

**MOZAMBIQUE:
CONTINUING TO REMOVE
ADMINISTRATIVE BARRIERS
TO INVESTMENT**

June 2001



Prepared by:
Foreign Investment Advisory Services (FIAS)
A joint service of the
International Finance Corporation (IFC)
and the World Bank (IBRD)



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This study was jointly commissioned by the Ministry of Industry and Commerce (MIC) and the Confederation of Mozambique Business Associations (CTA). The U.S. Agency for International Development (USAID) provided major funding for the study, and the Foreign Investment Advisory Service (FIAS) provided supplementary funding. The United Nations Industrial Development Organization (UNIDO) contributed resources in kind. Staff and consultants employed by FIAS, MIC, CTA, USAID, and UNIDO formed a joint working team that conducted field investigations in October and November 2000. FIAS is responsible for the analysis and recommendations based on the findings of the fieldwork, and is solely responsible for any remaining errors contained in this report.

The joint working team met with officials in various government departments and agencies, investors, lawyers, accountants, and other private and nonprofit agents throughout Mozambique. FIAS extends its gratitude to all for the valuable information and support they have provided, and to members of the working team for their support and cooperation.

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EXECUTIVE SUMMARY

- i. Since 1996, the Government of Mozambique has embarked on reforms to reduce the administrative barriers to investment. This initiative, which has been undertaken in parallel with measures to promote macroeconomic stability and economic liberalization, aims to improve the investment climate and encourage domestic and foreign investment. The latter is seen as key for economic growth and poverty alleviation.
- ii. This report has been prepared at the joint request of the Ministry of Industry and Commerce (MIC) and the Confederation of Mozambique Business Associations (CTA) with the objective to strengthen the reforms that are already underway. It reviews the process of removing administrative barriers since 1996, highlights the achievements and remaining problems, and provides recommendations for further improvement. Most of the issues raised in this report are already known within Mozambique, and many have been discussed by different groups at different levels. However, unless the will to tackle these issues is rejuvenated at the highest levels, and unless government leaders, executing authorities and business communities reach a consensus on how to jointly address them, impediments to business establishment and operations will continue.
- iii. The need to speed up reforms is urgent also because Mozambique must compete in an increasingly integrated international market. Like all other countries striving for a successful place in the world market today, it is no longer enough to compare the situation in Mozambique with its own past, but also with the rapid changes that are occurring throughout the region and around the world. To speed up the reforms and begin on the arduous road to catch up with the higher performance standards required in world competition, Mozambique can benefit by learning from the experiences of other countries in implementing reforms, and adapting to international best practices.

General Assessment

- iv. Investors in Mozambique widely recognize that the government has been making consistent efforts to remove administrative barriers to investment in recent years. The most noticeable changes are in legal and regulatory policies, which in principle should move Mozambique's investment procedures closer in line with standard international practices. A review of the key changes to laws and regulations governing investment procedures are outlined in Box 1.

**BOX 1: COMMERCIAL LAW & REGULATION INTRODUCED
SINCE NOVEMBER 1996**

Licensing and General Business

- Decree 43/98 of 9 September, the Commercial Licensing Regulation
- Decree 44/98 of 9 September, the Industrial Licensing Regulation
- Decree 56/98 of 11 November, the International Trade Activity Regulations
- Ministerial Diploma 202/98 of 12 November, the International Trade Operator Registration
- Ministerial Diploma 203/98 of 12 November, tax to be paid in registration as importer
- Law 11/99 of 8 July, the Arbitration, Conciliation and Mediation Law
- Dispatch of 24 of August 1999, International Fair Regime
- Decree 61/99 of 21 September, creating the Industrial Free Zone
- Decree 62/99 of 21 September, regulating the Industrial Free Zone
- Dispatch of 26 April 2000, Emergency Tools for Industry Regulation

Taxation

- Law 3/98 of 8 January, making possible the introduction of the VAT Code
- Decree 16/98 of 16 April, the special tax and customs regime for Zambezi Valley
- Decree 23/98 of 26 May, changing income tax rates
- Decree 51/98 of 29 September, the VAT Code
- Decree 52/98 of 29 September, the specific consumption Tax Code (luxury goods)
- Decree 59/98 of 24 November, update the stamp tax
- Decree 68/98 of 23 December, introducing further rate changes to the Tax Code
- Decree 12/99 of 30 March, introducing further changes to the VAT Code
- Decree 44/99 of 10 of August, introducing further changes to the VAT Code and the Tax Code
- Decree 73/99 of 12 October, introducing a special tax and customs regime for the hotel industry
- Decree 74/99 of 12 October, introducing a special tax regime for the sugar industry during a period of rehabilitation
- Decree 82/99 of 16 November, introducing further changes to the VAT Code
- Decree 83/99 of 16 November, introducing further changes to the Tax Code
- Decree 84/99 of 16 November, introducing further changes to the Stamp Tax
- Dispatch of 26 April 2000, Exemptions Regime for Sugar Factories
- During this period, various treaties for the avoidance of double taxation were signed with other countries, and enacted in the Mozambique in the form of Decrees

**BOX 1: COMMERCIAL LAW & REGULATION INTRODUCED
SINCE NOVEMBER 1996 (Cont'd)**

Custom Procedures

- Decree 57/98 of 11 November, the International Terminals Regulations
- Ministerial Diploma 206/98 of 25 de November, the Merchandise Despatch Regulation
- Ministerial Diploma 207/98 of 25 November, the Pre-Board Inspection Regulation
- Decree 30/99 of 24 May, the schedule of Tariffs
- Decree 3/2000 of 17 March, the Organizational Structure of the Customs Service
- Decree 4/2000 of 17 March, Mozambican Customs System
- Ministerial Diploma 89/2000 of 2 August, Customs Warehouses *
- Ministerial Diploma 90/2000 of 2 August, Petroleum Products Customs Warehouses*
- Ministerial Diploma 91/2000 of 2 August, the International and Transit Terminals Regulation*
- Ministerial Diploma 92/2000 of 2 August, the Merchandise Custom Dispatch Activity Licensing*
- Ministerial Diploma 93/2000 of 2 August, the Industrial Free Zone Customs Regime*
- Ministerial Diploma 94/2000 of 2 August, Road Customs Transit*

Labor

- Law 8/98 of 20 July, the Labor Law
- Decree 25/99 of 24 May, Procedures for Contracting Foreign Workers
- Decree 26/99 of 24 May, Work Visas for Foreign Workers
- Decree 75/99 of 12 October, Employment of Foreign Workers in Free Zones
- Ministry Diploma 145/2000 of 1 November, Fees for Work Visas

Land and Environment

- Law 19/97 of 1 October, the Land Law
- Law 20/97 of 1 October, the Environmental Law
- Decree 66/98 of 15 July, the Land Regulations
- Decree 76/98 of 29 December, the Environmental Regulations
- Decree 53/99 of 8 September, the Condominium Regulations
- Ministerial Diploma 76/99 of 16 June, governs the distribution of land use taxes
- Decree 77/99 of 15 October, adjusts land and use taxes

*Suspended for a 180 days period by the Ministry Diploma 24/2001 of 24 January, of the Finance and Plan Ministry, from the date of its signature.

v. Some improvements have also been made in investment procedures and in facilitating investment activities. These efforts, outlined in column 1 in Table 1, include revision of existing laws or adoption of new ones, and streamlining ministerial approvals and licensing requirements. It also includes the efforts made by some government agencies, such as the national investment promotion agency (CPI), the Ministry of Industry and Commerce (MIC) and the Department of Industry and Commerce of Maputo (DIC, Maputo) to facilitate investment in application for the various approvals from other government authorities.

vi. However, FIAS finds that the procedural reforms undertaken are far from sufficient, and that, indeed, key reforms to fundamentally ease investment activities have yet to be adopted and implemented. Overall, the situation on the ground seems to have improved little over the past four years, and, in fact, in some areas such as access to land and expatriate hiring, investors perceive more difficulties now than in the past. In many other areas, major concerns also remain due to long delays, high costs, and discretionary treatments of investors. Column 2 in Table 1 highlights remaining concerns in each of the procedural areas examined. Facilitation efforts by some agencies, while helpful, can assist investors to a limited extent only.

vii. Furthermore, inconsistent implementation and interpretation of laws and regulations across investors and between regions was a recurring theme noted during FIAS's field investigations. Such inconsistency, in turn, has given rise to discrimination between investor groups, e.g. foreign versus domestic, large versus small, and between investors in different locations, e.g. the capital city versus the provinces. As a result, administrative barriers continue to be among the top constraints for a majority of businesses.

viii. Moreover, the capacity gap between central and local government has impaired the reform initiative in the provinces and districts outside Maputo. Studies by UNIDO and GTZ and a brief review by FIAS of the administrative processes at the provincial level indicate higher levels of administrative and procedural barriers to investment.

ix. The bureaucratic procedures and discretionary practices have allowed for corruption. In all areas examined in this report, investors complained about high costs related to irregular payments. Such rent-seeking behavior not only erodes the country of its financial resources, but also , damages the credibility of the government and its policy reforms in the eyes of private investors.

An Uphill Process

x. Removing administrative barriers to investment is bound to be a complex and long term process, particularly in light of Mozambique's economic and political history. The country is still in the midst

Table 1: Summary of FIAS Findings – Improvements and Remaining Concerns in Investment Procedure

Issues	Improvements Since 1996	Main Concerns of Investors Today
Access to Land	<ol style="list-style-type: none"> 1. Clarification that foreign ownership is allowed without local partnership. 2. Privatization of the land survey function. 	<ol style="list-style-type: none"> 1. Difficulties in identifying an available site 2. Complex, discretionary, and time-consuming approval process (up to 2-3 years) 3. High risk and insecurity 4. The development of a black market with inflated prices of land 5. Delays in obtaining approvals at the construction stage. 6. Land cannot be used as collateral.
Import Process	<ol style="list-style-type: none"> 1. Elimination of import licensing. 2. Adoption of a single document mechanism. (Documento unico—DU). 3. The creation of UTRA (Unidade Técnica de Reestruturação das Alfândegas, Customs Restructuring Technical Unit) to handle institutional reforms. 4. The preparation of a new customs code, with a goal to further rationalize and modernize the customs system by 2003. 	<ol style="list-style-type: none"> 1. Long delays in the customs clearance process (2–3 weeks) 2. High cost related to regular and irregular payments 3. Difficulties and delays in executing Pre-Shipments Inspections 4. Partial shipment not allowed 5. Mandatory warehousing requirement (FRIGO) 6. Monopolistic behavior of Despachantes
Employment of Expatriates	<ol style="list-style-type: none"> 1. Elimination of line ministerial approvals for each expatriate labor contract. 2. Introduction of a work visa for expatriates who intend to travel to Mozambique on short-term contracts (30 days, extendable to 60 days). 3. IPC facilitation which eases the first time application process of some companies. 	<ol style="list-style-type: none"> 1. High restrictions on expatriate hiring at all levels (managers, technicians & workers) and from all source countries 2. Complicated, time-consuming and overly centralized authorization procedures involving consent of line ministries and unions 3. Duration of work permits limited to two years; renewals are extremely difficult 4. Lack of coordination between MOL and Immigration authority
Domestic Labor	<ol style="list-style-type: none"> 1. Relaxed rules and conditions regarding the mechanisms and processes for the dismissal of redundant or unwanted workers. 2. Abolishment of fixed salaries for different categories of jobs, and introduction of minimum wages. 	<ol style="list-style-type: none"> 1. Imposed high costs on dismissals leading to redundant workers and less opportunities for new entrants. 2. Remaining reporting requirements still more complicated than needed. 3. Labor inspections based on no clear rules and requirements, leading to arbitration and corruption.

	<ol style="list-style-type: none"> 3. Establishment of regular working hours, overtime, and annual leave in accord with international standards. 4. Some simplification of the reporting requirements. 	<ol style="list-style-type: none"> 4. Lack of fair and effective legal mechanisms for dispute settlement.
Industrial Licensing	<ol style="list-style-type: none"> 1. Replacement of the industrial licensing requirement with automatic registration for “class 3” companies 2. Substantial reduction of documentation involved in industrial licensing for “classes 1-2” companies. 3. Establishment of time limits and the principle of tacit approval if not response made during the time limit; 4. Efforts by MIC and DIC Maputo to implement the new procedures through coordination (Balcao Unico) and train the officials. 	<ol style="list-style-type: none"> 1. For “classes 1-2” companies, licensing is still required for every activities. 2. Application process still requiring documentation that is more complicated than necessary. 3. Multi-ministerial involvement in the process causing difficulties to MIC and other involved ministries and authorities 4. General weakness of implementation of outside Maputo.
Tourism Licensing	<ol style="list-style-type: none"> 1. Stipulation of the Tourism Act/1999 and establishment of the new Ministry of Tourism to emphasize the development of tourism sector. 2. Hotel and restaurant investment licensing in Maputo is relatively easy. 	<ol style="list-style-type: none"> 1. The Tourism Act yet needs an Implementation Regulation. 2. Hotel and restaurant investment licensing outside Maputo is very difficult and time consuming .
Company Incorporation		<ol style="list-style-type: none"> 1. Antiquated methods of processing and recording documents 2. Lack of coordination among the Notary Office, the Public Commercial Registry, and the Government Printing Office 3. Slow and costly process.
Site Inspections		<ol style="list-style-type: none"> 1. Too many inspecting authorities with overlapping responsibilities 2. General lack of guidelines and necessary information 3. Lack of transparency leading to arbitration and discretion 4. Fine system being abused by lower-level inspectors looking for irregular payments

of transition towards a market economy after a very long period of colonialism, state control and civil war. Hence, the private sector, even though fast growing, is still relatively young and inexperienced and faces challenges in competing in the global markets. Aside from its economic challenges, Mozambique must also deal with a legislative and civil service system, some parts of which are antiquated and date back to times of the Portuguese overseas administration.

xi. These challenges, stemming from the country's social, political, and economic systems, imply that removing administrative barriers to investment requires more than a re-writing of the legal and regulatory frameworks. Rather, these initiatives must be coupled with efforts to achieve political consensus and serious commitment by government leaders to adopt reform measures. Moreover, appropriate institutional structures and capacities must be developed to enable their successful implementation.

xii. While many studies have pointed to the weaknesses of executing agencies at lower levels or inadequate education, training and institutional capacity building as reasons for the lack of substantial reform progress, the need to strengthen political will at the highest levels of Government must be recognized as key to the reform process. Specifically, a review of the reform process of the past years indicates the following weaknesses:

- ***Lack of strong will that is shared by all political parties.*** Although there has been a desire at the highest levels of Government to remove administrative barriers to investment, this desire has not manifested into a shared vision or commitment adopted by all political parties, responsible ministries, and executing agencies. The 1997 Action Plan, developed by the MIC and CTA and presented at the private sector conference that year, was not thoroughly discussed by all the relevant ministries and agencies, nor was it formally endorsed by the Government. The lack of ownership, support, and participation by the respective stakeholders has resulted in implementation, which has been half-baked at best.
- ***Lack of strong will to examine key issues areas and pursue recommendations identified at various conferences and studies.*** While efforts have been made to host various studies, conferences, workshops, and develop “action plans”, there has been little follow up and implementation of recommendations. The annual private sector conferences (PSC), while providing a useful forum for public-private sector dialogue and identifying important issue areas for private sector development, have not resulted in effective government actions to the concerns raised. Such unresponsiveness on the part of government detracts from the confidence of the private sector on the credibility of the reform measures, and hence could undermine the reform process itself.
- ***Lack of strong will to address the most difficult issues at the policy level.*** Changes to laws and regulation that fail to address the specific policy problems can become cosmetic. The “flagship strategy,” which exempts a handful of large

projects from required procedures, fails to help the majority of investors who face significant procedural and bureaucratic impediments. Lack of clear policy direction and training objectives has resulted in inadequate staff training and institutional capacity-building efforts at operational levels.

