengthier the period for developing the conditions for effective implementation. In its extreme, this type of implementation strategy can run the risk of becoming unrealistic in its dependence on existing capacities and effectiveness within the overall socio-economic context.

Another type of practical difficulty which the state faces in implementation and enforcement of taxation and fines is the heavy dependency on the effectiveness of static road checkpoints, which are responsible for monitoring the transportation of timber and other forestry resources between different administrative regions, as well as on the way to the ports and other points of export. As already pointed out in the section dealing with types of illegalities, these checkpoints are only manned during daytime, thus allowing for gross illegalities to occur 'out of hours'. In addition to this, statistics demonstrate that the ability of government to collect the value of the registered fines is very low, thus resulting in lowered state revenue due to the weakness in enforcing payments, as well as loss of income for the communities in cases where local people co-participated in the process of law enforcement. (Annex 4)

Nevertheless, the implementation and enforcement of legal requirements depends not only on the existence of well-formulated legislation but above all requires a level of political determination and will in order to be completed effectively.

Implementation and enforcement of any law, relies on clarity in regard to rights and duties, institutional mandates and power, as well as mechanisms. It also involves the establishment of a transparent and accountable legal system, where all stakeholders are treated justly and are fully aware of the legal process - the simpler the rules, the simpler the implementation and enforcement processes.

An integral part of the creation of a transparent and accountable system for law implementation and enforcement is the establishment of a coherent and uniform information system. Basic statistical data on the number and type of licences and concessions (those which have been approved and those that are in operation or are in the pipeline) must be streamlined and easily monitored and available at both provincial and national levels. Presently, there seems to be a lack of such information management and this impacts upon the overall capacity for effective management of the sector.(Annex 3A&3B and Annex 4) In addition, the lack of a uniform data collection and management system can negatively affect the ability of government agencies to monitor information on co-participation of communities in legal enforcement, the value of fines still pending. The ability to establish and maintain an effective information management system will also be indispensable for the implementation of the mechanisms for allocation of the 20% to communities, as well as the 50% of fines in cases of co-participation.

If the above legal environment is not provided, implementation and enforcement become confusing and one of the side effects is the growth of corruption. Corruption is encouraged by the lack of clarity or the administrative complexity of the legal process and can be seen by some as a means to avoiding costly or undesirable requirements. At the same time, these kinds of favours in dealing with legal processes have the additional effect of filling the pockets of generally under-paid civil servants. For example, in his evaluation of commercial logging in Mozambique, David Reyes observes that in the view of some companies, the system functions on the principle of "no bribes, no progress". This in its turn undermines any efforts at meaningful implementation and enforcement and encourages wide-ranging non-compliance.

In the context of Law 10/99 the provisions dedicated to community benefits is highly susceptible to this type of problem at all levels, due mainly to the lack of clarity and defined mechanisms for implementation and accountability.

Lack of teeth to enforce the Law has many detrimental results not only for the communities affected but also for the state itself. For example, financial statistics

demonstrate<sup>24</sup> that the value of the informal non-timber economy is far higher than the value of the tax revenue generated from legal timber activities. Stricter enforcement capacity coupled with an incentive for the informal market to join the formal economy would result in reduction of losses in tax revenue.

While the complexities of the legal environment and the highly problematic issues of corruption allow for non-compliance to go unchecked, any isolated attempt in enforcement will be difficult.

National initiatives for improving forestry governance by providing a pro-poor approach, are relatively easy to conceptualise and turn into legislation. However, the practical application of these initiatives truly puts to the test government capacity and commitment. In a majority of developing countries the good forestry governance initiative has been closely linked with international movements and pressures.

International pressure is mainly exercised through conditional aid, the creation of networks acting as lobbying groups or market demands. As a result of donor pressures and conditionality of aid, Mozambique, like many other developing countries, has expressed a firm commitment to a Poverty Reduction Strategy, as well as a National Forest Programme. However, such forms of international commitment contribute little to issues of actual implementation and have little direct impact on forestry management on the ground. Consequently, this analysis will mainly focus on the role of international networks and the market as the instigators of change.

An example of this type of network is the Forestry Governance Learning Group, which is the audience for this paper. Through improved understanding of the real potential for poverty reduction through forest governance, the participants improve their capacity to create the necessary legal, political and economic conditions for translating intentions into practice. Regional exchange of experience can be an effective mechanism for capacity-building and advocacy in promoting the sustainable development of the forestry sector.

Regional networks rely on the national networks or institutions to link to the local community level, but often the vertical link between national forestry networks and communities is weak. An example of this type of lost opportunity is the Consultative Forum on Forestry and Wildlife. Despite its declared concern with community benefits from forestry exploration, the Forum itself does not include direct representatives of any communities currently experiencing the impact of the current policy and practice. They are excluded from the debates and consequently the decisions that this forum makes. As a result the private sector, government and NGOs are the only stakeholders directly contributing to the debates and the identification of a shared vision and a way forward.

The other type of international pressure, which can play a role promoting good forest governance, is the international market - more specifically the increasingly socially and ecologically conscious consumer. In this regards, forestry economics have an indirect but potentially coercive role to play in determining levels of legal compliance and impact on the forest poor.

The Forest Stewardship Council (FSC) is an international network which aims at generating the necessary market pressure for the acceptance of globally certified forest products, which are environmentally responsible, socially beneficial, and economically viable. However, this type of international pressure is often resisted by different scale of operators on the basis of costs and the relatively small market niche prepared to pay a higher price for certified products. In addition, the main challenge

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<sup>24</sup> Revenue from Forests in Mozambique, A. Ryttonen, 2003

is finding cost-effective means of incorporating the needs and views of resource-poor NGOs and community organisations into policy development<sup>25</sup>.

In Mozambique, certification is championed by the private sector, with TCT Dalmann leading the process of the creation of national certification standards. The draft national certification standards offer a comprehensive set of indicators and a system of monitoring and evaluation which to a great extent plugs the holes in current legislation in regard to community consultation, participation and benefits. However, certification cannot replace the need for rethinking the policy framework for law implementation and enforcement, as it will otherwise only have a marginal effect. Mechanisms for implementation and enforcement of socially and environmentally sound forestry legislation are primary to the success of certification.

Despite the potential of various forms of international market pressure to have an impact on good forestry governance and legal compliance, there are a number of additional issues which need to be considered as well:

- ✓ What is the market for Mozambican forestry products and timber?
- ✓ Does this market express a concern regarding legality of operations and social and environmental business practices?
- ✓ What type of foreign investment is the forestry sector attracting? Why?

The control of illegal and corrupt forestry requires measures not only in the country of the supplier but also in the country of demand (the importer). The majority of national timber exports from Mozambique are destined to the Asian markets of China and Hong Kong. If consumer and company awareness and concern over social and environmental issues is secondary to economic considerations, then international pressure would have only a limited impact. International pressure regarding legal compliance to good forestry governance would be effective only if it influences the nature of the market for the goods. At the end of the day, certification or other forms of promoting respect for fair trade products is a process driven by consumer demand.

Hence, if government is aiming to use international pressure such as certification tools for ensuring legal compliance it should also develop a marketing strategy for national products targeting the more socially responsible type of consumer, by establishing an internationally recognised fair trade forestry product brand.

As part of the marketing strategy development process, government can also aim to stimulate and attract a certain type of investor, based on credentials and track record of social and environmental sustainability.

## **6. Suggested next steps**

- Formulation and adoption of outstanding legislation – urgently needed in order to avoid legal non-compliance or conflict due to raised but as of yet unfulfilled community expectations;
- Co-management structures and related statutes of COGEPs, CGCs – formulated in accordance with the principles and practice of the broader decentralisation process;
- Link the process of community land delimitation and community empowerment and effective participation in the co-management of the forestry sector;

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<sup>25</sup> Bridging the Gap: Communities, Forests and International Networks, M. Colcheser, T. Apte, M. Laforge, A. Manaondo, N. Pathak, 2003

- Diploma on channelling the 20% – must be clear in regards to the process of identification of communities entitled to benefit, as well as identify conflict-resolution mechanisms;
- Transparent and publicly available information that provides clear and assessable data regarding the state of forestry exploitation and provides regular and uniform information flows between provincial and national levels;
- Concession allocation through open competitive process based on set criteria with independent review;
- Financial systems – separation of the earmarked 20% from general revenue basket by opening of separate accounts and accumulation of this revenue stream until mechanisms for distribution and use are put in place and made operational;
- Human resource development – both public sector and community levels in order to adequately implement community benefits related provisions and be able to proactively secure those benefits;
- Monitoring and evaluation systems aimed at securing the envisaged benefits;
- Investor screening strategy as part of measures targeting compliance and securing benefits for forest-dependent poor.