- ***Lack of strong civil service reform.*** Mozambique urgently requires a comprehensive civil service reform, a process that has recently been initiated in the country. In all procedural areas examined, the investment process is hindered by the fundamental weaknesses of the current civil service system. Part of the implementation problems stem from overlapping structure of government institutions and lack of clarity on responsibilities and accountability. There exists a widespread “passive resistance” from unmotivated executing agencies and officials, as well as, corruption at all operational levels. These problems cannot simply be resolved by reforming investment procedures alone, but rather, require complementary civil service reforms.

Towards a New Strategy

xiii. The main purpose of this study is to provide recommendations that will strengthen implementation of reforms in the next stages. As summarized in Table 2, the key recommendations focus on the following areas: access to land, import procedures, expatriate hiring, domestic labor, industrial licensing and site inspection, among others. These issue areas have been identified as areas of concern shared among investors.

xiv. The recommendations provided in each of these issue areas range from being technical, and should be viewed as supplementary to ongoing reform measures, to larger strategic and policy issues. As an example, recommendations relating to improvement of import procedures would fall in the first category, whereas those relating to access to land would fall in the second.

Table 2: Summary of FIAS Recommendations		
Issues	Suggested Solutions	Time Frame
Access to Land	<ol style="list-style-type: none"> 1. Simplify the approval system by eliminating unnecessary requirements (e.g., abandon clearances by line ministries; streamline the involvement of provincial, municipal, and district authorities; etc.) 2. Introduce practical mechanisms for the community consultation requirement, to shorten the time for investors while effectively protecting a poor communities' rights. 3. Develop clearer criteria and procedures for allocating the use rights to state land. 4. Focus the effort to speed up institutional reforms and remove institutional bottlenecks. 5. Further explore the possibility of developing industrial parks. 6. Develop a functional long-term lease system. 7. Improve the land allocation and pricing system by using market-oriented mechanisms. 8. Develop the system and capacity of zoning and urban planning for long-term development and management of land. 	<p>short-run</p> <p>short-run</p> <p>medium-run</p> <p>medium run</p> <p>medium-run</p> <p>long-run</p> <p>long-run</p> <p>long-run</p>
Import Process (Given that there will be a new Customs Code by 2003)	<ol style="list-style-type: none"> 1. Construct warehouse facilities to clear all goods at borders. 2. Allow partial shipments. 3. Reduce redundancy and discretionary behavior in the inspection process. 4. Eliminate prepayments. 5. Reduce other charges and penalties. 6. Continue institutional capacity building. 7. Fight corruption. 	<p>short-run</p> <p>short-run</p> <p>short-run</p> <p>short-run</p> <p>medium-run</p> <p>medium-run</p> <p>ongoing</p>
Employment of Expatriates	<ol style="list-style-type: none"> 1. Prepare a list of professions in which the need for foreigners is most important. 2. Establish a list of countries that are exempted from visa restrictions. 3. Establish a quota or ratio system for automatic work permit approvals. 4. Simplify and decentralize the application for Ministry of Labor authorization 5. Eliminate the need to obtain opinions from line ministries and unions. 6. Extend the authorization time limit and allow easier renewal of contracts. 7. Streamline the process between MOL and the Immigration Authority. 8. Encourage and support staff training. 9. Fight corruption. 	<p>short-run</p> <p>short-run</p> <p>short-run</p> <p>short-run</p> <p>medium-run</p> <p>medium-run</p> <p>medium-run</p> <p>ongoing</p> <p>ongoing</p>

Domestic Labor	<ol style="list-style-type: none"> 1. Eliminate reporting requirements that no longer serve useful purposes. 2. Establish clear criteria and standards for any remaining requirements. 3. Train and discipline inspectors. 4. Fight corruption. 5. Amend legislations to make the domestic labor market more flexible. 	<p>short-run medium-run ongoing ongoing long run</p>
Industrial Licensing	<ol style="list-style-type: none"> 1. Eliminate the industrial licensing and adopt automatic registration for all companies that are not listed in Article 2, Decree 44/98. 2. Develop the Implementation Regulation for the Tourism Act, to spell out the criteria and procedures for hotel and restaurant licensing. 3. Continue to facilitate investment and disseminate information. 4. Continue staff training. 5. Strengthen the legal and institutional framework for general protection of public health, environment, fire safety, and labor, and enhance the professionalism in these areas. 	<p>short-run short-run on-going ongoing medium-to-long run</p>
Tourism Licensing	<ol style="list-style-type: none"> 1. Review the existing Tourism Act and speed up the preparation of the Implementation Regulation 2. Set up a special task to design administrative procedures and monitoring system to encourage investment and ensure strategic planning and quality control. 	<p>short-run short-to-medium run</p>
Company Incorporation	<ol style="list-style-type: none"> 1. Modernize the process by computerizing the entries and documentation process. 2. Integrate the operations of the three institutions involved. 3. Outsourcing the functions that can be more efficiently done by the private sector (e.g., printing) 	<p>short-run short-run medium-run</p>
Site Inspections	<ol style="list-style-type: none"> 1. Establish strict rules and procedures for fines. 2. Designate competent authorities for inspection and stop inspections by overlapping authorities 3. Establish a system that all inspections should produce a written report, available to both the investors and the inspecting authorities. 4. Establish clear rules and regulations and make information available. 5. Establish professional competency of inspecting authorities through education and training. 6. Award the good citizens and punish the bad ones. 	<p>short-run short-run short-run medium-run medium-run ongoing</p>

xv. The recommendations are also prioritized according to their feasibility of implementation in the short, medium, and long run. This prioritization is not only based on the legislative and administrative feasibility for changes, but also on the urgency of the problems as seen by the investors themselves. For example, changes requiring revisions of existing legislation may take a longer time frame than those requiring administrative decisions. However, it is important to note that “short-term” changes do not imply “easy” or “painless” changes. Indeed, they can be the most difficult changes to accomplish as they impact the lives of those carrying out the reforms, and hence, require a strong political will.

xvi. Where appropriate, recommendations are based on international experiences and best practices. These experiences were included in the report so as to provoke discussion among those stakeholders involved in the country’s reforms. Ultimately, the Government of Mozambique, the relevant ministries and agencies, and the private sector communities must work together to prioritize goals for reforms, develop an appropriate strategy, and design specific action plans and mechanisms for implementation.

xvii. In order to successfully remove administrative barriers to investment, Mozambique must not only identify *what* remains to be done, but also the processes required to achieve it. Chart 1, which captures lessons from experiences of other countries, highlights essential elements required for the process going forward. These issues, which will be further discussed and elaborated in the workshop, are noted below:

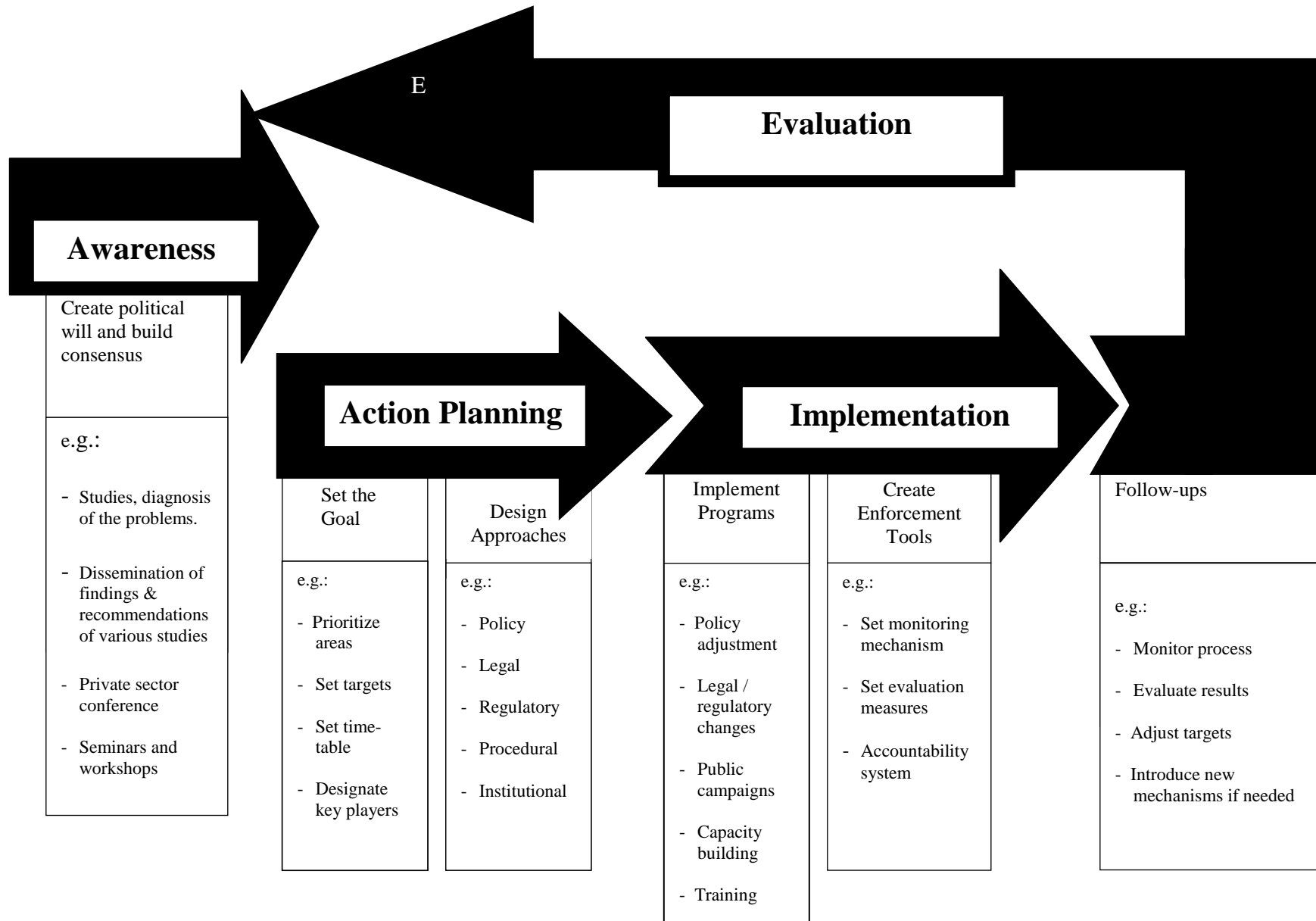
- ***Step One – Building the Political Will.*** In Mozambique, the commitment at the highest levels of government to carry out reforms and developing political consensus among relevant ministries, executing agencies, and the business community will be crucial. This can only be achieved through strong leadership at the top and a consultative process, engaging the various parties. In order to build political consensus, studies, such as this one, should be disseminated to all parties involved for discussions at workshops and/or the Private Sector Conferences. Once such consensus is developed, the Government should consider issuing policy statements to the public in order to signal a commitment to the reform process. Furthermore, the Government must also reinforce the existing institutional structures so as to allow implementation of reforms.
- ***Step Two – Planning Actions.*** Following consensus building, the Government must carry out the process of strategic planning to prioritize its objectives. This process should be consultative in nature, engaging all relevant stakeholders. The outcome of this planning process could be an Action Plan, which should set clear targets and timetables, as well as clearly designate responsibilities among participants. Furthermore, the Action Plan should be complemented by a monitoring system that allows for concrete enforcement and evaluation tools and mechanisms.

- ***Step Three – Implementation.*** The Action Plan needs to be followed up by implementation, which involves committed efforts by various parties and coordination of policy, legal, and institutional changes. Concurrently, enforcement and evaluation tools must be used to monitor the implementation process on an on-going basis.
- ***Step Four – Monitoring/Evaluation/Adjustment.*** Monitoring efforts should be carried out throughout the implementation stage so as to review the reform process, evaluate results, and adjust targets and strategies as needed. Identifying positive results from the reform process can generate additional political will, which will continue to strengthen the reform efforts.

xviii. Mozambique has significant investment and economic development potential. It is conveniently located to provide coastal access to several land-locked neighboring countries, has great prospects for economic cooperation with South Africa, and is rich in natural resources and land. After several years of implementing consistent policy and legal reforms, Mozambique has achieved a stable and liberal macroeconomic policy framework, which lays the foundations for private sector growth.

xix. Nevertheless, the journey towards sustainable economic development and poverty alleviation remains a difficult one. For a number of investment opportunities to materialize, Mozambique needs to continue to develop an enabling business environment. Administrative barriers remain an essential impediment to investors and the Government needs to act more aggressively to remove them. Success in this respect will not only substantially ease the practical obstacles confronted by private enterprises and enhance the efficiency of government operations, but will also increase Mozambique's competitiveness in regional and world markets, which will be critical for long-term economic development and poverty alleviation.

CHART 1: THE ADMINISTRATIVE REFORM PROCESS CYCLE



CHAPTER I

INTRODUCTION

1. In 1996, FIAS performed a study of the bureaucratic processes that discouraged both domestic and international investment in Mozambique. The study assessed the investment procedures that a typical investor would experience in the process of establishing and conducting a business in Mozambique (i.e., obtaining various licenses, permits, official approvals, and other bureaucratic requirements). The study called for attention to the undue time and cost involved in the investment process, and recommended specific steps to simplify the procedures, and to make them more transparent and streamlined.
2. The findings of the study were presented at the Private Sector Conference in 1996, at which the government and private sector began to discuss the problems faced by businesses. It was agreed that a plan to eliminate the administrative barriers identified in the FIAS study would be prepared and implemented. In February 1997, the government and the private sector, represented by the Ministry of Industry and Commerce (MIC) and the Confederation of Mozambique Businesses (CTA), jointly developed an action plan for removing administrative barriers. An inter-ministerial committee, with CTA represented on board, was formed to oversee its implementation.
3. Now, three years after the action plan was implemented, the Government has found it necessary to review the progress made, reassess the current situation faced by investors, and identify the remaining bottlenecks to be addressed in the next stage. The need for a progress review came about because despite the government's efforts to deregulate the system and reduce red tape in the last few years, there is a widespread perception that, in reality, the investment environment has not substantially improved. Complaints by investors have increased in a number of areas of investment procedures, and there is more concern about the widening performance gaps between the capital city and the central and northern provinces, between foreign and domestic investors, and between businesses of different size.
4. In order to address these problems and to encourage investment, MIC and CTA jointly invited FIAS to review the implementation progress since 1996, to identify the remaining bottlenecks, and to recommend ways to accelerate procedural reforms. The Government and the private sector have recognized the need to cooperate in creating the conditions and mechanisms that will help advance a healthier business environment that also safeguards legitimate public interests. There is a particular interest in further simplifying the regulatory requirements and strengthening the administrative capacity of provincial and district government units.
5. In carrying out this task, MIC and CTA requested that FIAS cooperate with other donor agencies, especially USAID and UNIDO, which are actively assisting the

Government in instituting some of the reforms. FIAS was expected to review the multiple studies that had already been conducted by other agencies to aid in developing a catalogue of improvements that will be required for the next stage, and to advance a coherent strategy and action plan that could be supported by all parties.

6. Based on these objectives, this report revisits the key areas of investment procedures that were examined in the 1996 FIAS study, with a view toward the following points:

- Evaluating the degree to which reforms have been undertaken to date.
- Identifying the areas in which progress has been less than expected and analyzing the major problems that remain.
- Exploring possible solutions and suggesting specific efforts for improvements based on the conditions in Mozambique and relevant international experience and best practices.

7. This report emphasizes the need for the government to continue to strengthen the reforms already underway. It highlights the remaining policy, legal, and institutional issues that need to be addressed in order to substantially improve investment procedures. Most of the issues raised in this report are already known in the country, and many have been discussed by different groups and at different levels. However, unless the will to tackle these issues is rejuvenated at the highest levels, and unless government leaders, executing authorities and business communities reach a consensus on how to jointly address them, impediments to business establishment and operations will continue and eventually jeopardize the reforms that have already been introduced.

8. The need to speed up reforms is urgent also because Mozambique must compete in an increasingly integrated international market. Like all other countries striving for a successful place in the world market today, it is no longer enough to compare the situation in Mozambique with its own past, but also with the rapid changes that are occurring throughout the region and around the world. To speed up the reforms and begin on the arduous road to catch up with the higher performance standards required in world competition, Mozambique can benefit by learning from the experiences of other countries in implementing reforms, and adapting to international best practices.

9. The report is divided into five chapters. Following the introduction, Chapter II presents an overview of the process of removing administrative barriers to investors. It evaluates the overall progress that has been made since 1996, highlights the fundamental factors that have affected the process of changes thus far, and emphasizes the need for a new strategy to overcome the obstacles to continued reforms. Chapter III provides a more detailed diagnosis of each area in which major concerns of investors remain, and offers a number of ideas and recommendations for addressing those concerns. Chapter IV discusses the problems and difficulties related to the roles of the provincial governments and the national investment agency and suggests a few ideas to strengthen such roles. Chapter V raises the question of how to move forward in the next stage, and suggests a

four-step process that could become a self-reinforcing cycle of continued reforms and improvements as seen in several other countries.

CHAPTER II

AN OVERVIEW OF REMOVING ADMINISTRATIVE BARRIERS

10. Over the past decade, the Government of Mozambique has been implementing a number of reforms aimed at strengthening the role of the private sector in economic development. A wave of so-called “first generation reforms” such as trade liberalization and privatization has received the praise of most observers, including the World Bank. Those efforts have been accompanied by a series of micro or “second generation reforms” that were needed to improve further the investment climate and ensure the efficient distribution of growth in the country. Since 1996, removing the administrative barriers faced by existing and potential investors has been an important element of this strategy.

11. This chapter assesses the success of the government in its effort to remove administrative barriers and, thus, proposes an overview of the main achievements obtained so far. It also identifies the remaining issues, as reflected by private operators, and emphasizes the difficulties encountered by the authorities. It concludes with the need for the government to strengthen its current strategy to make the country a more attractive location for investment.

A. The Second-Generation of Reforms

12. As a result of consistent macroeconomic reform effort in the last decade, the Government of Mozambique has achieved remarkably in restoring economic stability and restructuring toward a stronger private sector. By the late 1990s, the overall macroeconomic environment had improved. Inflation fell from 70 percent in 1994 to 0.6 percent in 1998, the exchange rate was stabilized while being market-determined, price controls were eliminated, and non-tariff barriers were lifted. In the meantime, more than 800 state owned enterprises (SOEs)—representing about two-thirds of the total—were privatized or liquidated. As a result, the share of industrial output by SOEs fell from more than 66 percent in 1990 to less than 25 percent by 1997. GDP grew by more than 10 percent annually during 1996–98, and exports grew at an annual average rate of 12 percent between 1994 and 1999.

13. Despite the impressive reforms and macroeconomic performance, Mozambique remains one of the poorest countries in Africa. In 1998, GDP per capita was \$230 and about 70 percent of the population lived below the poverty line. The country’s exports, although growing rapidly, are still less than \$200 million a year. It has also to be recognized that Mozambique is laden by its difficult historical legacy—its colonial past ended in the mid 1970s, followed by 10 years of economic isolation and central planning, and nearly two decades of civil war that lasted until the early 1990s. As a result,

Mozambique's private sector, although growing fast, remains small, weak, and primarily inward-looking. Companies continue to be seriously constrained by lack of financing, basic industrial infrastructure, and an uneducated labor force. These constraints impose fundamental challenges to the business sector as the country attempts to move rapidly toward an increasingly integrated and competitive world market. They also raise the concern that once the initial bounce-back has been achieved, the growth rate may lapse, and even decline, if the business sector fails to increase its competition and take a lead in a broad-based economic development.

14. Clearly, Mozambique still faces an uphill journey to sustain and accelerate economic growth. For this reason, the authorities have understood, since the mid-1990s, that macroeconomic policy reforms and privatization programs, although fundamental to encouraging economic growth and private sector participation, are not sufficient in themselves. To enhance the expected benefits and to allow broader participation and sharing of the growth, the authorities have launched second-generation reforms and programs with the objective to achieve an enabling business environment in which more private companies are encouraged to take initiatives and risks. As part of this effort, they have created the Private Sector Conference, an annual gathering aimed at enhancing the cooperation between the private and public sectors; and to discuss a variety of reforms and development initiatives. The Investment Promotion Center (CPI) was strengthened with a similar objective in mind. The Government has also formulated new actions designed to overcome, step by step, many of the obstacles faced by the private investors across multiple fronts. The streamlining of the administrative barriers faced by private investors—initiated since 1996—has been part of this strategy, and it is described below.

B. Efforts to Remove Administrative Barriers to Investment Since 1996

15. Removing administrative barriers is a key component of the second-generation reforms in Mozambique. Administrative barriers—stemming from antiquated laws and regulations, deficient administrative capacity and corruption—have been a serious brake on business activities in Mozambique. Domestic and foreign firms operating in the country had consistently voiced their concerns about the tardiness, unpredictability, and high costs (both formal and informal) of acquiring licenses, permits, and other government requirements to start and operate a business.

16. Starting in 1996, the government recognized that its new policies to attract more foreign investment were being frustrated by red tape and began to see that addressing this issue had to be integrated into its strategy. Over time, as the reform and development spectrum expanded, the government recognized that bureaucratic barriers plagued anyone doing business in the country and damaged the country's image both at home and abroad.

17. The government took the first step in 1996 to reduce red tape when it sought FIAS assistance in preparing the study on administrative barriers to investment. Shortly after that study, the government created an Inter-ministerial Committee for Removing

Administrative Barriers to Investment, to promote ministerial-level pressure to implement the recommended changes. More importantly, the government has improved its dialogue with the private sector—through frequent consultation with CTA and a series of annual private sector conferences as a forum for open discussions on reforms and regular checks on progress.

18. Among the most noticeable efforts that have been made are changes in laws and regulations that have impeded commercial activities. Box II-1 shows that in almost all investment procedure approval areas, laws and regulations have been either introduced or revised since 1997. Most of these changes were in the right direction, and have moved Mozambique's system closer to standard international practices as required by modern commercial activities.

**BOX II-1: COMMERCIAL LAW AND REGULATION INTRODUCED
SINCE NOVEMBER 1996**

Licensing and General Business

- Decree 43/98 of 9 September, the Commercial Licensing Regulation
- Decree 44/98 of 9 September, the Industrial Licensing Regulation
- Decree 56/98 of 11 November, the International Trade Activity Regulations
- Ministerial Diploma 202/98 of 12 November, the International Trade Operator Registration
- Ministerial Diploma 203/98 of 12 November, tax to be paid in registration as importer
- Law 11/99 of 8 July, the Arbitration, Conciliation and Mediation Law
- Dispatch of 24 of August 1999, International Fair Regime
- Decree 61/99 of 21 September, creating the Industrial Free Zone
- Decree 62/99 of 21 September, regulating the Industrial Free Zone
- Dispatch of 26 April 2000, Emergency Tools for Industry Regulation

Taxation

- Law 3/98 of 8 January, making possible the introduction of the VAT Code
- Decree 16/98 of 16 April, the special tax and customs regime for Zambezi Valley
- Decree 23/98 of 26 May, changing income tax rates
- Decree 51/98 of 29 September, the VAT Code
- Decree 52/98 of 29 September, the specific consumption Tax Code (luxury goods)
- Decree 59/98 of 24 November, update the stamp tax
- Decree 68/98 of 23 December, introducing further rate changes to the Tax Code
- Decree 12/99 of 30 March, introducing further changes to the VAT Code
- Decree 44/99 of 10 of August, introducing further changes to the VAT Code and the Tax Code
- Decree 73/99 of 12 October, introducing a special tax and customs regime for the hotel industry
- Decree 74/99 of 12 October, introducing a special tax regime for the sugar industry during a period of rehabilitation

**BOX II-1: COMMERCIAL LAW AND REGULATION INTRODUCED
SINCE NOVEMBER 1996 (Cont'd)**

Taxation (Cont'd)

- Decree 82/99 of 16 November, introducing further changes to the VAT Code
- Decree 83/99 of 16 November, introducing further changes to the Tax Code
- Decree 84/99 of 16 November, introducing further changes to the Stamp Tax
- Dispatch of 26 April 2000, Exemptions Regime for Sugar Factories
- During this period, various treaties for the avoidance of double taxation were signed with other countries, and enacted in the Mozambique in the form of Decrees

Custom Procedures

- Decree 57/98 of 11 November, the International Terminals Regulations
- Ministerial Diploma 206/98 of 25 de November, the Merchandise Despatch Regulation
- Ministerial Diploma 207/98 of 25 November, the Pre-Board Inspection Regulation
- Decree 30/99 of 24 May, the schedule of Tariffs
- Decree 3/2000 of 17 March, the Organizational Structure of the Customs Service
- Decree 4/2000 of 17 March, Mozambican Customs System
- Ministerial Diploma 89/2000 of 2 August, Customs Warehouses *
- Ministerial Diploma 90/2000 of 2 August, Petroleum Products Customs Warehouses*
- Ministerial Diploma 91/2000 of 2 August, the International and Transit Terminals Regulation*
- Ministerial Diploma 92/2000 of 2 August, the Merchandise Custom Dispatch Activity Licensing*
- Ministerial Diploma 93/2000 of 2 August, the Industrial Free Zone Customs Regime*
- Ministerial Diploma 94/2000 of 2 August, Road Customs Transit*

Labor

- Law 8/98 of 20 July, the Labor Law
- Decree 25/99 of 24 May, Procedures for Contracting Foreign Workers
- Decree 26/99 of 24 May, Work Visas for Foreign Workers
- Decree 75/99 of 12 October, Employment of Foreign Workers in Free Zones
- Ministry Diploma 145/2000 of 1 November, Fees for Work Visas

Land and Environment

- Law 19/97 of 1 October, the Land Law
- Law 20/97 of 1 October, the Environmental Law
- Decree 66/98 of 15 July, the Land Regulations
- Decree 76/98 of 29 December, the Environmental Regulations
- Decree 53/99 of 8 September, the Condominium Regulations
- Ministerial Diploma 76/99 of 16 June, governs the distribution of land use taxes
- Decree 77/99 of 15 October, adjusts land and use taxes

* Suspended for a 180 days period by the Ministry Diploma 24/2001 of 24 January, of the Finance and Plan Ministry, from the date of its signature

19. During the same period, the government has chosen to promote a number of large projects that were considered to have strategic importance. The national investment promotion agency (CPI) has played an important role, leading to a “fast-track” success in the negotiation and construction of several important foreign investment projects including: a US\$1.3 billion aluminum smelter (Mozal); a joint power transmission project for South Africa, Swaziland, and Mozambique; the Maputo corridor port renewal and transportation project; development of the Pande natural gas fields; the construction of three Coca-Cola plants; and the reopening of the Cahora Bassa hydroelectric dam. These projects have not only brought in new capital and employment opportunities, but they have also helped the government understand how private companies function and to address some of the administrative obstacles that they were facing. One of the major benefits of the experience with promoting these mega projects is that it has created a corps of officials in various ministries and agencies who could help future investors and advocate for continuing reforms.¹

20. The government has also encouraged agencies, and local authorities, involved in the investment process to explore practical, sometimes called “quick fix” solutions—such as simplifying application forms and creating “one-stop shops”—to shorten the time or ease the process for investors. Under this approach, a few government authorities have made noticeable changes in their operations. One example, often praised by investors, has been the strong effort made by the Department of Industry and Commerce of the municipality of Maputo (DIC, Maputo) to simplify the procedures for business licensing. The same department has also made a substantial effort to facilitate investors in obtaining the licenses from other ministries. The national investment agency, CPI, has also provided investors with facilitation services especially in obtaining the required work permits. These efforts have had a positive effect on investors but it is not clear if they have been sufficient to improve the investment climate on a sustained basis.