## Bibliography

- 1) Antti Ryttonen (2003) *Revenues from Forests of Mozambique*, Indufor, Helsinki, Finland.
- 2) Carla Pereira (2001) *Chaposa Research Project Report* – UEM, Maputo, Mozambique
- 3) David Reyes (2003) *An Evaluation of Commercial Logging in Mozambique*, Collaboration for Development Action, USA.
- 4) DNFFB (2000) *Promoção de Certificação Florestal em Moçambique*, DNFFB, Maputo, Mozambique
- 5) James Mayers (2003) *National forest Programmes and Similar Beasts: Current State of Evolution and Future Prospects for Life*, IIED, Edinburgh, Scotland.
- 6) John Lindsay, A. Mekouar, L.Christy (2002) *Why Law Matters: Design Principles for Strengthening the Role of the Forestry Legislation in Reducing Illegal Activities and Corrupt Practices*, FAO Law Papers, FAO, Rome, Italy.
- 7) Marcus Colcheser, T. Apte, M. Laforge, A. Manaondo, N. Pathak, (2003) *Bridging the Gap: Communities, Forests and International Networks*, Centre for International Forestry Research, Bogor, Indonesia.
- 8) Patrick Matakala, (2004) *Preparatory Report to the Formulation Mission for a Natural Resource Management Component within the Environmental Support Programme to Mozambique*, Maputo, Mozambique.
- 9) Simon Anstey (2002) *Taking Simplicity Seriously? Natural Resources and Governance in Northern Mozambique*, Maputo, Mozambique.
- 10) Simon Norfolk (2003) *Examining access to natural resources in Mozambique and linkages to livelihoods*, Terra, Firma Ltda, Maputo, Mozambique
- 11) Almeida Sitos, A. Bila, e D. Macqueen (2002) *Operacionalização do sistema de Concessões Florestais em Moçambique*, DNFFB, Maputo, Mozambique
- 12) TCT Industrias Florestais (2003) *Proposal of Methods to Stimulate the Timber Industry on Mozambique*, TCT, Maputo, Mozambique.



**ANNEX 1: Summary of Regulation Articles relating to community benefits**

Article 7	Allowing for community declaration of historical and culturally significant forest sites
Article 15	Guaranteeing community access rights for subsistence use of forest and wildlife resources
Article 18.1 (i)	Simple licence application requirement – work posts and other local community benefits
Article 26.2 (e)	Concession approval upon - favourable outcome of consultation regarding exploration
Articles 35 & 36	Procedures on community consultation process
Articles 62-64	Guaranteeing community hunting rights and tax exemption on subsistence or ceremonial hunting practices
Article 68	Procedures on the right to killing wildlife in self-defence (animal – human conflict areas)
Articles 95-99	Establishment of community participation in co-management structures (COGEPs)
Article 102	Allocates 20% of taxes collected from the exploitation of the forestry resources to the local communities
Article 112	Gives up to 50% of the value of the fines issued upon transgression of the legislation to agents and community members participating in enforcement activities or denunciation.

**ANNEX 2: Table on Articles contained in the Law, Regulations and Diplomas on Forestry and Wildlife relating to community benefits**

<i>Law on Forestry and Wildlife</i> <b>Sept 1999</b>	<b>Regulation on the Law on Forestry and Wildlife</b>	<b>Diplomas &amp; Technical Annexes</b>
<p><b>CHAPTER II</b> Protection of Forest and Fauna Resources <b>ARTICLE 13</b> Areas of use and with cultural and historic importance</p> <ol style="list-style-type: none"> <li>1. Areas of use and with cultural and historic importance are areas meant for the protection of forests of religious interest and other sites of historical importance and of cultural use, in conformity to the customary norms and practices of the respective local communities.</li> <li>2. Forest and fauna resources existing in the areas referred to in the previous paragraph may be used according to the customary norms and practices of the respective communities.</li> </ol>	<p><b>SECTION II</b> Zones with historical cultural use or value <b>ARTICLE 7</b> Declaration</p> <ol style="list-style-type: none"> <li>1. The following are considered to be zones of historical cultural use or value, forests situated in rural cemeteries, cult worship areas, forestry comprising vegetation used by the local community for the extraction of traditional medicine, forests which are home to species of wildlife used in cults, assuming that the exploitation of such species is not prohibited by law</li> <li>2. It is within the competence of the Provincial Governor to declare, by despatch, such zones in terms of the law related to the present article. The provincial governor may declare such zones when they are very well known as such, or by method of the transference into writing of a verbal declaration signed by the representatives laid out in line a) of No. 3 of this article.</li> <li>3. The request for the declaration of a zone as laid out in this article may be made by the local community and should contain: <ol style="list-style-type: none"> <li>a) A letter of request signed by not less than 10 members of the respective community, suitably identified</li> <li>b) The basis of the request, with an indication of the cultural value, historical and social facts, and other elements which justify the declaration in terms of the law</li> <li>c) Geographical limits of the area</li> </ol> </li> <li>4. The absence of a declaration does not prejudice the rights defined in the law relative to the use of the area and the forestry and wildlife resources by the local communities for economic, social, cultural and historic ends in accordance with their customary norms and practices.</li> </ol>	
<p><b>CHAPTER VI</b> Management of Forest and Fauna Resources <b>ARTICLE 31</b> Participatory Management</p> <ol style="list-style-type: none"> <li>1. Local resources management councils constituted by the representatives of the local communities, the private sector, associations and local State authorities with the aim of protecting, conserving and the promotion of sustainable use of forest and fauna resources are hereby created.</li> <li>2. The attributions and competencies of the</li> </ol>	<p><b>SECTION III</b> Participatory Management <b>ARTICLE 95</b> Local Councils</p> <ol style="list-style-type: none"> <li>1. With a view to guaranteeing compliance with article 31 of law 10/99 of 7th July local councils for the management of forestry and wildlife resources will be established, comprising an equal number of members from the following sectors: <ol style="list-style-type: none"> <li>a) Local community representatives</li> <li>b) Singular or collective persons with activities linked to forestry and wildlife resources</li> <li>c) Associations, organisations or NGOs linked to forestry and wildlife resources or to local community development</li> </ol> </li> </ol>	<p>TECHNICAL ANNEX ON DELEGATION OF POWERS ON FORESTRY AND WILDLIFE MANAGEMENT (SECOND DRAFT)</p>

<p>local councils set forth in the previous paragraph are defined by a decree of the Council of Ministers.</p> <p>3. The management shall ensure the participation of the local communities in the exploration of forest and fauna resources and in the benefits resulting from such use.</p>	<p>d) The state</p> <p>2. The Local Management Councils for forestry and wildlife known by the abbreviation COGEP are governed by the legislation applicable to associations and association related activities</p> <p style="text-align: center;"><b>ARTICLE 96</b> Personality (legal)</p> <p>1. COGEPs are collective persons in the eyes of the law with private right, with their own legal personality independent of their members</p> <p>2. In the exercise of their activities COGEPs are independent and obey the law, and may not require any violation of the law by their associates or by third parties</p> <p style="text-align: center;"><b>ARTICLE 97</b> Attributes of COGEP</p> <p>1. In the carrying out of its activities, objectives and general procedures COGEP, in respect of its geographic or administrative area must be involved in the following:</p> <p style="padding-left: 40px;">a) The procedure for requests to exploit forestry and wildlife resources b) The development of activities leading to the sustainable use of forestry and wildlife resources, and the way in which these can contribute to raising the level of lifestyle for members of local communities c) The mechanisms for resolution of conflicts which involve different parties in the sector d) Collaboration with state bodies responsible for the inspection and control of forestry and wildlife resources e) The improvement of policy and legislation related to the sector f) The promulgation of activities designed to control fires g) The directing of the management plans for resources situated in their geographical area</p> <p>2. The COGEP may take part in consultative activities together with the ministry of agriculture and of tourism, or together with the provincial governments and other state bodies</p> <p>3. The COGEPs may propose to whoever has the right to do so, the cancellation or revocation of a specific project when they verify that the same is not in keeping with the realities of rural development and sustainable use of forestry and wildlife resources</p> <p style="text-align: center;"><b>ARTICLE 98</b> Representation</p> <p>The COGEP, whenever asked to do so, represents the interests of its members, namely the local communities, private sector, associations and organisations in dialogue with the state, with a view to defending the</p>	
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<p style="text-align: center;"><b>ARTICLE 33</b> Delegation of power</p> <p>The State may delegate the power of forest and fauna resources management, including the objectives of restocking fauna and forest species, to the local communities, associations or to the private sector, without prejudice to the respective inspection by competent entities.</p> <p><b>ARTICLE 35</b> Fees</p> <p>5. A specific diploma establishes the percentages of the values resulting from the fauna and forest exploration fees, for the benefit of the resident local communities in the respective exploration areas.</p> <p><b>ARTICLE 39</b> General Norms</p> <p>4. The values resulting from the fines of the offences to the forest and fauna Law meant to benefit the various stakeholders involved in the inspection and control of the forest and fauna resources are established by a specific diploma</p>	<p>interests of these in the management, conservation, exploration, use and the obtaining of any resultant benefits</p> <p style="text-align: center;"><b>ARTICLE 99</b> Delegation of powers</p> <ol style="list-style-type: none"> <li>1. The ministries of agriculture and of tourism will define by joint ministerial diploma, by means of a technical annex, the terms and conditions for the delegation of management powers to the local communities, the private sector or organisations and associations, or those in partnership with the state, with a view to involving these in the exploitation, use and conservation of forestry and wildlife resources</li> <li>2. The delegation of management powers referred to in the previous number may be effected when the respective material deals with <ul style="list-style-type: none"> <li>a) Protected areas</li> <li>b) Buffer zones</li> <li>c) Official hunting areas</li> <li>d) Productive forests</li> <li>e) Multiple use forests</li> <li>f) Multiple use zones</li> </ul> </li> </ol> <p style="text-align: center;"><b>ARTICLE 102</b> Benefits for the local communities</p> <ol style="list-style-type: none"> <li>1. Twenty per cent of any tax levied for forestry or wildlife exploitation is destined to benefit the local communities from the area where the resources have been extracted, in accordance with the terms of No. 5 of article 35 of law 10/99 of 7th July</li> <li>2. A joint ministerial diploma from the ministries of agriculture, tourism and finance will define the mechanisms for channelling and use of the value referred to in the previous number by the communities.</li> </ol> <p>REGULATION ON THE DISTRIBUTION OF THE VALUE OF FINES BETWEEN THE VARIOUS PARTIES INVOLVED IN THE PROCESS OF FISCALIZATION AND CONTROL OF THE FORESTRY AND FAUNA RESOURCES</p> <p><b>DRAFT</b></p>	<p>JOINT MINISTERIAL DIPLOMA ON THE MECHANISMS OF CHANNELLING AND USE OF THE TWENTY PERCENT (20%) EARMARKED TO BENEFIT THE LOCAL COMMUNITIES FROM THE EXPLOATION OF THE FORESTRY AND FAUNA RESOURCES (Ministry of Tourism &amp; Ministry of Planning and Finance)</p> <p><b>DRAFT</b></p>
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### ANNEX 3A: Statistics collated on the bases of information provided in the Provincial Annual Reports 2003