C. Continued Challenges in Removing Administrative Barriers

21. Despite the progress made by the government, companies operating businesses in Mozambique have continued to complain about slow and insufficient improvements on the ground. While most investors agreed that the Government is going in the right direction and were reasonably optimistic about the future, as reflected by the “Optimist Indicator” presented in the *African Competitiveness Report 2000 (ACR 2000)*, the majority of chief executives of firms operating in Mozambique ranked “government bureaucracy” at the top of the list of constraints to the country’s competitiveness, leading other fundamental constraints such as the work force, infrastructure, and financing. Moreover, the same study compared Mozambique’s competitiveness in the region using

¹ For a detailed case study of Mozal, see Cutting Red Tape: Lessons from a Case-based Approach to Improving the Investment Climate in Mozambique, by Louis T. Wells and Timothy S. Buehrer. In: *Administrative Barriers to Foreign Investment—Reducing Red Tape in Africa*, Washington: Foreign Investment Advisory Service; 2000.

consistent measures, and found Mozambique in 18th place among 24 countries. Mozambique was rated particularly poor on government institutions.

22. One of the reasons for the lack of progress in the streamlining of administrative barriers in Mozambique is that the authorities have failed to address adequately some of the major obstacles that have been identified in the 1996 report – such as the difficulty to access to land and the problems in obtaining working visas for expatriates. For instance, many companies need to hire expatriates with special technical and managerial skills, but the procedures for obtaining work permits remain difficult and confusing. Similarly, acquiring land is among the most daunting of bottlenecks faced by investors today. The process takes far too long (up to several years), it lacks transparency and predictability, and it involves high formal and informal transaction costs. These barriers continue to discourage potential investors.

23. Companies have pointed out that many of the laws and regulations issued so far have not been enforced, and that many ministries and authorities have not been responsive in addressing the issues repeatedly raised and discussed at the annual Private Sector Conference and other forums. Moreover, the inter-ministerial committee, which had once been composed of national directors, is now attended by lower level representatives, and has not functioned as effectively as expected to implement procedural reforms. The momentum behind the reforms has been gradually diminishing over time and no clear political champion can be found at the top level of the Government.

24. Not only does the need for battling bureaucratic problems continue, but also there is more urgency to it, partly because expectations within the business community have been raised. As the result of the greater openness and more frequent contact with foreign partners, local companies now demand that changes to laws and regulations have a direct and concrete impact on their everyday business affairs. There is also a wider gap between large and small-and-medium-sized investors as the result of the “flagship” strategy that has given privileged treatment to large projects. The positive example created by the Mozal project, for instance, has made other investors more anxious than ever to receive a similar treatment. Moreover, the gap between Maputo and the provinces seems to have enlarged— as provincial officials appear often unaware of changes to laws and regulations, not to mention that such changes have not been fully applied in practice.

25. Some recent changes, such as to the value added tax and customs procedures, appear to cause some problems as their complex designs are not supported by adequate enforcement capacity of both companies and executing agencies. Low enforcement capacity has led to poor compliance, tendency for evasion, and opportunities for corruption. One alarming trend in the economy today is that more and more companies seem to be shifting out of the “formal” sector and joining the “informal” one. It is easier for companies to avoid paying taxes than follow rules and procedures that are poorly enforced and subject to the discretion of the authorities. For instance, under the current

customs controls, the long delay for port clearance, on average 2–3 weeks², has led many companies to turn to illegal importers, who charge a premium that is often much higher than the customs duties, but who nevertheless manage to deliver the goods on schedule. Today, most imports of the country reportedly cross the borders by entirely circumventing the customs control process.

26. Finally, facilitation efforts made by some public agencies have only been a partial solution to the problems faced by the majority of the investors. The CPI has concentrated its efforts on a few, large, investment projects. The DIC, Maputo, only responded to requests in the capital city. Both agencies found themselves seriously constrained by limited resource and both have been frustrated by the lack of cooperation from other ministries and agencies. This is not surprising as, whatever efforts the two agencies were able to make to facilitate investment procedures, the results can only be limited unless the procedures continue to undergo major reforms.

D. Why Are Procedural Reforms Moving Slowly?

27. To maintain the momentum of the reforms and to yield more results, the Government has to ask the question of why procedural reforms has moved slowly, and how to speed up the urgently required procedural reforms. While the Government will need to identify the remaining obstacles in the investment procedures and explore ways to remove them – a subject to be dealt with in detail in the next chapter – it should also take a focused look at the process of reform. This study suggests that the process itself presents problems and is in need of improvement.

28. There are several social, political, and economic factors that should not be overlooked in the course of speeding up the reforms of investment procedures. International experience shows that removing administrative barriers is a long-term process, a process about social and behavioral changes of institutions and people. For these reasons, it is a process that can be more difficult, and take longer time, to complete than the one for first-generation reforms. In the case of Mozambique, four factors seem to impede the conduct of this process.

29. **First, Mozambique's recent past.** It is useful to recall that Mozambique is still in the midst of transition toward a market economy after a very long period during which, from the era of Portuguese colonization to the first decade of independence, state control was lauded over market forces. The civil war ended fewer than 10 years ago and its aftermath is still evident in many provinces. Consequently, there is a palpable fear of loss of control, mistrust, and even antagonism among the various social, political, and economic groups. Such fear undermines a coherent effort that is required to achieve overall success in administrative reforms.

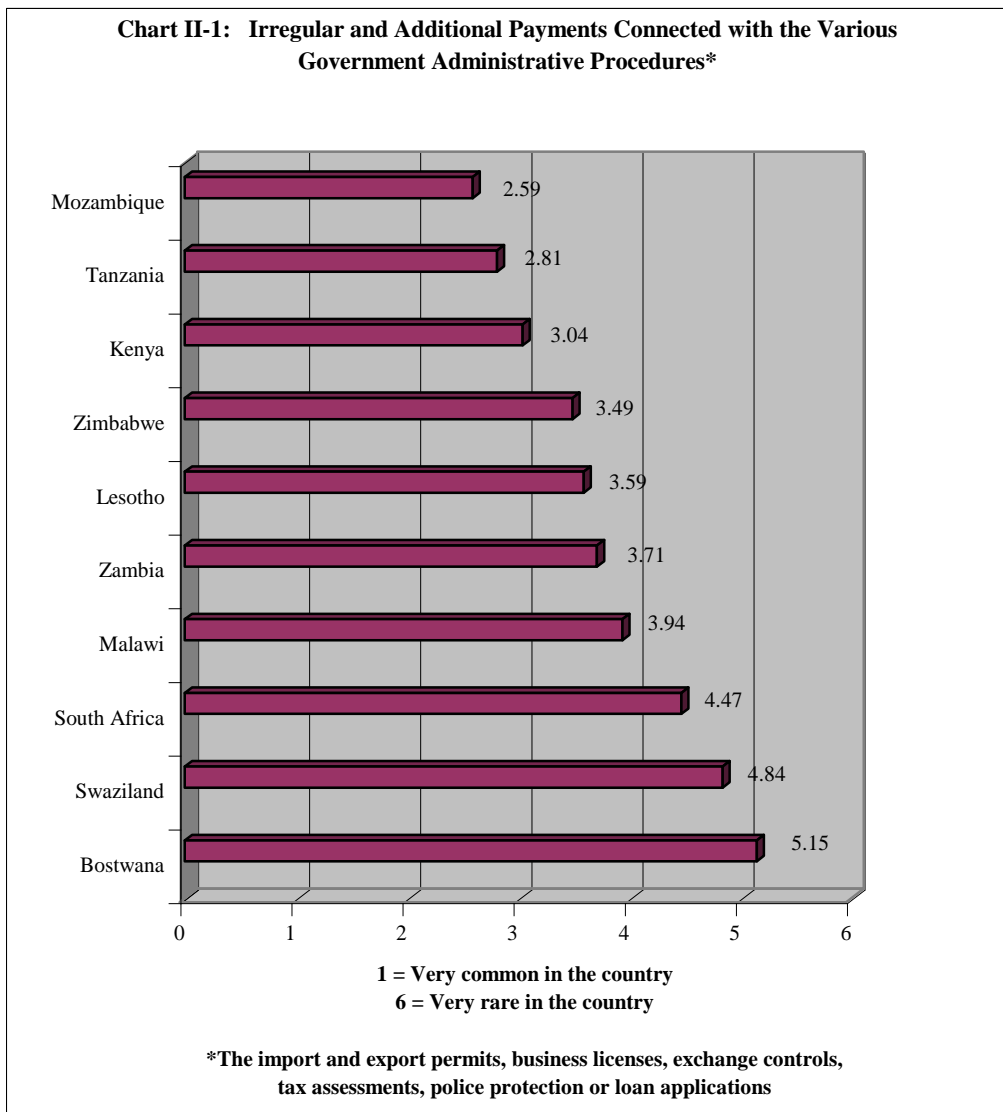
² The African Competitiveness Report 2000 survey found the time to clear customs for imports to be 18 days, and this was pretty much confirmed by the companies interviewed during the recent FIAS mission.

30. **Second, an unreformed civil service.** Removing administrative barriers requires civil service reform, implying fundamental changes in the government machinery, including its roles, functions, structure, and staff. It means that civil servants at all levels of government must change their mindset, style, and daily operations. The current government structures have not yet been reformed to reflect its new mandates and functions. A civil service law is still needed to stipulate selection and promotion criteria and the rights and obligations of civil servants. The civil service salary system needs to be reformed to attract and retain high-quality people. Most of all, the mindset and style of civil servants have to be changed according to the new role of the Government. These reforms are just beginning and will take some time before they are embraced by society.

31. **Third, a weak and protected private sector.** The role currently played by domestic private entrepreneurs seems limited because of the low level of private sector development, the absence of a liberal tradition and, perhaps, the continued division among the business communities by size and investment origins. In general, the domestic private sector is not fully prepared for economic opening and international competition. Many still prefer and press for state protection. Deregulation and procedural reforms sometimes raise a fear of radical changes in the status quo and loss of protection.

32. **Last but not least, an endemic corruption.** Unfortunately, corruption remains high in Mozambique as reflected by several international surveys. The Corruption Perceptions Index (CPI) 2000, prepared by Transparency International, placed Mozambique in 81st place among 90 countries surveyed, behind most of its neighboring countries such as South Africa, Tanzania, Zambia, and Zimbabwe.³ This level of corruption is consistent with the findings of the ACR 2000 survey (see chart II-1) and those of the FIAS mission interviews with the private sector –both foreign and local. As in most other places in the world, corruption in Mozambique is an outcome of a system that features monopolistic controls, discretionary rules and regulations, and lack of accountability by government agencies. In return, corruption has impeded improvements of the system, as civil servants with vested interests do not sincerely support changes. Therefore, anti-corruption and anti-bureaucracy battles go hand in hand, and the effort to simplify and streamline the investment procedures will go a long way to supporting the elimination of corruption and civil service reform.

³ For a summary of the CPI 2000, please see TI's website at: <<http://www.transparency.org/documents/cpi/bps.html>>.



Source: African Competitiveness Report 2000

E. The Need to Strengthen the Reform Process

33. The brief reference to these difficult challenges serves to illustrate that the Government of Mozambique deserves all the credit for its courage and determination to persist in the course of removing administrative barriers to investors. The progress achieved so far has been significant, as reflected by the macroeconomic performance and the FDI inflows directed to the country over the past few years. However, to sustain these results the Government of Mozambique has to manage to overcome the fundamental difficulties and reinforce the pace of the reforms. To do so, the Government will need to improve the strategy to address more effectively at the weaknesses and missing parts in the existing process.

34. Many studies have emphasized that the weakness of implementation capacity of the executing agencies at the lower levels to be at least partially responsible for the lack of progress on the ground.⁴ Many have emphasized the need for continued education, training and institutional capacity building. While we agree with these findings, there is also an important requirement if the country is to succeed in the next stages of the reform of investment procedures: it is to strengthen the political will and support for the reforms at the highest levels of the Government. A view of the process in the past few years indicates the following weaknesses:

- ***Lack of a strong will that is shared by all political parties.*** Although there has been a desire at the high level to remove administrative barriers, such a desire has not been translated into a coherent commitment shared by all political parties including the responsible ministries and executing agencies at all levels. The 1997 Action Plan, developed by the MIC and CTA and presented to the private sector conference that year, was not thoroughly discussed by the various responsible ministries and agencies; nor was it formally endorsed by the Government. As a result, its implementation has been only half-hearted at the best, without the full ownership, support and participation of all responsible ministries and agencies.
- ***Lack of a strong will to follow through the issues and recommendations collected from the various studies and conferences.*** There have been a lot of studies, conferences, workshops and even “action plans,” but there has not been enough emphasis on the actual implementation and results. The annual private sector conferences (PSC), while providing a useful forum for public-private sector dialogue, have not led to effective government actions in response to the raised concerns and suggestions. Many of the important issues raised at the first PSC, and again at the subsequent ones, are still not resolved by the responsive ministries and agencies. This lack of responsive follow-up efforts starts to hurt the confidence of the private sector in the sincerity and capability of the government. If not reversed, the trend could seriously undermine the reform process underway, and the public-private partnership
- ***Lack of a strong will to address the most difficult issues at the policy level.*** Problems for investors have persisted or even become worse in some areas because they have not been addressed by the policies that underlie them. Changes to laws and regulation that fail to address the specific policy problems can become cosmetic. The “flagship strategy,” which exempts a handful of large projects from many of the required procedures fails to help the majority of investors as they have to face every single one of the procedures and suffer through all the bureaucratic impediments. Staff training and other institutional capacity-building efforts at operational levels have not been particularly useful in many places because they lack clear policy direction and training purposes.

⁴ UNIDO Project Activities Related to Regulatory Environment in Zambézia and Sofala Provinces, May 2000; GTZ Inception Report, “Development of the Private Sector in Sofala Province Opportunities, Constraints & Scope for Policy Intervention; August 2000.

- ***Lack of strong civil service reform.*** Mozambique faces an urgent need of a comprehensive civil service reform, a process that has just started in the country. In all procedure areas examined, the investment process is hindered by the fundamental weaknesses in the current civil service system. Implementation problems are related to the overlapping structure of government institutions and lack of clarity of responsibility and accountability. There is a widespread “passive resistance” from unmotivated executing agencies and officials. Moreover, we are told that corruption is found at all operational levels. These problems cannot be resolved by reforming investment procedural only; rather, they require the Government to speed up civil service reforms, and to allow the two processes to support and reinforce each other in the implementation course.

35. Removing administrative barriers proves to be difficult in most countries because it requires many parties to work together and it involves behavioral changes of institutions and people; and Mozambique has not been an exception since 1996. Yet, administrative reforms are inevitable if the Government is committed to improve the investment climate and should accompany policy and legal changes. Moreover, administrative reforms, although difficult, are within the government’s power to undertake if there is a political will. They have retained the attention of many governments around the world, including in Africa.⁵

36. Many countries have done administrative studies to diagnose the problems. More and more have now focused on how to implement the needed reforms to remove the administrative barriers. Chart II-2 uses the experience of many countries to illustrate the complexity of the task of implementation, and offers a four-step process that will usually be required to yield results.

- ***Step One – Building a Will.*** This is the first and foremost step toward success and should include the strong support of both political and business leaders. Successful countries have benefited from the leadership of President or Prime Minister, in this process. This supra-ministerial support is needed because removing administrative barriers is an inter-ministerial effort, involving a large number of government agencies. Therefore, a clear signal and example from the top are necessary to convince government officials at all levels to effectively implement the reforms. The participation of the private sector is essential because private investors are the ultimate users of the system. Public/private forum or task forces are generally seen as useful in the process.
- ***Step Two – Action Planning.*** The political will, once built, should lead to strategic planning. This should be a process that engages all key parties in the public and private sectors. It should be a process through which goals must be prioritized, targets and timetables clearly set, and responsible players clearly designated. The outcome of the planning could be in the form of an agreed Action Plan.

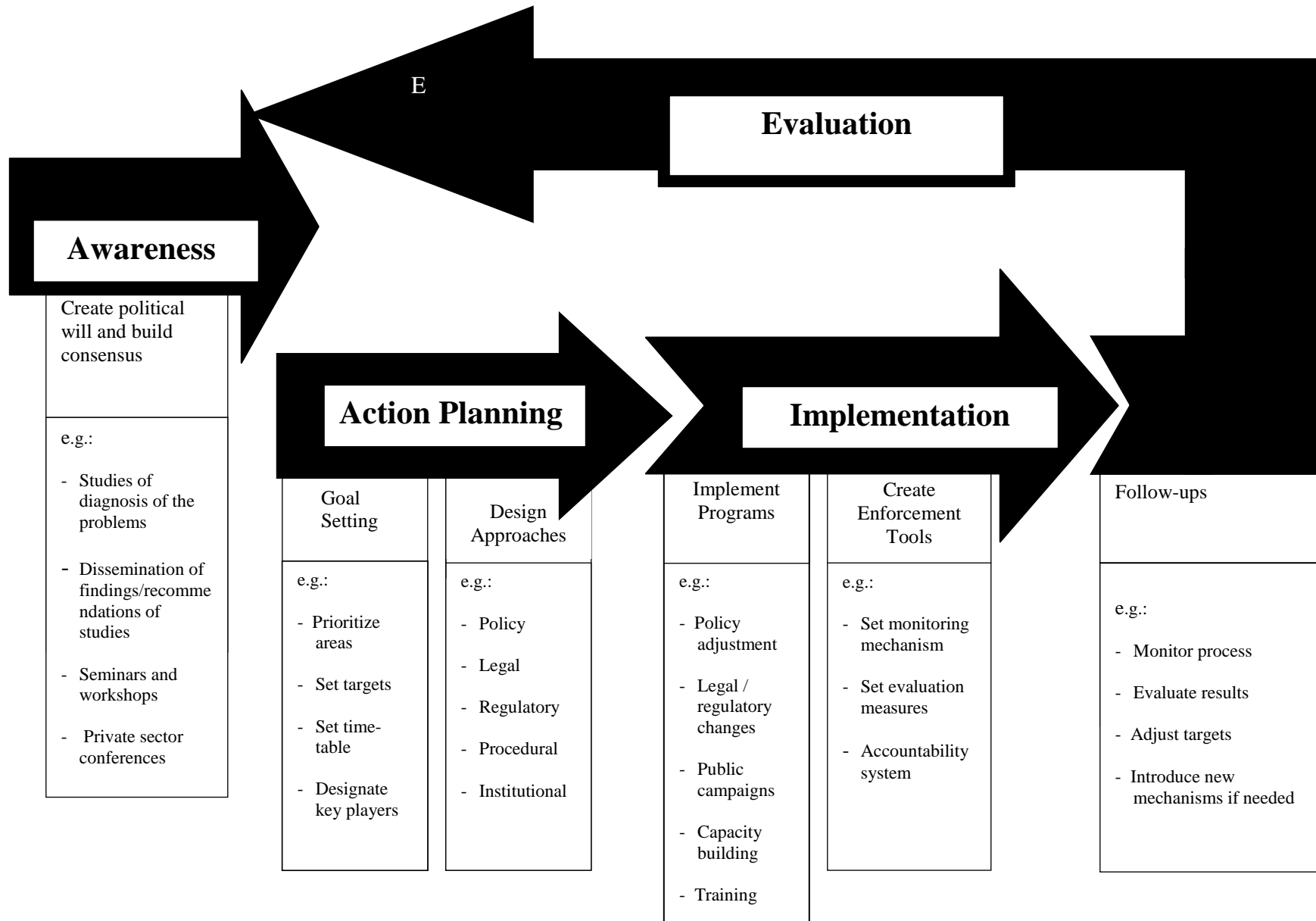
⁵ For a review, see FIAS Occasional Paper, No. 14, “Administrative Barriers to Foreign Investment” by James J. Emery, Mel in T. Spence, Jr. Louis T. Wells Jr. and Timothy S. Buehrer, 2000.

- ***Step Three – Implementation.*** The formulation of the Action Plan needs to be followed by its implementation, which involves committed efforts by various parties and interweaving the components of policy, legal, and institutional changes. At the same time, enforcement tools must be selected to monitor and evaluate the implementation process.
- ***Step Four – Monitoring, evaluation and adjustment.*** The implementation should be monitored to evaluate the results and the process and to adjust targets and strategies if needed. In the end, positive results will feed back into the general political will, and will fasten efforts for more reforms and more results, thus entering into a virtuous cycle.

37. The experience of FIAS around the world has shown that most countries are able to carry out, with different degree of success, the first two phases. Over the past few years, the importance of administrative barriers in the business climate has retained the attention of most policy makers and, thus, benefit from political support. Donors and international financial institutions have also been supportive to administrative reforms. The formulation and adoption of the action plan are generally the result of this initial political support.

38. The last two phases -- implementation and monitoring/evaluation/adjustment have been more difficult to achieve because they require more than a punctual attention from the authorities. They need a prolonged effort, at different levels, and a series of legal and institutional reforms as well as changes in mentality and behavior. These changes need time and sustained efforts. Mechanisms have to be found to disseminate the proposed changes and internalize the changes within the various government agencies. As in all reforms, potential losers will attempt to preserve the status quo. Positive results are therefore not necessarily immediate and reformers can become frustrated over time. Finally, the administration and public agencies are often reluctant to open their processes to outsiders, including the private sector.

CHART II-2: THE ADMINISTRATIVE REFORM PROCESS CYCLE



CHAPTER III

REMAINING CONCERNS IN SPECIFIC AREAS: ANALYSIS AND RECOMMENDATIONS

39. To help the Government to prioritize the needs of reforms, this chapter focuses on the procedural areas in which major concerns of investors remain. As mentioned earlier, most investors remain frustrated in their efforts to access land and to hire expatriate workers. They also face significant problems in their import/export administrative efforts, despite the major custom reform implemented over the past few years. These areas will retain our primary attention. Among the other issues are the administrative procedures related to domestic labor, business licensing, and (ex post) site inspections. The order of presentation will follow the concerns raised by the private sector.

40. Unlike the 1996 report, which took a snapshot of the investment procedures to highlight the difficulties encountered by investors, this study makes an additional effort to trace the roots of the problems currently prevailing in order to find solutions. As will be seen in the specific discussions below, most problems identified have complex policy, legal, and institutional implications, and thus, must be addressed accordingly. To the largest extent possible, recommendations provided herein are based on both the country's needs and relevant international experience and best practices.

A. Access to Land

1. Progress Since 1996

41. When the FIAS study was conducted in 1996, the difficulty, unpredictability, and cost of obtaining land in Mozambique were collectively regarded as “one of the worst problems facing investors and businesses.”⁶ Four issues were identified then:

- (a) The procedures provided in Laws 6/79 and 1/86, and Decree 16/87, which governed the acquisition and disposition of land use rights, were regarded as cumbersome and time-consuming.
- (b) The human and technical resource constraints in the land registry service (DINAGECA, the *Direcção Nacional de Geografia e Cadastro*) at both the national and provincial levels resulted in delays and errors in the attribution of land use rights. The provincial land registry services failed to respond efficiently to requests for services, and attribution of the same parcel to more than one person was not uncommon.

⁶ *Mozambique: Administrative Barriers to Investment—The Red Tape Analysis*. FIAS, November 1996; p 49.

(c) The unreliability of the national and local land registries were barriers to investment because they significantly raised the level of risk for national and foreign investors alike. Unfortunately, the costs of diligence check of land ownership records were high.

(d) The problems were similar for urban and rural lands.

42. The legislative landscape has changed significantly since the 1996 study. Laws 6/79 and 1/86, which formerly governed rights to use land, were revoked and replaced by Law 19/97 (the land law); and Decree 16/87, which formerly regulated the attribution of rights to use land, was revoked and replaced by Decree 66/98 (the land regulations). In some respects, the land law and the land regulation have clarified ambiguities that had troubled investors under previous legislation. In particular, when Law 6/79 was in effect, it was common belief (though incorrect as a fact of law) that foreign investors needed Mozambican partners in order to obtain land concessions in Mozambique. Under the new law, that misinterpretation is no longer possible.

43. In the meantime, the government has aggressively pursued institutional strengthening and capacity building. DINAGECA has enjoyed significant financial and technical assistance from a variety of donors, notably the Swedish cooperation agency ASDI, to train personnel, introduce modern mapping techniques, and improve the land registration system.

44. The physical process of surveying land, formerly reserved to DINAGECA, is now open to registered, private land surveyors. The number of registered surveyors is still small but growing. Foreign survey companies, which cannot directly serve the market, can be subcontracted by domestic surveyors for special technical purposes. The possibility of hiring private surveyors has helped to diminish a bottleneck in the land attribution process, at least in the southern region.

2. Outstanding Concerns, November 2000

45. Notwithstanding the important initiatives made in the last few years, the delays, unpredictability, and high cost of obtaining land in Mozambique remain some of the most vexing problems for investors, especially for those with greenfield projects. In fact, because the demand for land has increased substantially while the land attribution process has not improved, investors are even more anxious today than they were in 1996. Investors are particularly frustrated by the rent-seeking behavior of persons involved in attributing land.

46. In Mozambique, all land belongs to the State and, as a matter of constitutional principle; it cannot be sold or in any way transacted, mortgaged, or otherwise given as security. However, the law allows the State to grant land use concessions to individuals for up to 50 years, and they are renewable for another 50 years. Licensing fees must be

paid when concessions are granted but they are quite small (see annex to the land regulations) and remain much lower than the amounts charged by DINAGECA for services in the course of the land attribution process.⁷ Once a concession is granted, the use of the land is subject to a small annual tax.⁸ An important restriction is that land users are not allowed to transfer their right to a third party without government approval, although the law allows the transfer of any property built on the land to be freely transferred to third parties.⁹

47. The difficulty for the investor begins even before applying for a concession. Although investors may see plenty of land, much of it is not available. Records on available land either do not exist or they are not readily accessible. Often an investor who has identified a plot suitable for his investment would be told that the plot already belongs to someone else. The investor then must either find and negotiate with that “someone,” or look for an alternative plot. In most cases, the “someone” has to be found outside the formal process, and has acquired the plot only a short while earlier by abusing his access to inside information.

48. Another complaint from private investors is that the process of granting concessions is highly complicated. The complete process includes locating, diligence, describing, planning the use of land, and posting a plot on it and, at each step, it involves decisions and actions by a plethora of participants, including local communities, district administrators, the local DINAGECA representatives, ministries and, in most cases, the governor of the province. In practice, there is little transparency or consistency in the processing of information, and it is not always clear to applicants how they should proceed. A single applicant may have to supply the same information repeatedly to different government authorities, and applicants in similar situations may be told to supply different information. Legally incomplete applications may be accepted, and complete ones rejected. It is not rare that the same applicant is given different instructions by different people in the same government department.

49. When the investor obtained his/her concession, it is only on a provisional basis. He must then fulfill all or at least some part of their approved land use plan within the legal timeframe—two years for foreigners, five for nationals. In addition, article 30(2) of the land regulations requires that land granted pursuant to a provisional authorization must be demarcated within one year. Failure to demarcate may lead to grant expiration,

⁷ The fee at the time of provisional authorization is less than US\$35 [dollar sign inserted. OK? TA] at current exchange rates. Additional fees at the time of definitive authorization are half that amount.

⁸ This annual tax varies depending on region and other variables (e.g., nature of use, nationality of holder). It was updated in October 1999, and now, for example, a foreign investor in Maputo Province holding 500 hectares for industrial use would pay an annual tax equivalent to approximately US\$5.15 per hectare.

⁹ Outside the cities, the question of whether land may be legally transferred without official approval depends on whether the land has a *prédio urbano* (literally, an urban building) on it. The legal concept of a *prédio urbano* is that the income related to it depends on the building itself rather than on the land on which it stands. Land on which *prédios urbanos* have been erected may be transferred without approval, even in rural areas. The transfer of the building is said to “support” the transfer of the land. Note that it is not clear under the law what the limits to the proportional relationship are between the size of the plot and the economic value of the *prédio urbano*. Indeed, while the principle of proportionality may be implied in the law, and is reportedly applied in practice, it is not given form in any clear or unique standard.

although the holder may apply for a 3-month extension. It is only thereafter that the investor is entitled to a definitive concession, and to a title that evidences the rights attendant thereto.

50. It is legitimate that time limits be imposed to investors. However, obtaining various permits and licenses at the construction stage also involves multiple parties and can be extremely frustrating and source of substantial delays. As a result, investors often cannot begin their projects within the deadlines, and their concessions expire. When they seek to renew their concessions, they are subject to the discretion of the relevant authorities as reported by many companies interviewed by FIAS.