Province	Concessions, forestry and wildlife simple licenses			20%
Cabo Delgado	No. forestry licenses*		Taxes of forestry licenses	2 476 166 922,40 Mt
	581		12 380 834 612,00 Mt	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	0		0	
	No. Authorised Concessions	No. Operating Concessions	Taxes of concessions**	
	15	?	?	
	Total (tax)			
Niassa	Concessions, forestry and wildlife simple licenses			20%
	No. forestry simple licenses		Taxes of forestry licenses	35 457 250,00 Mt
	18		157 808 750,00	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	?		14 477 500,00	
	No. Authorised Concessions	No. Operating Concessions	Tax of concessions	
	?	?	?	
	Total (tax)			
Nampula	Concessions, forestry and wildlife simple licenses			20%
	No. forestry simple licenses		Taxes of forestry licenses	63 027 890,00 Mt
	?		4 267 816 831,00 Mt	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	?		1 576 000,00 Mt	
	No. Authorised Concessions	No. Operating Concessions	Tax of concessions	
	3	?	?	
	Total (tax)			
Zambézia	Concessions, forestry and wildlife simple licenses			20%
	No. forestry simple licenses		Taxes of forestry licenses	3 853 004 750,00 Mt
	1026		19 176 186 250,00 Mt	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	19		88 837 500,00 Mt	
	No. Authorised Concessions	No. Operating Concessions	Tax of concessions	
	?	?	?	
	Total (tax)			

<b>Tete</b>	<b>Concessions, forestry and wildlife simple licenses</b>		<b>20%</b>
	No. forestry simple licenses	Taxes of forestry licenses	171 028 592, 80 Mt
	673	786 353 567,00 Mt	
	No. wildlife simple licenses	Taxes of wildlife simple licenses	
	?	68 789 397,00 Mt	
	No. Authorised Concessions	No. Operating Concessions	
	0	0	
<b>Manica</b>	<b>Concessions, forestry and wildlife simple licenses</b>		<b>20%</b>
	No. forestry simple licenses	Taxes of forestry licenses	101 391 953,00 Mt
	203	458 789 565,00 Mt	
	No. wildlife simple licenses	Taxes of wildlife simple licenses	
	13	48 170 200,00 Mt	
	No. Authorised Concessions	No. Operating Concessions	
	7	?	
<b>Sofala</b>	<b>Concessions, forestry and wildlife simple licenses</b>		<b>20%</b>
	No. forestry simple licenses	Taxes of forestry licenses	1 394 662 124,20 Mt
	226	6 782 769 250,00 Mt	
	No. wildlife simple licenses	Taxes of wildlife simple licenses	
	?	16 664 190,00 Mt	
	No. Authorised Concessions	No. Operating Concessions	
	?	7	
	<b>District licenses</b>		
	173 877 181,00 Mt		
	<b>Total (tax)</b>		
	6 973 310 621,00 Mt		

Inhambane	Concessions, forestry and wildlife simple licenses			20%
	No. forestry simple licenses		Taxes of forestry licenses	416 335 716,60 Mt
	98		2 081 678 583,00 Mt	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	0		0	
	No. Authorised Concessions	No. Operating Concessions	Tax of concessions	
	0	0	0	
	Total (tax)			
2 081 678 583,00 Mt				
Gaza	Concessions, forestry and wildlife simple licenses			20%
	No. forestry simple licenses		Taxes of forestry licenses	623 041 420,00 Mt
	538		3 072 407 100,00 Mt	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	?		42 800 000,00 Mt	
	No. Authorised Concessions	No. Operating Concessions	Tax of concessions	
	0	0	0	
	Total (tax)			
3 115 207 100,00 Mt				
Maputo	Concessions, forestry and wildlife simple licenses			20%
	No. forestry simple licenses		Taxes of forestry licenses	155 743 030,00 Mt
	347		731 167 230, 00Mt	
	No. wildlife simple licenses		Taxes of wildlife simple licenses	
	31		47 547 920, 00Mt	
	No. Authorised Concessions	No. Operating Concessions	Tax of concessions	
	0	0	0	
	Total (tax)			
778 715 150, 00Mt				

\* The category No. Forestry Simple Licenses includes: wood exploitation licenses, firewood and building material.

\*\* Disaggregated information not available (concessions and forestry simple licenses).

Source: Provinces Annual reports (2003)



**ANNEX 3B: Statistics on the number of concessions per province based on national data**

	No of Concessions					In pipeline
	Total number of concession applications	Authorized			Total number of concessions authorized	
		2001	2002	2003		
Province						
Zambézia	37		5	16	21	16
Sofala	22	13	2	3	18	4
Niassa	5		4		4	1
Nampula	9	1	2	3	6	3
Manica	7		4		4	3
C. Delgado	20	16	2	1	19	1
Total	100	30	23	23	72	28

Source: Department of Planning, DNFFB (2004)

#### ANNEX 4: National statistics on illegalities 2003

Province	No. recorded illegalities	No. prosecuted illegalities	Value of fines	Value of paid fines	Value of fines not paid	50% for community co-participation*
<b>Cabo Delgado</b>	?	?	?	425 820 299,00 Mt	?	
<b>Niassa</b>	26	?	1 019 924 410,00 Mt	801 282 985,00 Mt	218 641 425,00 Mt	
<b>Nampula</b>	26	?	641 530 781,00 Mt	61 585 660,00 Mt	579 945 121,00 Mt	
<b>Zambézia</b>	?	?	?	795 828 500,00 Mt	?	
<b>Tete</b>	?	?	?	137 060 242,00 Mt	?	
<b>Manica</b>	71	?	1 443 343 986,00 Mt	370 022 947,00 Mt	1 073 321 039,00 Mt	
<b>Sofala</b>	138	?	1 236 861 242,00 Mt	808 630 137,00 Mt	428 231 105,00 Mt	
<b>Inhamitane</b>	56	?	996 199 658,00 Mt	324 318 366,00 Mt	671 881 292,00 Mt	
<b>Gaza</b>	54	2	?	70 593 000,00 Mt	?	
<b>Maputo</b>	74	0	604 849 250,00 Mt	321 211 000,00 Mt	283 638 250,00 Mt	

Sources: Provincial Annual Reports and interviews

\* This value applies only in cases when a community has been the “reporter” or informant of an infraction and according to statistics is not as yet separated from the general basket

**B. Example of case study report using assessment criteria –**

**Analysis of the impact of forestry concessions and levels of legal compliance  
on the forest dependent local communities in Sofala Province, Mozambique**



**Rouja Johnstone  
Simon Norfolk  
Terra Firma Lda.**

**May 2004**

## **Introduction**

The objective of the field work in Sofala Province is to examine the practical application of forestry legislation and relevant community benefits, as well as to test a tool (the GAB) proposed to help identify gaps and future strategies for legal formulation, implementation and enforcement.

The field work was conducted from the 4<sup>th</sup> until the 15<sup>th</sup> of May 2004 in cooperation with ORAM (Association for Rural Mutual Assistance) and examined three forestry concessions in Cheringoma, Gorongosa and Muanza Districts.

## **Methodology**

The field work methodology was based on the proposed 'power tool – the GAB', which offers a framework for the comparative analysis of three forestry concessions based on five criteria, which help to determine the impact of recent legislation on forestry dependent communities and the extent of legal compliance.

The three concessions were selected by the Sofala Provincial Directorate of Forestry and Wildlife and represent what they perceived to be 'Good', 'Average' and 'Bad' examples of forestry concession impact on the local community. The subsequent analysis was based on semi-structured interviews, mapping and perceptions exercises with the main stakeholders in the forestry concessions – the private sector, the community and District Government. The data collected is qualitative and aims to demonstrate the level of understanding of the legal context and processes, as well as to determine to what extent each stakeholder, above all the local communities, are aware of their legal rights and duties and enjoy the benefits envisaged by the law.

The concessions visited are located in three different districts within Sofala Province and meetings were held with community members in each concession area, the district forestry services, concession local labourers as well as representatives of the private company (the concessionaire). Finally, a number of meetings were also held with Provincial level Forestry services, as well as organisations working in community development and forestry related issues, such as GTZ and ORAM.

The community meetings and exercises were conducted with the assistance of ORAM staff members, who facilitated the process and contributed by sharing their experience and knowledge of the area and the land and forestry sectors.

The findings and recommendations are presented in terms of: What is working? What is missing? and What can be done? The results aim to contribute to the future formulation and development of implementation strategies of the forestry and wildlife sectors.