51. The land law and the land regulations provide some principles to guide the investor in his process of securing land for “economic activity.” Article 24 of the land regulations requires that investors prepare a project proposal with a detailed description of how they plan to use the land (*plano de exploração*). The plan must be submitted to the ministry that supervises the relevant field of economic activity, and the ministry must issue a favorable opinion of the plan. That approval is then joined to the balance of the applicant’s submission to the provincial representatives of DINAGECA. Article 25 requires the provincial registry services, the local administrative authorities, and the local community to jointly identify appropriate sites for a private investment. The article requires that the results of this joint exercise be recorded in a descriptive memorandum as part of the land application. In practice those procedural requirements have been largely ignored, perhaps because they remain highly complex.

52. An essential principle of the land law --the respect of “prior rights” to land, whether or not such rights have been registered—is also source of severe delays in the process to acquire a land concession.¹⁰ This principle was intended to protect the interests of rural, small-parcel holders and communities, as well as other citizens of limited means or education who cannot easily navigate the process of obtaining formal title to land. Accordingly, article 27 of the land regulations requires that the land attribution process include a “consultation” with the local community to determine whether an area identified by an investor is subject to any land rights acquired by virtue of occupation. The results of this consultation must be drawn up in writing, and signed by at least three but no more than nine representatives of the local community as well as the holders of the use rights of all neighboring sites. If the consultation finds that an area is subject to some prior rights, investors are supposed to agree to a “partnership” (*parceria*) with the holders of those rights, and that agreement is supposed to be drawn up in writing. The district administration in turn is supposed to base its opinion (*parecer*) of the investor’s application for land on the results of the consultation. Investors must include these documents in their application.

53. All these complicated procedures and requirements explain the frustration of most investors. According to the investors interviewed by FIAS, the entire process of obtaining land takes 2–3 years. Moreover, the complexity and discretion built into the

¹⁰. Nationals can acquire rights by using land for at least 10 years in good faith. However, the land law does not protect squatters, poor or rich.

system provide opportunities for rent-seeking behavior by those who are in the position to give or withhold approvals. This adds further delays and costs to the process and creates an unstable and non-secure legal environment characterized by:¹¹

- ***High risk and insecurity.*** In practice, investors may find it impossible to go through the required “consultation” process, because it takes too much time and involves too much uncertainty. Some investors have simply ignored the requirement of consulting the local community, running the risk that their titles can be challenged by anyone with a prior interest, at least for some period of time. In other instances, investors have obtained an approval from the district administrator under the condition that the approval is “subject to the interests of the population.” Investors who have gone ahead with their projects on the basis of such a conditional approval are not immune of future legal challenges.
- ***The development of a black market with inflated prices of land concessions.*** Although the law strictly limits private trade in land rights, a black market for these rights has been existing over the past few years. Currently, the rights to use land are granted by the state without significant cost to the recipients. In practice, some individuals can use their power and influence to ensure that they, their relatives, or their business associates receive the land use right. Then, they can offer them to third parties at a price that reflects the scarcity value of land, or they can simply hold the land for future speculation. Thus, by treating a scarce resource as a free good, the State has inadvertently permitted and encouraged the growth of a black market.

3. Analysis and Recommendations

54. There is no doubt that the existing system is seriously flawed. Serious investors are discouraged at the benefit of speculators and rent-seekers. The time required (easily up to 3 years) to acquire and secure a land concession is far too long. The transaction costs are extremely high, which imposes not only heavy financial burdens on investors, but also unpredictability, and prevent the development of long term investment planning. Today, investors are terribly frustrated—only the most persistent ones or those with personal connections proceed. This situation is somewhat paradoxical because Mozambique is a land-rich country. There is plentiful, good land for farming and commercial development, and land should be Mozambique’s largest capital asset.

55. Land distribution and use are among the most difficult policy decisions for developing countries to make because they are socially and politically sensitive. In Mozambique, the government would face several difficult decisions in tackling the land

¹¹. The Minister of Agriculture and Rural Development reportedly said at a seminar on the national sector-wide agricultural program (PROAGRI), held 1–3 November 2000, that the land attribution process should not take more than 3 months, and that it was DINAGECA’s responsibility to put mechanisms in place to ensure that that time frame was followed. The ministry and the responsible authority yet need to follow up with specific measures to ensure the investors how this could happen.

problem. Nevertheless, two directions for reforms are proposed below with a brief summary of our main recommendations at the end.

a. Encouraging a Land Market by Removing Distortions

56. At the outset, it is worth underscoring that encouraging a land market does not necessarily mean that the government has to sell land and revokes the Constitutional Right of State ownership. The provision that allows private citizens the rights to long-term use for up to 50 years and renewable, should be sufficient for most investors as proved by the experience in many industrialized countries, including Hong Kong, Singapore, and Switzerland. Recently, many developing and transitional economies have aggressively encouraged private investment while simultaneously maintaining state ownership of land. This has occurred in Malawi, Zambia, and South Africa (the center of Johannesburg); and in Vietnam, China, and Mongolia. These countries have moved actively to build a functioning, long-term lease system to meet private investors' need for land.

57. Although long-term lease regimes vary from country to country depending on the political, legal, and economic conditions, a number of important principles are shared by countries where such a system has worked effectively to serve the market economy. Box III-1 provides a summary of these principles.

Box III-1: Principles of a Market-Oriented, Long-term Land Lease System

Although all countries have to design a system according to their respective political, legal, and socio-economic traditions, a good long-term lease system should reflect the following important principles:

- ***Clear and sufficient duration of leases.*** Most countries allow 30–90 years for a long-term lease; the less developed the land, the longer the terms that tend to be allowed.
- ***Transferability of the lease.*** Distinctly from a short-term lease, a long-term lease is typically transferable to a third party, particularly to lenders as mortgaged property.
- ***Inclusion and protection of lenders' rights and interests.*** Because of the financial feasibility of a long-term lease, the contract typically includes the lender as the third party and allows the lender to foreclose on the mortgaged property, and to sell and transfer the leasehold to third parties.
- ***The lessee's right to design and develop the use of the land within the legal framework*** (e.g., in conformity with zoning, environmental, and building regulations). This includes the freedom to adjust project designs and to sublease. Restrictions on such rights imposed by lessors must be clearly laid out in contracts and would reduce the “use value” of the leased land.
- ***The lessee's right to property built on the leased land during the lease term,*** and the right to fair compensation for the property by the end of the term.

58. What Mozambique needs is further development of the concept and practice of long-term land use rights and to build up a functional long-term lease system that would

serve the interests of investors and the country. To succeed in developing a market-oriented long-term lease system, the government will need to recognize several major distortions in the present system and explore ways to remove them by learning from international best practices.

59. *The first recommendation is that land should not to be given away free to those who require it for “economic purposes.”* Land concessions are currently given for an insignificant price, regardless of their intended purpose and without any relation to their eventual market value. This practice ignores the fact that long-term land use rights are valuable and most serious investors would be willing to pay for them. Granting land concession rights to a price closer to their market value would not only provide an additional source of income to the State, but would also make redundant the existing black market. The black market hurts investors because they pay inflated prices for land, and it benefits primarily those who abuse their power and practice land speculation.

60. There exist several market-oriented mechanisms to introduce a system in which land concessions will be granted to a price closer to their market value. It is proposed that *public auctions be considered by the authorities.* A key problem in the country today is that the distribution of land depends entirely on administrative mechanisms and the process lacks transparency and efficiency. The experience in many countries has shown that public auctions are capable of providing transparent rules and procedures and so prevent bureaucratic delays and corruption. Box III-2 gives three successful examples of this practice.

Box III-2: Experiences with Public Land Auctions

In Hong Kong, auction of the so-called “crown land” to private investors was a significant source of government revenue for many years. Hong Kong auctioned crown land on long-term lease basis only. In Singapore, the government has also prepared and auctioned industrial premises to investors as a way to enhance the productivity of limited industrial land and to encourage strategic investors.

In recent years, some countries have begun to recognize public auctions as a useful mechanism to orderly attribute public land to the private sector, and as a mechanism for that purpose, to conduct an auction on the market value of land and its use. In Egypt, for example, the acute shortage of usable land and state domination of land have been a serious bottleneck to investors for many years. In the late 1990s, Egypt’s Tourism Development Authority conducted an experimental public auction of land on the Red Sea for long-term resort development contracts. This experiment yielded positive results, and investors and developers both found the process to be fast and transparent, and by all accounts, the government received more money for the land than it originally expected.

61. *The second recommendation is that the transfer of the long-term land use rights should become more transparent.* Today, the system limits transferability of long-term land use rights as land users cannot use long-term use rights as collateral for banking credits or transfer the use rights to other users without the authorization from the government. This lack of fluidity has hampered the efficient use of land as well as the

development of financial markets. In countries in which the market principle works, the laws typically allow the use of long-term leases as financing instruments as well as transferability of long-term leases to other users.

b. Streamlining the Land Approval Process

62. Investors who require land are subject to a complex and time-consuming approval process and encounters with numerous central and local authorities. To amend the process, the government needs to reassess the multiple approvals that currently burden the process, and priority should be given to eliminating the approvals that are unnecessary and redundant. For instance, the requirement for formal “opinions” from line ministries appears to serve little sensible purpose, especially considering that all investment projects have already been screened several times.¹² Redundant approval requirements as such, once identified, should be dropped immediately.

63. Once the government has streamlined the existing system, it should make sure that the remaining legitimate approvals and procedures be effectively processed and enforced through an efficient legal and institutional framework. For instance, the government has a legitimate concern for ensuring that investment projects comply with environmental regulations, zoning plans, and cultural as well as historical traditions. As elsewhere in Africa, the Government of Mozambique has a particular interest to protect the rights of small farmers and the poorest citizens whose families have customarily lived on the land for several generations. Despite the justification of those concerns, the case-by-case project approval process followed by most administrative bodies is ineffective because it requires an important amount of human and financial resources as well as technical capacity.

64. To avoid such a burden, it is proposed that the government considers using alternative approaches that have been successfully implemented in other countries. The first alternative is to develop standards and zoning plans that provide clear guidance to prospective investors. Except for large and special cases, the majority of investors should simply be required to comply with the established standards and zoning plans, rather than to try to negotiate for special deals through a case-by-case approach. A second and complementary alternative for the authorities would be to outsource some of these activities to professional agencies with better technical capacity and wider experience (as it is actually done for land survey).

65. It has to be recognized that, at the present stage, Mozambique does not have the institutional capacity to perform effective land management and planning. According to DINAGECA, only about 1% of the agricultural land in Mozambique has been fully surveyed, and perhaps even less has been registered. Land records are few and scattered. Moreover, industrial zoning and spatial planning exists in only a few places. Maputo, for example, has no effective system for spatial planning, or at least nobody seems to be aware of it. Obtaining consent from local communities and neighbors for each investment project becomes an incredible time and financial drain on individual investors. In

¹² The issues of licensing is discussed in detail in Section E of this chapter.

practice, the rules and requirements are often ignored, and the original purpose of the laws is not effectively served.

66. To cope with the immediate need to attract investment while safeguarding important social and environment interests, the Government of Mozambique may wish to explore establishing industrial parks as a partial and short- to medium-term solution in the early stages of development. Industrial parks are popular because they help governments achieve several objectives. First, investors have access to land that has proper ownership titles or lease contracts. Second, industrial parks enable development within an overall geographic development plan that also considers the need to preserve land, natural and cultural heritages, and to protect the environment. Third, industrial parks house concentrated industrial infrastructure, and they provide investors with ready-to-use land. Fourth, industrial parks help simplify the bureaucratic procedures investors experience with all land-related approvals.

67. The popularity of industrial parks has been spreading in Mauritius, South Africa, Botswana, and Lesotho, where they have contributed significantly to addressing land and infrastructure constraints. Industrial parks have helped initiate manufacturing industries in designated areas and have prevented the concentration of industrial activities in areas where they should not be. Industrial zones have also encouraged industrial clustering, which has enabled similar industries to be situated near each other, and has fostered backward and forward linkages.

68. Developing an industrial park requires significant investment and expertise. Not all countries that have tried this approach have been successful, and almost all have followed a gradual approach of learning by doing. Considering the risks involved and the financial and human resource constraints most developing countries face, many governments have chosen to initiate with one or a few pilot projects, frequently using private management companies. More industrial parks can be established and developed once the pilot projects demonstrate their success.

c. Summary of Main Recommendations

69. In sum, the issues of land use, acquisition, and planning are complex but need to be addressed in priority if the government wants to encourage investment—and ensure Mozambique’s long-term economic development. A two-phase approach is proposed by FIAS in which the Government should first focus on a set of specific actions in the short to medium term before considering a global reform of its land policy in the longer term. Of course, the proposed short-term actions are aimed at paving the way for the long-term reforms.

70. FIAS offers the following recommendations for the short- to medium-term:

- ***Simplify the approval system by eliminating unnecessary requirements*** such as clearances by line ministries that are redundant and should be abandoned.

- ***Streamlined the neighborhood consultation requirement*** The involvement of provincial, municipal, and district authorities should be streamlined so that it would become easier for investors while effectively protecting the poor neighbor's rights. This may be achieved through an effective cooperation between investors and municipal and district authorities as requested by article 25 of the land regulations. In addition, the obligation to produce such a clearance should be time-bound and in case of non-answer the approval would be *automatically* delivered to the investor.
- ***Develop clearer criteria and procedures for allocating the use rights to state land.*** It is urgent that the government to review the process of state land distribution and establish operational principles and standards that could help curb corruption and prevent abuse of the system. One suggestion is that DINAGECA develop—and the provincial registry services apply— guidelines providing a summary of the procedures that are necessary for the revocation of use rights to land when those have not been used by the applicant.¹³ This might help free up land for new applicants.
- ***Speed up institutional reforms and remove institutional bottlenecks.*** This process will take time but the authorities can explore options to speed up institutional reform in DINAGECA and other public authorities. The government has essentially privatized the land survey process, it could do the same with other DINAGECA functions that are appropriate for private parties to carry out. It can also consider introducing incentive (management) mechanisms to make DINAGECA a service-oriented agency. Training has to be reinforced (partly through external support) to improve professional skills. An important action would be to advertise better the objectives and achievements of DINAGECA to demonstrate its efforts and improvements to the general public as well as to donor agencies that support them with financial and technical resources.
- ***Explore the possibility of developing industrial parks.*** As argued earlier, industrial parks have helped many developing and transitional economies to address their need for industrial land. Mozambique is just starting to experiment with industrial parks and could learn from success and failures in other countries.