## **Background**

*TCT Dalmann Lda.* Forestry Concession is located in the District of Cheringoma and its concession application was approved in June 2001, establishing the TCT concession over a total area of 24,821 hectares, possessing an on-site sawmill with processing capacity of 1,980m<sup>3</sup>/year and employing a total of 130 workers, 85 of which local men. The Management Plan for the concession was approved in 2003 and is, to date, one of the two MP approved in Sofala Province. There are four communities living in the concession area in the Regulados of Zangue, Pungue, Santove and Matondo, consisting of 3,504 families. With the assistance of GTZ and ORAM, the communities have gone through a process of land delimitation and a

Committee on Natural Resource Management has been established, involving representatives of all four regulados.

*MOFLOR Lda.* Forestry Concession, located in the District of Muanza, was also approved in June 2001 with a total area of 10,000 hectares. The concession owns a locally established sawmill with processing capacity of 4,320m<sup>3</sup>/year, employing about 100 local men. The Management Plan for the concession is the second MP approved in Sofala Province. There is no established community living in the concession area, as most of the population is nomadic and permanent establishments are around the Locality of Galinha, which falls outside the borders of the concession area. There are no local community organisations linked to natural resource management and no NGOs working in the area.

*MBL Lda.* Forestry Concession is located in the District of Gorongosa and was approved in June 2001 with total area of 36,565 hectares. Despite existing plans, a sawmill has not been established locally and the wood processing facilities are located in Beira, with processing capacity of 9,600m<sup>3</sup>/year. A Management Plan has been submitted but is still awaiting approval at national level. The local population resident in the area is part of the Nhambita community and is divided into 4 localities (povoações), all of which are represented on the Committee on Natural Resource Management established with assistance from ORAM during the process of land delimitation.

All three forestry concessions have been established before the coming into force of the recent legislation on Forestry and Wildlife. With the exception of MBL Lda. the new legal requirements regarding the establishment of a local sawmill and elaboration of management plans have been met. At the same time, MBL Lda. has been allowed to continue operating under a temporary 'special licence', giving it concession user rights until all legal conditions are met and a concession licence is granted.

On the basis of the legal provisions made under the latest Forestry and Wildlife Legislation, five criteria were used to assess the impact of the above forestry concessions on the local communities. The five criteria identified are: Resource use; Company policy; Community organisation; Labour relations; and Government Role.

## **1. RESOURCE USE (Assessment criteria 1)**

### **1.1 Community: Awareness of rights & duties; Access to resources; Security of rights**

*TCT (Zangue, Pungue, Santove and Matondo)* - With assistance from ORAM and GTZ, the communities living in the concession area have completed a land delimitation process and are well aware of their legal rights and duties as well as the rights and duties of others regarding the use of the forestry and wildlife resources. Access and use of the resources has not been greatly disrupted by the presence of a forestry concession in the area or the introduction of recent legislation. The changes in resource use raised by the community as negative are: the restriction on the use of mutondo wood, traditionally used for dug out canoes and grinders, which is now classified as first class wood and exploitation rights to which are with the concessionaire; cutting trees as part of the traditional method of collecting honey; hunting by using traps or in excess of subsistence use. However, while articulating these difficulties, the communities also pointed out that the issue of honey has been resolved by the introduction of beehives, by the concessionaire, and that hunting with

dogs remains legal within the limits defined by the law for subsistence purposes. Also, it was said that the concessionaire has met with the community to establish the location of sacred sites and respects their boundaries.

For subsistence and development, the communities in this area depend not only on access to forestry resources but also on the fisheries along the banks of the River Zangue, thus spreading out the resource dependency between a number of different alternative sources. This factor also influences the relationship between the community and the concession, in the sense that it allows for a certain level of independence, which impacts on labour relations (see section on Labour relations).

Agricultural activities taking place in close proximity to the river in the area have not been generally influenced by the presence of the forestry concession. The alteration of agricultural areas and use of the traditional slash and burn approach to opening up new agricultural areas have however been limited and controlled in order to prevent forest fires and the loss of resources. Nevertheless, as these activities are generally controlled by government forestry services nation-wide, the presence of the concession is only influential in the sense that there is greater enforcement of these rules.

On the whole, awareness of mutual rights and duties has prevented significant conflicts over resource use issues and the communities feel that their right of access and use of the resources is generally respected by the concession. Each stakeholder rights are secured through the presence of company and community forestry fiscais, whose role however is seen so far as policing on behalf of the company.

*MOFLOR (Galinha – nomadic population)* – Resource use and community areas are defined differently in this district do to the nomadic tradition of the local population, which results in no traditionally defined areas of resource use or settlement and a more flexible and transient type of resource management. There are no NGOs presently working on land or forestry issues in Muanza District, which coupled with low government capacity, has resulted in little dissemination of legislation and subsequent lack of awareness of legal rights and duties regarding resource access and use.

However, while awareness of legal rights and duties is low, access to resources is perceived to be unchanged since the arrival of the MOFLOR forestry concession. While more dependent on forestry resources, local people do not engage in the collection of honey or establishment of permanent agricultural areas, while hunting seems to be of more importance to subsistence and revenue generation than it was observed in TCT. While legally established restrictions to unlicensed hunting are highlighted as a negative impact of legislation, in terms of the concession, traditional use of the forest for the construction of houses and production of charcoal have in fact benefited from the presence of the company. Resource access and use have been facilitated by the availability of cut wood made available free of charge, as well as the use of left over non-commercial wood for charcoal production, the excess of which is licensed and marketed by the company. As far as sacred sites are concerned, the community confirmed that none were present within the concession area, hence the concession has had no impact on this particular use of the forest.

In relation to resource management and legal enforcement, MOFLOR has financed the training of two local fiscais at Gorongosa National Park. However, uncertainty on the part of the community regarding rights and duties puts security of rights beyond community competence and very much within the company domain.

*MBL (Nhambita)* – Similarly to developments in the TCT Dalmann Concession area, with assistance from ORAM, the Nhambita community has completed a process of community land delimitation and has created a Community Committee on Natural Resource Management (CCNRM), currently awaiting the official hand-over of the title document. As part of this process, legal awareness has been raised and community members are highly aware of their rights and duties and those of others in regards to resource use and management.

However, in contrast to TCT and MOFLOR concession areas, communities are finding themselves in conflict with the private operator over the use of land for agriculture and the access of the company to the forestry resources. For example, damage to crops has been inflicted without compensation and while the issue is not over the conflicting use of the same resources, the use of different resources is perceived to be done without consideration for either party. In addition, while so far no sacred sites, such as cemeteries, have been disrespected, the company has never held a meeting with the community in order to establish their location and prevent any future interference, relying instead on the daily guidance of the labourers.

As a consequence of the effective establishment of the CCNRM and community allegations of a negative impact inflicted on multiple-use areas by forestry exploitation, the community has exercised its right of control over the resources by presenting formal complaints to the District Forestry Services. However, while fines were applied to issues regarding illegal cutting, no action was taken to secure the rights of the community in terms of agricultural areas. Hence, overall perception of security of rights is low.

The enforcement of legislation regarding resource use is done through three different types of agencies – the company fiscais, government fiscais and community fiscais, each protecting the particular stakeholder interest. However, community view is that through the establishment of CCNRM, their contribution to enforcing compliance has been greater than the other two types of intervention.

### **1.2 Private sector: Awareness of rights & duties; Access to resources; Security of rights**

*TCT Lda.* – In terms of company awareness of legal rights and duties as well as access and security of rights regarding natural resources, both relating to the company and the community, TCT demonstrate very high awareness. This is further strengthened by the fact that the company is interested in obtaining an international forestry certification and is currently leading the development of national forestry standards. As part of this process, sustainable resource management and responsibility towards traditional users becomes a main point of consideration for the company. Hence while the concession has always had good relations with the community in relation to fair resource management, now there is an additional business incentive to do so.

In terms of security of resource access and use, TCT feel confident of their high compliance with legal regulations and their good relations with government and the community, thus feeling that their exploitation rights are respected as well as secure.

*MOFLOR Lda.* – The company, like TCT, demonstrates good awareness of legal rights and obligations regarding resource use within the concession by them or third parties and feel secure in regards to these.

*MBL Lda.* – Considering the failure to meet with a company representative, it is difficult to extrapolate the extent to which the company is aware and feels secure in guaranteeing respect for its rights and duties.

### **1.3 District Government: *Resource use rights and duties; Implementation & enforcement capacity***

*Cheringoma District* – Due to the recent appointment of two forestry qualified members of District Government, one as the Director of Agriculture and the other as a District Forestry Services officer, Cheringoma has the highest level of capacity in terms of qualified staff, as well as an implementation and enforcement capability, resulting in regular visits to the forestry areas and collaboration with the provincial forestry mobile enforcement team, which is based in the district.

*Muanza District* – With no forestry qualified member of staff, the technical capacity of the district on these issues is rated as low. Capacity for implementation and enforcement is limited to natural resource related issues and its efficiency is hampered by the chronic lack of human and financial resources and transport.

*Gorongosa District* – The District Forestry Services in this District have a basic understanding of the forestry and wildlife legislation, however implementation and enforcement capacity is lower than in Cheringoma District, which is ironic considering the presence of the Gorongosa National Park and its use as a training facility for fiscals nation-wide. However, in relation to general monitoring regarding concessions, resource use is the only aspect which receives attention from district forestry services, while other issues of legal compliance regarding processing installations and community development are not dealt with. The implementation and enforcement capacity of government is strengthened by the active collaboration of the community within the MBL forestry concession, who have last year reported two illegalities regarding resource use, which were then acted upon by the District Forestry Services upon approval from provincial level.

## **2. COMPANY POLICY (Assessment criteria 2)**

### **2.1 Community: *Involvement; Roles / relations; Impact of***

*TCT (Zangue, Pungue, Santove and Matondo)* – The communities are clear on the mechanisms established by the company for community relations. These are simply channelled through the traditional authority of the Regulos, who are seen by the company as the representative voice of the community as a whole.

While basic promises for access roads and other infrastructure have been met by the investor, an additional set of expectations have been raised among the community. These are based on the availability of annual funds/loans available for community-identified projects, represented by the Regulo for company consideration, which is now seen as a major part of the company-community relationship. Hence, while generally this is seen as a potential source of much needed investment, the current mechanisms vest all power of negotiation and representation in the individual Regulo, thus limiting the scope of opportunities.

In addition, it was pointed out, that while the company readily engages with the Regulo, relations or communications with other community structures, such as CCNRM are not taking in place.



Generally, the community sees the overall impact of this company policy as limited. This is due to the nature of communications between the traditional leader (Regulo) and ordinary community members, as well as the individual personality and ability for proactive involvement of the Regulo himself (no women Regulos) with both the community and the Company in the context of project identification.

The perceived levels of success of the company approach are mixed. Out of the four Regulos in the area, only one has been able to submit micro-project proposals, engage constructively and benefit from the existing opportunities. This outcome is partly due to differences in the individual leader's perception of his role within the community as well as personal ability to respond to the company rules of the game. The weakness of this approach, as highlighted by the community, is apparent in the nature of community participation and benefit from the opportunities offered by the company. While claiming to be community projects, the predominant view is that the results of these projects have so far been limited to the personal benefit of the Regulo, who only involves others as passive participants in what is de facto a private enterprise. For example, the fishing nets bought for Zangue are used by over 20 fishermen but are ultimately the property of the Regulo who is an acting employer.

This perception of company policy, as limited to leadership participation, has resulted in some divisions within the community as to the role of the Regulo and entitlement to benefits. With the creation of the CCNRM, the community hopes to increase the potential for active participation, which is ultimately dependent on the flexibility and openness of the private sector to the new organs of representation and channels of communication.

*MOFLOR (Galinha)* – The unanimous opinion of the community regarding company relations and engagement was that while the main issue of mutual interest is employment opportunities, the company remains open to community engagement and calls for assistance of various nature, without providing any specific guidelines or defined strategy of engagement. In practice, this means that any community member can approach the company for individual assistance and the general perception of the community is that not only is there equal opportunity to benefit but also marked willingness demonstrated by the company to help. Examples of such assistance vary from provision of wood planks for construction to availability of schooling for children of non-employees, to the support for a community inspired charcoal production project.

This less structured and more passive - 'open house' policy, rather than a proactive company effort for engagement has been well received and has had a positive impact on the community as a whole. This straightforward relationship has succeeded in avoiding the creation of any false expectations, thus resulting in a more positive environment for cooperation.

*MBL (Nhambita)* – While there were diverging community views as to the level of impact of TCT's company policy on community involvement and a unanimous view of the benefits stemming from the approach of MOFLOR, at Nhambita, unanimity was found in the view of the negative effects resulting from the lack of company policy on community engagement.

This lack of engagement is exacerbated by the failure of the concession holder to fulfil initial promises regarding community benefits as well as failure to comply with legal requirements. The process of consultation played a major role in the subsequent disillusionment with the nature and benefits of involvement between the community and the company. Ultimately, the result has been a significant change in

perceptions regarding advantages stemming from the presence of a private sector operator in the area.

## **2.2 Private Sector: *Relation to MP; Roles / relations; Impact of***

*TCT Lda.* – The Company policy on community involvement and relations has been included in the Management Plan of the Concession, approved by government at national level. While expressing satisfaction with their relations with and role in the community, TCT also recognise the lack of equal participation between the different Regulados. However, despite these shortcomings, so far the company maintain the view of the Regulo as the only legitimate mediator between company and community.

Further to this, the role of the community is viewed by the private sector as a recipient of benefits stemming from the company presence under conditions for participation set out by the company itself.

Despite the recognition of shortcomings in terms of participation, the impact of this company policy of engagement is viewed as a positive one. The main responsibility for the failure to achieve more equal distribution of benefits and opportunities is seen to rest with the community and its internal organisation and links with the Regulo.

The company policy on community engagement is defined as competitive and project based, stimulating private initiative and enterprise. However, while this approach takes on a particular community development perspective, the company lacks in-depth understanding of community dynamics and traditional roles in order to stimulate and enable more constructive and broad-based communication and engagement.

In relation to this, TCT recognise the complexity of establishing successful and sustainable community development projects within the framework provided by the company. However, identify a lack of any guidelines provided by Government as to how community – private sector relations are to be structured under the concession regime as a source of difficulty. The company asserts that it cannot play the role of both a private business as well as a community development agency.

*MOFLOR Lda.* – The company management plan for the concession has been approved by Provincial Government and sets forth the commitment towards fulfilling a number of legal obligations regarding the creation of community infrastructures. These obligations, such as the installation of a sawmill, the maintenance of access roads and the provision of health post and schooling have already been met. Beyond these well-defined commitments, the company has not aimed to establish a stringent development project type approach to community relations but has instead maintained an open policy of responding to arising needs on an individual basis.

Relations are mainly focussed on issues arising between employer and employees. However, this has not excluded the rest of the population from benefiting from the use of wood for building, firewood, coffins, schooling for children or the health emergency post. In this regards, while lacking a defined community development strategy, the company has adopted a flexible attitude promoting good relations with all members of the community on an individual basis, as well through cordial engagement with local traditional leaders and administration.

Finally, the community itself largely supports the company's positive assessment of its impact on the development of the area.

MBL Lda. – not possible to assess

## **2.3 District Government: *Influence over; Roles; Impact of***

*Cheringoma District* – District Administration or Forestry Services have no influence, role or impact over the way the company defines its community commitments through the consultation process and the management plan. Despite having a participatory role in the initial consultation process, local government influence and role is limited, particularly in cases such as the ones examined here, where operations in the area precede the new legal requirements for consultation. In addition, the lack of clear definitions regarding the structure and procedures guiding this process makes government role and consultation as a whole a weak basis for influencing subsequent company policies.

As a result, district level government do not currently feel involved in community development issues but are primarily concerned with natural resource use, due to the lack of orientation and capacity to respond to other needs.

*Muanza District* - of the three districts visited during this study, the District of Muanza is the least resourced and with the weakest capacity to influence or take an active role in shaping community relations with the private sector. As in previous districts, the lack of clear guidelines on how this involvement is to take place has additionally curtailed the capacity to intervene, as well as the lack of qualified staff able to respond to potential community or company needs.

*Gorongosa District* – The District Forestry Services and District Administration share the opinions expressed in Cheringoma, regarding the lack of influence over or role in the implementation of company policy regarding community relations and development. The role of district government in this particular case has been somewhat a confused one, with forestry and administration shifting responsibility regarding involvement on community related issues.

## **3. COMMUNITY ORGANISATION (Assessment criteria 3)**

### **3.1 Community: *Role; Participation; Effectiveness***

*TCT (Zangue, Pungue, Santove and Matondo)* – In addition to the traditional structures of the Regulados, with the help of ORAM, a CCNRM has been established, which includes representatives from the four different communities living in the area. The main role of the Committee is the management of natural resources. However, due to its wider membership base and hence better community representation, the communities envisage its potential for complementing if not substituting the role currently played by the Regulos in defining development opportunities within the concession.

As already mentioned, the Regulos have so far been the only form of community representation in terms of defining the relations with the company. Due to the limited effectiveness of this representation, community members in agreement with the Regulos, see the newly formed Committee as taking on a much more central role in concession related issues in the future. The effectiveness of the Committee in representing and defending community interests in the area will, however, be largely dependent on the willingness of the private sector to recognise its potential relevance and role.

*MOFLOR (Galinha)* – Despite the existence of the traditional structures of the Regulado, the nomadic lifestyle of the population, as well as the lack of external assistance, have resulted in the de facto lack of community structures able to represent or defend community interests in the area. Aside the individually based relations between the company and the community, a number of interest groups have been formed around the charcoal production activities. However, as these groups were formed on labour sharing grounds, there is no formal coordination between them. Community members did not express the opinion that the lack of more structured representative bodies hampers their ability to benefit or engage successfully with the company.

*MBL (Nhambita)* – In Nhambita, similarly to the communities in the TCT concession area, ORAM intervention has influenced the nature and effectiveness of community organisations through the creation of a CCNRM. This Committee has given the community a sense of capacity to act as a unified body and better chance of promoting change. However, community members recognise that the lack of interest on part of the company to engage in a dialogue, greatly affects the effectiveness of the committee. Nevertheless, albeit limited to natural resource use issues, activities are perceived to have already produced a considerable impact. The ability to take action has been demonstrated in two formal reports of illegalities regarding timber cutting, both of which resulted in fines for the operator.

On other issues of community development, however, the Committee has not been able to exert any influence, mainly perceived to be due to the lack of channels of communication with the company and lack of government support.