71. In the long run, the government should be prepared to address the fundamental weaknesses in the current land system with a goal of promoting investment and long-term economic development. It may wish to address the following issues –the sooner, the better:

- ***Develop a functional long-term lease system.*** No changes to the constitution are required but policy makers will have to make a major decision, and legislators

¹³. For example, article 30(2) of the land regulations, which requires that land granted under provisional authorization be demarcated within one year. If the obligation to demarcate were effectively policed and the grants to persons who did not expediently demarcate were canceled, more land could be made available through legal channels.

will need to revise certain parts of the land laws and regulations. International best practices, which are summarized in Box III-1, suggest that a special attention should be given to ease the transferability of (long term) leases so that investors be able to use the lease titles as collateral. Of course, the transfer of leases should have to take place in a legal framework that guarantees the “right” use of the land after the transfer.

- ***Improve the land allocation and pricing system by using market-oriented mechanisms.*** The current system for allocating and pricing land, in which land concession is basically free, has been economically inefficient and administratively difficult, for both interested investors and executing authorities alike. Market mechanisms, such as a public auction, as is used in many other countries, should be seriously considered for the benefit of serious investors and the best allocation of public resources.
- ***Further develop the institutional capacity for proper land management and planning.*** Cadastral services, land registration, and industrial zoning are essential building blocks for a sound land management system that will support orderly industrialization and long-term economic development in Mozambique. Today, these building blocks remain extremely weak. It is therefore urgent that that authorities reinforce their efforts by allocating the necessary human and financial resources. In making such an effort, the government could draw lessons from international experiences and explore the technical assistance from available multilateral and bilateral sources.

B. Import Process

1. Progress Since 1996

72. In 1996, the government still heavily regulated import activities. Companies with import needs first had to register at the Ministry of Industry and Commerce by submitting detailed information and many formal documents. Registration was according to the class of goods (with 21 categories). Once a company was registered, it then had to apply for an import license by again submitting substantial documentation including evidences of compliance with tax regulations. Companies could only apply for an import license in the classes that were compatible with their registration. Once an import license was granted, it was valid for one year only. To renew a license, the application needed to be accompanied by certifications from the tax department, the Ministry of Finance and Planning, customs administration, and a bank.

73. Part of the problem was that there was no effective customs control in Mozambique. Prior to Independence, trade was primarily with Portugal and there was little trade between Mozambique and neighboring countries. During the civil war, massive amounts of goods were shipped across the borders by road (primarily from South

Africa) into Mozambique without any effective border control. In 1996, the government was in the midst of designing and developing a customs administrative system that would help reverse rampant smuggling and increase revenue collections.

74. As a complement to this global reform, FIAS recommendations focused on the need to simplify and streamline the process of import registration and licensing. FIAS also pointed out that the need to register as an importer and to obtain a license to import was redundant given that an investor had already registered as a company.

75. Since 1996, the government has moved aggressively to liberalize foreign trade, in conjunction with the joining of SADC agreement. The importer registration and importing licensing requirements have been eliminated. Tariff rates were lowered in 1996 and again in 1999. As a result, the duties currently applied to imports are 0 percent for essential goods, 2.5 percent for raw materials, 5 percent for capital goods (equipment and machinery), 7.5 percent for intermediate goods, and 35 percent for consumer goods. In order to comply with SADC protocols, Mozambique will modify its tariff rates again in 2001. Investors in general have little complaints about the tariff regime today, except regarding the classification of some raw materials versus intermediate goods.

76. The government has also moved quickly to establish a working system for customs administration based on international practices, with significant funding and technical support from donors including IMF, UNDP, and DFID. Among the most important steps taken have been the following:

- The issuance of several Decrees and administrative orders to provide a regulatory framework for import and export activities for the transition period (which should end at the end of 2003 with the adoption of the new Custom Code)(i.e., Decree 56/98 and Ministerial Diploma 206/98).
- The adoption of the concept of a single document (*Documento unico—DU*) in designing the new import procedures that are in practice today.
- The creation through a by-law of an administrative body, the UTRA (*Unidade Técnica de Reestruturação das Alfândegas*, Customs Restructuring Technical Unit), to handle institutional reforms and supervise daily operations of the customs service.
- The continued effort to prepare a new customs code, with a goal to further rationalize and modernize the customs system by 2003.

77. In addition, considering the lack of experience and capacity of the customs service, the government subcontracted two internationally credible companies to help implement the new system, i.e., the Intertek Testing Services International, ITSI, to conduct pre-shipment inspections; and the British Crown Agents to manage customs operations. Contracting the Crown Agents was intended to get the system up and running

quickly, to train the local staff, and eventually allow the government to take over the responsibilities in the future.

78. As a result, Mozambique today has an operating customs system that allows fast and simple procedures (i.e., the Simplified Single Document, DUS) for imports worth less than US\$500. For imports worth more than US\$500, the system requires more complicated procedures:

- Predeclaration (PD) and pre-payment of 15% duties and VAT—to be made by the importer or his duly authorized representative, using a DU, before the goods are shipped from the country of origin. The law requires a deposit payment of 15 percent of the estimated duties and VAT when the PD is submitted.
- Preshipment inspection—required by law for goods exceeding US\$2,500 in value and considered as “strategic.”
- Customs declaration on arrival—made by the importer or his duly authorized representative when the goods arrive at the border. The final declaration document is the DUC (i.e., the DU signed by the importer to confirm that the goods that have arrived correspond to those declared in the PD).
- Shipment inspection on arrival—conducted on a random basis by customs officers in collaboration with other relevant authorities (such as those in charge of health and animal products) at the border, or at the designated warehouse as currently applied. By law, any imported goods are subject to inspection by the customs authority to certify if goods entering the country are in accordance with the documents presented and, in certain cases, meet other regulations.
- Customs clearance—by customs authorities to ensure compliance with documentation, inspection (if applied), and payment of customs duties and VAT. After compliance, the goods are released for entry into Mozambique.

79. Two other important features have been introduced to strengthen the customs control. The first is the special role assigned to clearing agents (*despachante*), who are licensed professionals that assist companies in handling import procedures. Under the new legislation, these licensed agents have the right to sign the customs declaration documents (DUC) on behalf of importers. To obtain a *despachante* license, an individual must pass an examination in customs law and obtain a license card from MIC. The law says that a *despachante* can be also an individual importer or an in-house agent of an importing company. Currently, there are only about a dozen such clearing agents in the country.

80. The second feature is the Road Cargo Terminal (FRIGO). FRIGO is a warehouse facility near Maputo. Today, all imported goods transported into Mozambique by trucks must be stored at FRIGO until the duly required customs procedures are completed and the goods are authorized to be released. This requirement stems from the concern about

smuggling activities in the cross-border trucking business (mainly from South Africa), which has increased significantly in recent years and currently represents about 70 percent of all imports into Mozambique.¹⁴ Because there are no proper facilities at the border to check the cargoes, the government has resorted to using FRIGO as a temporary solution until a dry port at the border can be built. FRIGO is a private, monopolist operation that charges companies a warehouse fee on a daily basis. Currently, there is no legislation on land terminals and the government does not regulate FRIGO fees.

2. Major Concerns of Investors

81. The majority of investors recognize that the government is moving in the right direction to establish a customs regime to protect Mozambique from contraband and to collect state revenue. Many of those interviewed also gave the government credit for building a customs system practically from scratch in the past few years. However, investors almost unanimously agreed that there is an urgent need to further improve the operational system, especially the one that governs customs clearance for imports.

82. *Most companies interviewed were frustrated by long delays in the customs clearance process.* Currently, customs clearance takes 2–3 weeks on average according to the companies we interviewed. This is far too long considering that most investors operating in Mozambique depend on imports for machinery and equipment, parts and components, and raw materials. Export-oriented companies in particular depend on speedy importation procedures to maintain their everyday operations.

83. The reasons for the delays are different depending on whom you speak with. The customs service has complained about importers who fail to pay the proper duties. Companies interviewed by FIAS believe that delays are due to at least several other reasons related to the customs operation itself, including the following:

- ***Sophisticated systems but weak implementation capacity.*** The system based on the *documento unico* [DU] principle is still new and was designed in accordance with international best standards. Most Mozambican companies are not yet experienced with it and found it difficult to apply. Customs officers were often unable or unwilling to explain to companies what is missing in the documentation or why additional documentation is required. Investors complained that most customs officers lack technical capacity, see their job as policing rather than providing a service to companies; and have a strong tendency to suspect under-invoicing and under-reporting of merchandise. Also, many customs offices are poorly organized—documents are lost, mistakes are made, and clients are kept waiting or are turned away simply because “the person responsible is not in,” etc. Finally, demand for bribery is reported as a common practice.

¹⁴ It is estimated that about 16,000 trucks loaded with imports arrive from South Africa into Maputo per year. These include imported goods from the world that arrive in Durban and are loaded onto trucks for transport to Maputo.

- ***System design is overly rigid.*** The basic principle of the system is that each shipment must correspond to a PD and DUC. The system requires that the description of goods in the final declaration must completely agree with that in the PD, whereas the quantity may vary by no more than 5 percent from that given in the PD. This means that no partial shipments are allowed once a PD is submitted. When partial shipments are needed, the entire paperwork process has to be repeated. This means extra time and costs for importers. Alternatively, an importer may choose to pay the entire amount of the duty based on PD in advance, which is difficult for companies that have cash flow constraints. Investors point out that this rigidity does not work in the real market world, as it happens too often that not all goods declared on the PD are available or needed for delivery at the same time.
- ***Too many inspections.*** The preshipment inspections (PSI), which may cost to government about \$6 million per year, were introduced with the purpose of ensuring that imported goods met the quality standards and prices declared. They were also supposed to reduce inspections when the goods arrive at the port. At the present, however, PSI does not seem to reduce the number of inspections at arrival. Frequently, imports are inspected at the border, again at the warehouse, and even again at the destination after they have already been cleared at the entry port. Inspections appear to be discretionary and not always based on clear or generally understood criteria.

84. *Investors also complained about the high cost of importing.* Most investors found that import duties were reasonable, but that other costs related to importing procedures were very high.

- ***High deposit payment on duties and high penalties in case of late arrival or cancellation.*** Companies must pay 15 percent of the duty (and VAT) at the time of PD, which seriously constrains a company's cash flow. The PD is valid for 180 days. If the goods arrive after the 180-day limit, and the company fails to request to extend the validity of the PD, the deposit is forfeited. In cases in which an importer decides to cancel an importation, the PD deposit can be refunded, but there is a charge of 1.5 percent of the CIF value of the goods to be deducted from the deposit. Also, a written request has to be made to the customs post listed on the PD, and the repayment is made at the same location where the original deposit was paid. If the company fails to pay the deposit and goods arrive in the country without a valid PD, the company must pay a fine of 30 percent on the CIF value of the goods. This imposition can be very costly for companies whose markets are volatile and thus whose imports lists are being continuously or regularly adjusted.
- ***Other customs-related fees.*** The customs administration charges a service levy of 1 percent of the value of imported goods, regardless of whether the goods are exempt from duty. Also, if a company submits a PD at one customs post and wishes to clear the goods at another, it must request that the documents be

transferred by paying the related administrative costs—currently 1 million Meticaís (between US\$60 and \$70). These fees and payments, and other penalties mentioned above, can accumulate into a significant cost to a company.

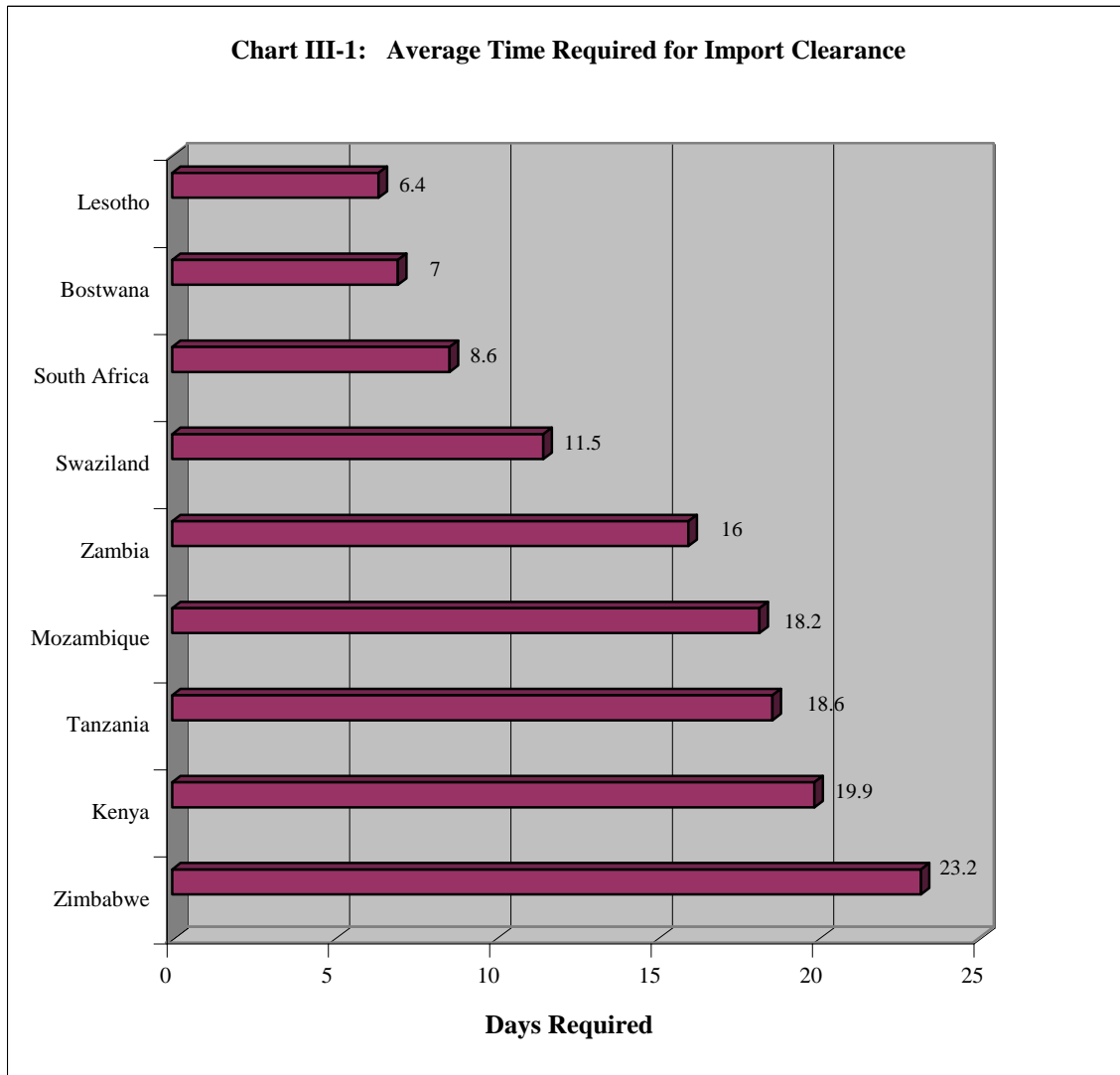
- ***The mandatory warehousing requirement.*** For imports coming in by road, FRIGO has become a nightmare in terms of time and costs involved in customs clearance. FRIGO reportedly operates with monopolistic power. It closes at 4:00 p.m.; it determines the warehouse fees (currently based on the value of the merchandise rather than the warehouse space the merchandise takes), and is subject to no regulatory control. Moreover, regardless of the reason for the delays and even with clear evidence of mistakes made by the customs authority, the warehousing charges are always the responsibility of companies. Companies reported sarcastically that customs delays had increased significantly since the warehousing with FRIGO became mandatory. This has led to suspicion that inspection delays were deliberate by collusion between FRIGO and some customs officials just to boost warehousing charges and to benefit the officials' pockets.
- ***The monopolistic behavior of the clearing agents (Despachantes).*** Although the law allows companies to process import paperwork themselves, the complexity and rigidity of the new system often requires companies to look for professional assistance. The system allows only licensed clearing agents to provide these services to ensure professional qualifications. However, there is a perception that the licensing process is overly restrictive and not transparent. Only a handful of despachantes have been licensed and importers complain about difficult access to them and the high cost of their services. Moreover, investors are concerned about a further shift toward a monopolistic practice of the despachantes, as the latter are preparing among themselves a consolidated new company, Despachantes Officiais SARL. The Ministerial Diploma 92/2000 seemed to allow the consolidation.