### **3.2 Private Sector: Awareness of; Relationship to; Effectiveness**

*TCT Lda.* – The company is aware of traditional structures within the Regulados and defines its relationship with the community according to these hierarchies. However, while according to the private operator there are limitations to this approach, there is no clear recognition for the need to change company attitudes towards these community structures or mechanisms of communication.

The clearly defined and somewhat rigid company policy on community involvement only via the traditional structures represented by the Regulo, limits the company awareness of existing alternative community structures. As of yet there has not been any formal engagement between the company and any other community body, thus undermining the current effectiveness of the newly formed Committee.

*MOFLOR Lda.* – The Company is aware of the traditional leaders in the area and while not actively engaging them, maintains good relations with these structures. Given the lack of formal community organisations as such, the approach adopted by MOFLOR of involving and benefiting the community through individual contacts is arguably the only viable alternative for the moment and the best suited one for the nature of local nomadic life.

*MBL Lda.* – The failure to meet directly with a representative of the company involved in the management of the forestry concession undermines conclusions regarding company attitudes towards community structures. However, considering the unanimous views expressed by the community and local government, company awareness and relationship to existing community organisations appears to be minimal to non-existent.

### **3.3 District Government: *Awareness of; Relationship to; Effectiveness***

*Cheringoma District* – The District government in Cheringoma is aware of community dynamics and organisation and sees a vital role for itself in strengthening these structures in their capacity to represent the community and influence positively future developments. Through government initiatives community interest groups have been formed around agricultural and fishing activities in the area, the objective of which is to increase production ability as well as capacity to take advantage of opportunities for micro-project support such as the ones offered by TCT.

Government works in cooperation with both NGOs and the private sector and while assisting ORAM in overcoming potential conflicts between traditional authorities and the newly created committee, it is also aiming to influence private sector relations with the community. However, while government has a vision for broadening the base for community representation and overcoming over-dependency on the Regulos for benefiting from existing opportunities, this potential has not yet been realised.

*Muanza District* – The District Administration in Muanza, rather than the forestry services, is the government body engaging with the community on issues of social development and community organisation, the reason for which is the low capacity of forestry services to deal with issues beyond the scope of natural resource management. Recognising the lack of organised community bodies, attributed to the highly mobile and independent nature of local lifestyles, district government aims to encourage the creation of interest groups and the introduction of micro-projects as part of a strategy aimed to reduce nomadic movements of the population and thus making the delivery of public services in the future logistically more viable. A tangible outcome of such initiatives has been the creation of a Peasants Association, which has been given responsibility to manage a grinding mill. However, on the whole, due to lack of community initiative, NGO assistance and low government capacity to mobilise the population, levels of community organisation are much lower than observed in any of the other two districts.

*Gorongosa District* – The district forestry services are aware of the existence of the CCNRM, organised by ORAM and have participated in a number of meetings. The relations between government and the committee are based on cooperation regarding resource management issues, with community members taking a leading role in reporting illegalities. Government capacity to engage in other issues of community concern or conflict resolution regarding the impact of the concession has been limited and characterised by the lack of political will and decision-making power. Generally it seems that government lacks a coherent approach or strategy of engagement with existing community structures.

## **4. LABOUR RELATIONS (Assessment criteria 4)**

### **4.1 Community: *Opportunities / benefits; Labour law compliance; Employer / employee relations***

*TCT (Zangue, Pungue, Santove and Matondo)* – As in the majority of rural areas, where economic opportunities are scarce, the community welcomes the employment and associated benefits created by the presence of a private operator. A major factor contributing to the development of the area is the installation of a sawmill, which increases considerably the demand for labour and offers employment to a workforce dominated by locals. As part of the benefits, is the opportunity for capacity-building

among workers, thus increasing the local pool of skilled labour through a number of training schemes is particularly highlighted. This, along with satisfactory work conditions, makes working in the concession an attractive proposition for most. However, with the number of available jobs running much lower than the number of unemployed local men, getting recruited is a complex and competitive game.

Thus, the main concern expressed by the community regarding labour opportunities relates to the nature and mechanisms for recruitment. In line with company policy, contracting is not done on a direct individual – company basis but relies on an appointment by a placement officer. This placement officer, who communicates via the Regulos, is allegedly corrupt and according to the community and workers presents a serious threat not only to fair employment but also subsequent job security. Nevertheless, despite these allegations the general opinion vis-à-vis the company is that it is a fair employer who is simply unaware of these circumstances. Difficulties were identified at local level, thus outside company structures, and responsibility for not taking any action was given to the Regulos who have failed to intervene in defence of the workers.

An additional level of complexity to labour relations in TCT is introduced by the existence of a range of other traditional subsistence and economic activities, such as agriculture and fishing. While all men and women in the area are involved in one of the two or both types of activities, work commitments on concession labourers makes it difficult for them to juggle between their salaried job and traditional occupation. As a result, there have been some issues between employer and employee regarding attendance, which have resulted in dismissals and non-renewal of work contracts, despite the existence of labourers unions, which apparently have limited influence on job security.

*MOFLOR (Galinha)* – At MOFLOR, the company workers are satisfied with the opportunities given and labour conditions created. The sawmill gives the opportunity for previously unskilled employees to develop their capacity. The majority of the workforce live on site in company-provided housing (which each constructs himself with company material and assistance) and the families have the right to develop locally small-scale subsistence agriculture, catering for their needs. In addition, a school and medical emergency post have been opened and made available to the community as a whole.

Labour relations are formalised through the existence of written contracts and job security is relatively high, demonstrated by the low turnover of staff and despite the non-existence of workers unions. Another major advantage of working for MOFLOR, it was pointed out, is the regular payment of salaries; a shortcoming identified was the lack of uniform and safety gear (such as hard hats and shoes).

However, in contrast to TCT, employment by the concession company is the only source of income in the area, thus creating a de facto economic dependency. Livelihoods have been diversified only by the introduction of organised charcoal production, but even in this case marketing is done through company channels.

*MBL (Nhambita)* – Community views on labour relations are predominantly negative due to the lack of communication between the company and the workforce, failure to install a sawmill, corruption of field level staff regarding employment opportunities and procedures, as well as the lack of regular pay, written work contracts or the establishment of any social structures or services for the workers. While expressing the opinion that it is always better to have a job opportunity no matter how difficult the conditions, discontent with the employer runs high.

#### **4.2 Private Sector: *Labour law compliance; Training and development; Employer / employee relations***

*TCT Lda.* – The Company views its relations with the workforce as positive and aims to develop local professional capacity. However, as the majority of the workforce is from the resident community, the business claims to be experiencing difficulties with workers honouring their obligations and commitments. The absences from work, due to involvement of local staff in other economic activities such as agriculture and fisheries, result in non-renewal of work contracts. TCT feel that while subsistence activities are important, so should be the commitment to the business.

On the whole, however, TCT rates its relations with the workforce as good and maintains a policy of continuous training and development. The relations with the workforce and labour conditions created are also an important aspect of the certification process TCT is hoping to benefit from. Hence, while there is local employment related pressure, there are also business interests and external influences playing a potentially positive role in shaping the work environment.

*MOFLOR Lda.* – The company is aware of labour legislation and claims to be in full compliance with it. The good legal compliance and respect for the workers is seen as fundamental to maintaining good relations with the community and minimising any potential for conflict. As such, the company sees its experience as a successful one and the nature and level of employee-employer relations as positive.

*MBL Lda.* – Failure to meet with a company representative does not allow us to assess the view MBL has on the employment issues.

#### **4.3 District Government: *Awareness of labour relations; Security of rights***

*Cheringoma District* – District government is not directly involved in the labour relations between the concession holder and the locally employed staff. In relation to TCT, government expressed satisfaction with the conditions and benefits created by the company for its workers, especially important being the opportunities for capacity-building.

Despite lack of direct involvement, government believes to have an important role to play in relation to security of rights. A past example of this is government intervention on behalf of workers who needed support to negotiate late payment and below minimum-wage salaries. The outcome of the intervention was the effective and timely resolution of the issue due to appropriate government action and company cooperation.

*Muanza District* – In relation to MOFLOR employment policy and security of employees rights, district government feels confident in its awareness but not necessarily its ability to intervene if needed. While government assessment of the labour relations within MOFLOR is good, this concession has become the only source of cash income for the local population in the area. The neighbouring concession of ITM has been non-operational this year and in this particular case government was not able to intervene and protect community rights and labour benefits. Hence, while employee - employer relations at MOFLOR are good, this is more due to nature of the business rather than government ability to influence. If problems arise in the future government may prove unable to effectively protect and secure workers rights, as was the case with ITM.

*Gorongosa District* – At District level, the community has drawn the attention of government to the lack of respect for labour laws and basic worker rights by MBL Lda. However, in addition to the absence of clear definitions as to which government department is to be involved in protecting and securing those rights, the lack of local decision-making power and reliance on Provincial level intervention has rendered government inefficient in trying to resolve the issues raised.

## **5. GOVERNMENT ROLE (Assessment criteria 5)**

### **5.1 Community: *Levels of cooperation; Results***

*TCT (Zangue, Pungue, Santove and Matondo)* – Community perception on the levels and nature of cooperation with government are low. The main outside influence, which has had a direct benefit for the community, apart from the private sector, has been the involvement of ORAM and GTZ, who have effectively responded to community needs and empowered the community through the land delimitation process and the creation of the CCNRM. As far as government involvement is concerned, it is perceived to be limited to resource management issues and through cooperation favouring the private operator.

*MOFLOR (Galinha)* – In the case of Muanza, government involvement within the concession area is also perceived as low and restricted to resource use. Social infrastructures such as schools and a health post have been created at the local administrative post in Galinha. However, active engagement in concession related issues is seen to be from marginal to none.

*MBL (Nhambita)* – Like the attitudes observed in the other areas, the Nhambita community has limited communication and level of cooperation with government, centred on issues of natural resource management, rather than community development. There is a lack of mechanisms for establishing constructive community – government relations and effectiveness of government is generally perceived as low.

### **5.2 Private Sector: *Levels of cooperation; Results***

*TCT Lda.* – Despite past difficulties, the company rates its current relations with government both at district and provincial levels as very good and mutually beneficial. An example of this high level of collaboration is the initiative for the creation of national certification standards, which is piloted by TCT Lda. and fully supported by Provincial Government. The creation of close links between the company and government has a mutually beneficial effect, while TCT benefit from the positive attention of government, government itself is learning how it could potentially manage other concession relations in the future.

*MOFLOR Lda.* – The company has maintained good relations with government through its proactive attitude of meeting all legal conditions regarding its forestry operations. Therefore, while government does not have direct involvement as to how the concession and relations within it are managed, respect for the law and governance is said to be of paramount importance to the company.

*MBL Lda.* – Not aware of company views regarding the issue

### **5.3 District Government: *Awareness of responsibilities; Implementation & enforcement***



*Cheringoma District* – At Cheringoma District, given the presence of qualified staff and relatively high local government technical capacity, there is a sense of marginalization of local government from the processes and decisions regarding forestry concessions and legal implementation and enforcement. This is due to the lack of legal mechanisms and guidelines for involvement in the processes of establishment and monitoring of forestry concessions. While seeing its role as potentially important and relevant, in comparison to provincial and national level government, district services feel least empowered to participate effectively in implementation and enforcement of legal requirements beyond the scope of natural resources.

*Muanza District* - The most under resourced district, with low technical capacity and influence over concession developments, Muanza has only been a district capital since 1980. While awareness of responsibilities exist, implementation and enforcement capacity are lacking both due to the absence of policy guidelines, as well as qualified staff.

*Gorongosa District* – As in the other two districts, there is a lack of coordination between the various government services as to what their roles are in relation to concession monitoring and involvement. There is also a strong sense of lack of decision-making power, which makes intervention ineffective and dependent upon Provincial response and guidance. While able to tackle resource management and use issues, district government is unsure of its overall role within the concession set up and monitoring.

## **CONCLUSIONS**

The comparative analysis of the three cases examined in the Province of Sofala clearly demonstrates the areas of legislation that are currently successfully implemented, as well the ones which are not yet adequately tackled. The different experiences in the three districts also highlight gaps in the mechanisms of implementation as well as the institutional shortcomings and needs influencing legal outcomes. It emerges that on issues relating to community rights and benefits a leading role is played by NGOs and the private sector, state intervention being weak in this regard. While natural resource issues come under more rigorous surveillance, community participation and benefit from the establishment of forestry concessions is poorly set out, monitored and assessed.

Community capacity to benefit from the legal provisions guiding forestry exploitation under the new concession regime is limited by the lack of local organisational capacity and representative structures, as well as a clear process of consultation and guidance on community relations between the private sector and the community. Observations demonstrate that community engagement in the concession establishment process is directly linked to either NGO intervention targeting organisational empowerment or is subject to the particular type of company intervention philosophy. Therefore, government intervention in implementing and enforcing concession related legislation does not appear to secure or guarantee the rights of forestry dependent communities. The gap between legal intent and state ability to secure legal rights is due to the fundamental lack of essential technical guidelines on consultation, community involvement and conflict resolution procedures.

Directly related to the above is the ill-defined process of Management Plan elaboration, approval and monitoring. While district government is ultimately responsible for monitoring compliance, it is currently not involved in the elaboration or evaluation process, thus losing relevance and capacity to influence outcomes. In addition; conflict resolution, especially on community development issues, is also beyond district government and dependent on provincial level intervention, thus rendering conflict resolution mechanisms ineffective.

The main procedural shortcomings identified in securing community benefits stemming from recent legal provisions are the lack of adequate consultation procedures, lack of clear guidelines on how stakeholders are to engage with each other and lack of clearly defined responsibilities at local government level to assist and monitor the process. On the other hand, there is also a notable lack of sufficient capacity on the part of all stakeholders involved in fulfilling their legal obligations vis-a-vis community engagement and development issues. Government forestry staff is only trained to deal with natural resource issues, communities do not have the capacity to create the appropriate representative and legally recognised bodies and the private sector does not have the experience or desire to play the role of a development agency without properly defined parameters of intervention and support.

## RECOMMENDATIONS

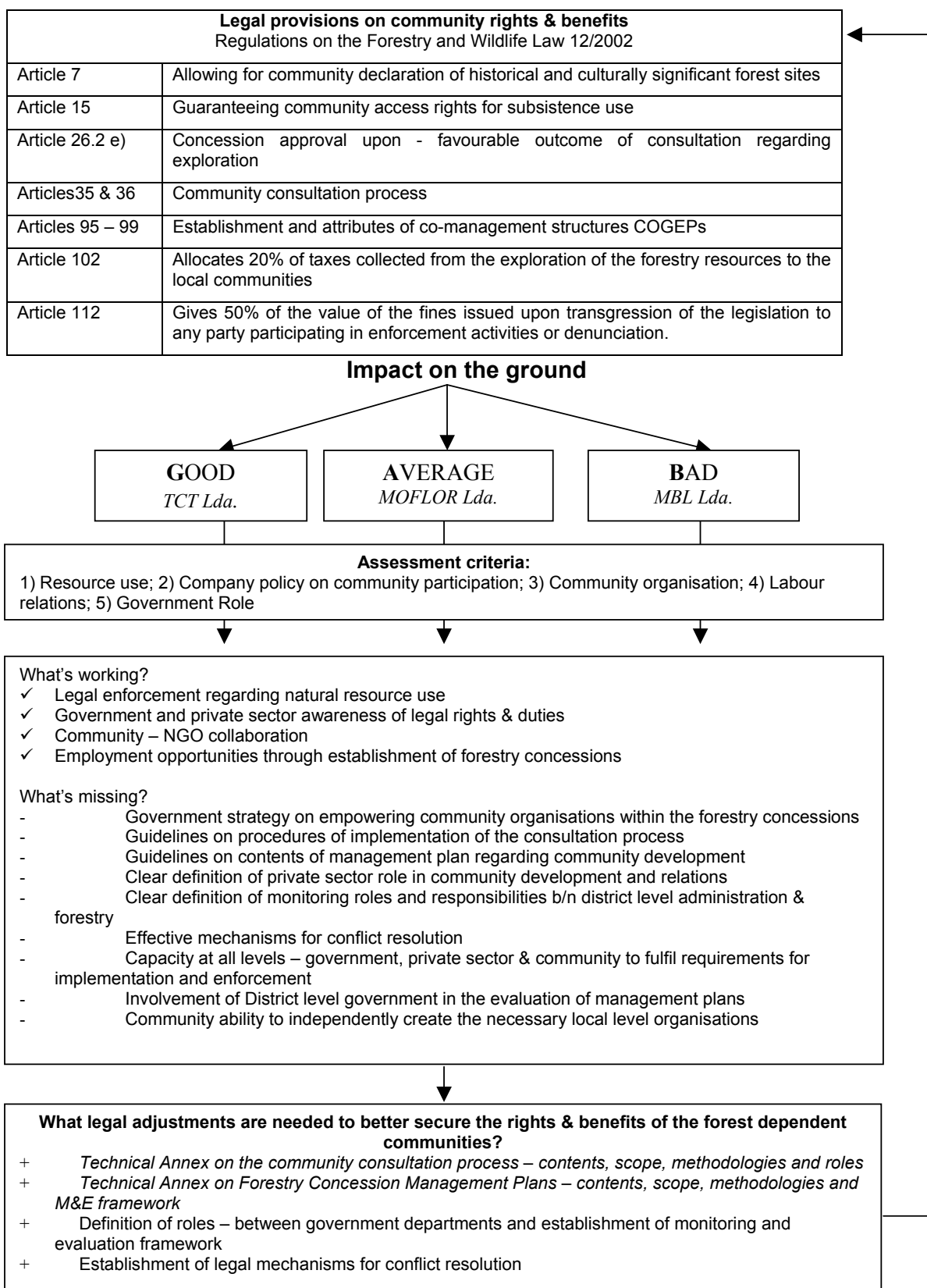
What's working?	What's missing?	What can be done?
<ul style="list-style-type: none"> <li>✓ Legal enforcement regarding natural resource use</li> <li>✓ Government and private sector awareness of legal rights &amp; duties</li> <li>✓ Community – NGO collaboration</li> <li>✓ CCNRM effective in community co-participation in legal enforcement</li> <li>✓ Employment opportunities through establishment of forestry concessions</li> </ul>	<ul style="list-style-type: none"> <li>✓ Government strategy on creating and empowering community organisations within the forestry concessions</li> <li>✓ Guidelines on procedures of implementation of the community consultation process</li> <li>✓ Guidelines on contents of management plans regarding community development</li> <li>✓ Clear definition of private sector role in community development</li> <li>✓ Clear definition of roles and responsibilities for monitoring of social development under concession provisions between district administration and forestry services</li> <li>✓ Effective mechanisms for conflict resolution</li> <li>✓ Capacity at all levels – government, private sector &amp; community to fulfil requirements for implementation and enforcement</li> <li>✓ Involvement of District level government in the evaluation of management plans</li> <li>✓ Community ability to independently create the necessary CBOs</li> </ul>	<ul style="list-style-type: none"> <li>✓ <i>Institutional capacity building at community level;</i></li> <li>✓ <i>Capacity building on handling social and labour issues at local government level;</i></li> <li>✓ Definition of roles – between government departments and establishment of monitoring and evaluation framework</li> <li>✓ Strengthening of social development aspects of monitoring and evaluation</li> <li>✓ NGO role of divulgation and capacity-building formally structured</li> <li>✓ Guidelines on how to establish relationships between government, private sector and the community</li> <li>✓ Well-defined process of consultation and limited scope of promises</li> <li>✓ Empowerment of communities within forestry concession areas through land delimitation</li> <li>✓ Establishment of legal mechanisms of conflict resolution</li> </ul>

TCT					
	Resource use	Company policy	Community organisation	Labour relations	Government role
<b>Community</b>	<ul style="list-style-type: none"> <li>➤ Aware of rights</li> <li>➤ Good access</li> <li>➤ Rights secure</li> </ul>	<ul style="list-style-type: none"> <li>➤ Focused on Regulo</li> <li>➤ Limits participation</li> <li>➤ Limited effect</li> </ul>	<ul style="list-style-type: none"> <li>➤ Regulo – links investor &amp; comm..</li> <li>➤ CCNRM – resource mngmnt and equitable representation</li> <li>➤ Passive role – limited effect</li> </ul>	<ul style="list-style-type: none"> <li>➤ Good opportunities but corrupt recruitment process</li> <li>➤ Respect for rights</li> <li>➤ Good relations with employer</li> </ul>	<ul style="list-style-type: none"> <li>➤ Limited involvement</li> <li>➤ Resource management</li> <li>➤ No community support</li> </ul>
<b>Company</b>	<ul style="list-style-type: none"> <li>➤ Aware of rights &amp; duties</li> <li>➤ Good access</li> <li>➤ Rights secure</li> </ul>	<ul style="list-style-type: none"> <li>➤ Respects traditional structures</li> <li>➤ Regular contacts</li> <li>➤ Limited effect</li> </ul>	<ul style="list-style-type: none"> <li>➤ Dealings only with Regulo</li> <li>➤ Top down structure to relations</li> <li>➤ Limited effect</li> </ul>	<ul style="list-style-type: none"> <li>➤ Full legal compliance</li> <li>➤ Local capacity-bld</li> <li>➤ Fair relations with workers</li> </ul>	<ul style="list-style-type: none"> <li>➤ High level of cooperation</li> <li>➤ National certification standards process</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>➤ Aware of legislation</li> <li>➤ Good capacity for implementation &amp; enforcement</li> </ul>	<ul style="list-style-type: none"> <li>➤ No influence over</li> <li>➤ No role</li> <li>➤ Overall positive impact</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of structures</li> <li>➤ No relationship with</li> <li>➤ Potential for greater effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of work conditions</li> <li>➤ Rights secure through government involvement</li> </ul>	<ul style="list-style-type: none"> <li>➤ No real influence</li> <li>➤ Involved</li> <li>➤ Potential to contribute to community empowerment</li> </ul>

<b>MOFLOR</b>					
	<b>Resource use</b>	<b>Company policy</b>	<b>Community organisation</b>	<b>Labour relations</b>	<b>Government role</b>
<b>Community</b>	<ul style="list-style-type: none"> <li>➤ No awareness of rights &amp; duties</li> <li>➤ Good access to resources</li> <li>➤ Relative security</li> </ul>	<ul style="list-style-type: none"> <li>➤ 'Open door' policy</li> <li>➤ Community led</li> <li>➤ Effectively responds to needs</li> </ul>	<ul style="list-style-type: none"> <li>➤ Only traditional Regulado structures</li> <li>➤ No effect on concession development</li> </ul>	<ul style="list-style-type: none"> <li>➤ Good opportunities/benefits</li> <li>➤ Compliance with Law</li> <li>➤ Good relations with employer</li> </ul>	<ul style="list-style-type: none"> <li>➤ No cooperation beyond resource use</li> <li>➤ Social infrastructure created</li> </ul>
<b>Company</b>	<ul style="list-style-type: none"> <li>➤ Aware of legislation</li> <li>➤ Good access to resources</li> <li>➤ Secure rights</li> </ul>	<ul style="list-style-type: none"> <li>➤ Based on MP / legal responsibility for community development</li> <li>➤ No defined strategy or role</li> <li>➤ Positive impact</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of traditional leadership</li> <li>➤ Good relations with</li> <li>➤ No effect</li> </ul>	<ul style="list-style-type: none"> <li>➤ Compliance with Law</li> <li>➤ Capacity – building of local labour</li> <li>➤ Good relations with employees</li> </ul>	<ul style="list-style-type: none"> <li>➤ Within legal requirements and informal cooperation</li> <li>➤ Good relations</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>➤ Aware of legislation</li> <li>➤ Low capacity for implementation &amp; enforcement</li> </ul>	<ul style="list-style-type: none"> <li>➤ No influence over</li> <li>➤ No role</li> <li>➤ Positive impact on community</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of existing ones</li> <li>➤ Strategy for creation of interest groups</li> <li>➤ No impact on concession</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of relations</li> <li>➤ Rights secure</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of responsibilities</li> <li>➤ No capacity for implementation &amp; enforcement</li> </ul>

<b>MBL</b>					
	<b>Resource use</b>	<b>Company policy</b>	<b>Community organisation</b>	<b>Labour relations</b>	<b>Government role</b>
<b>Community</b>	<ul style="list-style-type: none"> <li>➤ Aware of rights &amp; duties</li> <li>➤ Good access to resources</li> <li>➤ No security of rights</li> </ul>	<ul style="list-style-type: none"> <li>➤ No company policy of community involvement</li> <li>➤ Negative impact</li> </ul>	<ul style="list-style-type: none"> <li>➤ Regulado &amp; CCNRM</li> <li>➤ Equal representation</li> <li>➤ Effectiveness limited to resource issues</li> </ul>	<ul style="list-style-type: none"> <li>➤ Work opportunities but no benefits</li> <li>➤ No compliance with Law</li> <li>➤ Bad relations with employer</li> </ul>	<ul style="list-style-type: none"> <li>➤ Cooperation limited to resource management</li> <li>➤ Limited</li> </ul>
<b>Company</b>	<ul style="list-style-type: none"> <li>➤</li> </ul>	<ul style="list-style-type: none"> <li>➤</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of</li> <li>➤ No relationship to</li> </ul>	<ul style="list-style-type: none"> <li>➤</li> </ul>	<ul style="list-style-type: none"> <li>➤</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>➤ Aware of rights &amp; duties</li> <li>➤ Good capacity of implementation &amp; enforcement</li> </ul>	<ul style="list-style-type: none"> <li>➤ No influence over</li> <li>➤ No role at District level</li> <li>➤ Negative impact</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of</li> <li>➤ Limited involvement</li> <li>➤ Effective on resource issues</li> </ul>	<ul style="list-style-type: none"> <li>➤ Aware of difficulties</li> <li>➤ Rights of workers not secure and beyond government intervention at district level</li> </ul>	<ul style="list-style-type: none"> <li>➤ Confusion regarding responsibilities</li> <li>➤ Weak capacity of implementation &amp; enforcement</li> </ul>

## ‘THE GAB’



## References:

- Colcheser, M., Apte, T., Laforge, M., Manaondo, A., and Pathak, N. (2003), *Bridging the Gap: Communities, Forests and International Networks*, Centre for International Forestry Research, Indonesia
- DNFFB (2000), *Promoção de Certificação Florestal em Moçambique*, DNFFB, Maputo, Mozambique
- Instituto Nacional de Estatística (1997), *II Recenseamento Geral da População e Habitação*. Instituto Nacional de Estatística, Maputo, Mozambique
- Lindsay, J., Mekouar, A. and Christy, L. (2002), *Why Law Matters: Design Principles for Strengthening the Role of the Forestry Legislation in Reducing Illegal Activities and Corrupt Practices*, FAO, Italy
- Matakala, P. (2004), *Preparatory Report to the Formulation Mission for a Natural Resource Management Component within the Environmental Support Programme to Mozambique*, ICRAF, Maputo, Mozambique
- Mayers, J. (2003), *National forest Programmes and Similar Beasts: Current State of Evolution and Future Prospects for Life*. IIED, Edinburgh, UK
- Norfolk, S. (2003), *Examining access to natural resources in Mozambique and linkages to livelihoods*, draft of FAO paper on sustainable livelihoods development, Rome, Italy
- Johnstone, R. and Cau, B.M., Norfolk, S. (2004), *Impact of recent legislation and the extent of compliance on the forest dependent poor in Mozambique*, Terra Firma Lda, Maputo, Mozambique
- Pereira, C. (2001), *Chaposa Research Project Report – Mozambique*, UEM, Maputo, Mozambique
- Reyes, D. (2003), *An Evaluation of Commercial Logging in Mozambique, Collaboration for Development Action*, USA
- Rytönen, A. (2003), *Revenues from Forests of Mozambique*. Indufor Oy, Helsinki, Finland
- TCT Industrias Florestais (2003), *Proposal of Methods to Stimulate the Timber Industry on Mozambique*, TCT Industrias Florestais, Sofala, Mozambique