85. These administrative problems seem to contribute to the widespread practice of illegal imports. It was reported that an increased number of companies, that are disappointed and frustrated with the official system, are opting to use the services of well-connected middlemen who bring imports to the country unofficially. These middlemen charge companies a premium of 20–25 percent of the value of the goods, which often is much higher than the customs duties that would otherwise be paid. Still, companies turn to them for imports because can deliver orders fast and on time. This trend, if allowed to continue, will seriously undermine the foundation of the new system, and erode the tax base of state revenue.

3. Analysis and Recommendations

86. The customs system of Mozambique has improved significantly compared with the one that existed four years ago. However, the future of Mozambique's economy lies in the competitiveness of its private sector in the increasingly integrated world market. The speed and efficiency of getting the required capital goods, parts and components, and

raw materials across the borders are critical to Mozambican companies that have to compete with producers in neighboring countries. Today, the performance of Mozambique's customs service, while improving, continues to be poor in comparison with most other countries in the region (see Chart III-1). This implies that companies operating in Mozambican are at a great disadvantage in regional competition.



Source: African Competitiveness Report 2000

87. The poor performance of the customs service has also contributed to increase smuggling activities. The delays in port clearance and the irregular payments associated with the process, coupled with the general lack of border controls, have clearly driven companies away from the official system and towards the illegal imports.

88. To substantially improve the customs process, the Government should speed up the preparation of the Customs Code to further rationalize and improve the overall customs regime. This Code is expected to be ready in 2003.

89. In the meantime, the Government should make every effort to streamline the current procedures for imports, with a view to reducing the time and cost involved. There have been active discussions and exchanges between companies and the customs authority. The government has an ongoing program to improve the system and build up the institutional capacity supported by several international and bilateral organizations that have expertise in these areas. As mentioned earlier, it has also outsourced some of its activities to private companies. Therefore, FIAS recommendations are provided as additional inputs to the process already underway, and they are presented following the perceived importance to investors:

- ***Construct border warehousing facilities.*** This is seen as an urgent need because the only existing warehouse (FRIGO) is located 80 kilometers away from the border. This is clearly not a sensible solution for border control, even a temporary one, as intended by the customs service. There exists no systematic control of truck drivers on their way to FRIGO, which is an open door to corruption. Therefore, there is an urgent need to construct new warehousing facilities at various border posts, especially those between Mozambique and South Africa (most of goods transit through the new highway). Building a new warehouse facility should be possible in the immediate future, including private sector participation .
- ***Allow competition in warehousing and clearing agents services.*** Warehousing and clearing-agent services should be allowed for private competition under transparent regulatory rules. The benefits of trade liberalization cannot be maximized if imports remain costly for companies because of unprecedented charges by clearing agent services and warehouse. It is beyond the scope of this report, but there is a need to develop competitive rules and, an effective supervision mechanism, in these two crucial areas of the import process.
- ***Modify the system of PD to allow partial shipments.*** It is important for companies to have the flexibility of importing partial shipments in order to conduct businesses in an efficient way. The current system of PD is overly rigid because it fails to take into account the realistic need of companies to import only by partial shipments.
- ***Eliminate prepayments.*** The 15 percent duty deposit at the time a PD is issued imposes a burden on companies and is not justified by economic purposes. This deposit differs from international best practices. The government has recently indicated that the deposit could be cut to 10 percent in the near future and that it could be completely eliminated in three years. This is positive but the authorities should consider the immediate elimination of such constraint as it would provide the right signal to the private sector (a small fee can be introduced to deter less

serious importers). The impact of tax revenues should be limited since this deposit is only an advance payment on duties and VAT.

- ***Reduce other charges and penalties.*** The elimination of the 15 % deposit would automatically make redundant the cancellation charges (1.5 percent of the value of the imports). Other charges (e.g., the 1 percent customs service levy, the \$60–70 fee required for each transfer of the PD document among different customs points, etc.) are not fully justified and can add up to significant costs for investors. In fact, it is not clear how much of these collections actually go to the state and how much remains at customs as “off-budget.” These should be looked into by the government for the purpose of strengthening genuine sources of state revenue and disciplining public expenditures.
- ***Further streamline the procedures between the clearing agent and the preshipment inspection company.*** Although a DU may have been printed by a clearing agent (*despachante*) when goods were classified, the preshipment inspection company (ITS) has to prepare the paperwork again in a different form. It could be easier just to produce several copies of the initial form, fill and stamp it at each step.
- ***Reduce redundancy and discretionary behavior in the inspection process.*** It is not clear why goods already approved by PSI have to be inspected again when they arrive at the border and, sometimes, even when they arrive at the importer’s gate. The customs authority should look into the problem, eliminate any unnecessary inspections, and ensure that its staff understand and carry out the system properly.

90. Beyond the above recommended actions, it remains fundamental that the authorities, with the support of donors, continue to speed up institutional capacity building of custom administration. The customs body is still young. The majority of its 1,100 staff has been only recently recruited, without real experience, and little formal education. Professional training continues to be a priority. Aside from professional skills and the implementation of computerized systems, it is crucial that customs officers see themselves not only as economic guards and tax collectors, but also as facilitators for legitimate importers. It is their job to assist imports by normal businesses and to penalize *only* those who try to breach the laws and regulations.

91. The streamlining of administrative barriers and the introduction of competitive rules for clearing agents as well as warehouses would not only ease customs procedures but also create a more transparent administration. Like in all other administrative areas examined by FIAS, corruption undercuts the customs operations today and it erodes investors’ confidence in the system. Strengthening internal discipline and combating bribery must become a priority objective of governmental reform. The customs service is already making some efforts. As of June 2000, 460 disciplinary cases had been initiated, leading to 120 dismissals for dishonest behavior. Nevertheless, much more is required before the customs service can be fully respected by the majority of investors.

C. Employment of Expatriates

1. Progress Since 1996

92. Laws and regulations before 1996 restricted employment of expatriates. Companies that wished to hire foreign workers were required to prove that no Mozambicans were available to perform the work. If a company could obtain such evidence, it was then required to apply for approval of the expatriate labor contract from corresponding ministries, and from the Ministry of Finance if the monthly salary exceeded US\$1,000. Once ministerial approval was received, the company had to submit an application letter together with the intended contract to the Minister of labor at least 45 days before work was initiated. In addition, every January, three copies of a list describing every foreign worker's name, responsibilities, salary, and date of initiation of activity had to be submitted. The paradox was that there was no effective system to enforce control of these complicated procedures.

93. Since 1996, the government has introduced a number of laws and regulations to create a new regulatory framework for hiring expatriate workers. Through the stipulation of Decree 25/99 (Employment of Foreign Workers), some of the worst controls of the old system, such as line ministerial approvals for each expatriate labor contract, have been abandoned. Instead of simply restricting expatriate employment, the Decree also includes provisions that emphasize on-the-job training for local staff so that they can eventually take over the functions of expatriates.

94. In addition, through Decree 26/99, the government introduced a work visa for expatriates who intend to travel to Mozambique on business. The visa is valid for a single entry for a period of 30 days (which can be extended to 60 days).

95. Finally, in order to encourage investment in free zone areas, the government issued Decree 75/99 to allow a more liberal policy for hiring expatriates. According to this law, developers of free zones and companies located in them receive a 15% quota for authorization of expatriate hiring. There is no quota limit for senior managers. Moreover, expatriates can start to work in free zone enterprises before obtaining relevant authorization. The employer is given 45 days from the day that work commences to submit to the Ministry of Labor (MOL) the application for authorization. Authorization to work for a company with free zone status is valid for up to 7 years.

96. The system established by Decree 75/99, however, exists largely on paper rather than in practice. So far, with few exceptions (such as Mozal), no free zone functions in the country, and it is not clear how the regulations related to free zones are to be applied. Moreover, although the Decree allows a 15% quota for expatriate hiring, Article 2(1) of the Decree is not clear on whether hiring within the quota is completely automatic or still requires the procedures of approval.

2. Remaining Problems

97. As the inflow of immigrants from neighboring countries has increased in recent years—partly due to increased economic opportunities and partly due to poor border controls—there has been some increased pressure in Mozambique to protect domestic employment from foreigners. In the meantime, illegal trade, drug trafficking, money laundering, and other international crime activities have been on the rise, and this has caused the request for a stronger enforcement of immigration controls. These concerns have been reflected in the somewhat tightened control of the overall process of hiring foreign workers—which according to the companies interviewed, is even more difficult than it was 3–4 years ago.

98. As it is now, companies in Mozambique can contract foreign citizens only with prior authorization of the Ministry of Labor (MOL). This rule applies to directors, managers, delegates, partners, proxies, and representatives if they perform work and receive remuneration. It also applies to contracts for technical assistance, consulting, and subcontracting. Companies have complained that it is extremely difficult to obtain authorization from MOL. The process involves the following steps:

- The job must be advertised in a newspaper of national circulation for at least 10 days. Only if no local candidates respond to the ad, the investor can, and must request a declaration from the Employment Center, which confirms that the advertisement procedures have been completed. Working with the Employment Center takes another 10–15 days. Employment Center clearance allows a company to look for expatriate candidates and negotiate contracts.
- Once an expatriate candidate is identified, the company must apply to MOL for an expatriate work authorization. It must submit a letter (*requerimento*) to the MOL, attaching the Employment Center’s declaration, a Certificate of Ability, and a document detailing the candidate’s professional experience. In addition, the company must also submit an intended program for training local staff.
- After submission of the *requerimento*, MOL needs to obtain “opinions” both from workers’ union and the line ministry before it will issue its final decision and grant the authorization. This process can be extremely time-consuming and unpredictable. Companies reported that it could take up to several months if they are unwilling to pay the well-connected “facilitators.”
- MOL’s approval of a contract does not automatically lead to the issuance of a residence visa (DIRE) by the Immigration Authority. Investors must apply directly to the Immigration Authority for a DIRE, and the process is complicated and time-consuming, especially when it is done at the provincial level. It is not uncommon that immigration authorities for a DIRE reject expatriates under work

contracts already approved by MOL. A person who remains in the country without a valid DIRE is subject to severe fines (about US\$100 per day).

99. MOL authorization for an expatriate contract provides a time limit of no more than two years. By law (Decree 25/99), renewals are allowed if the company pays a renewal fee based on the set percentage of the salary mentioned in the contract.¹⁵ In reality, however, MOL officials often refuse to renew the authorization, arguing that the application for renewal indicates a failure to train local staff. Moreover, the law requires that labor unions be given the right to provide their consent to expatriate contract renewals. This often creates an awkward situation in which foreign managers, at the end of their contracts, have to ask for consent from their workers for continued stay. In general, renewing an expatriate's contract is much more difficult than hiring a new expatriate.

100. Some companies have sought facilitation by the national investment authority (CPI) during the initial project approval process, and have found that, in general, the process for initial contract authorization and visa application have eased to some extent. However, CPI cannot assist companies in the process of applying for renewals, and it is the latter process that proves to be the most difficult for all companies.

101. There seems to be a lot of confusion in the implementation of the system of "work visas." The work visa is supposed to accommodate the needs of those under short-term contracts. Such a need is common when companies want to bring to Mozambique technicians or accountants to perform short-term tasks. Some companies seem to have used it as a way to quickly bring needed expatriates into the country before authorization of long-term contracts and DIREs are obtained, similar to what they sometimes do for tourist visas. To discourage such a practice, Article 3 of Decree 26/99 gives MOL and immigration authorities the right to cancel a work visa or reject the application for authorization of a work contract, even if the expatriates involved may already be in the country. Implementation of this right reportedly has been erratic—those who are willing to pay relevant officials under the table can get away from the punishment, while those who are un-willing to pay "unofficially" suffer most.

102. Indeed, a common complaint by investors is on the unpredictability and high cost related to irregular payments. A survey conducted in the country reveals that 65% of large and small companies that use expatriates have had to make irregular payments in processing work permits for expatriates. Those who did not want to pay the authorities have to hire lawyers or specialized consultants to manage the process.¹⁶

¹⁵. The schedule of renewal fees is 7% for the first time, 10% for the second time, and 15% for the third time.

¹⁶. Information provided by CTA.

3. Analysis and Recommendations

103. The obstacles to expatriate hiring have exasperated all foreign companies visited by the FIAS team. The concern is shared among domestic companies as well, as they also want to benefit from the experience and expertise of expatriates. Companies point out that the general quality of domestic labor is very low, and the lack of local skilled workers and managers is a serious obstacle to companies that want to quickly become internationally competitive. Moreover, it was pointed out that due to the very small pool of domestic skilled labor, the salaries of the technical, managerial, and other professional staff have been driven up and are currently high. For this reason, the turnover of this qualified minority is high, as soon as they are trained in one place, they leave for another, having been presented with a better offer. Therefore, allowing skilled foreign employees is seen as a necessary supplement to the thin pool of skilled domestic employees.

104. Most companies, while understanding the government's need to support local staff, point out that the quickest and most effective way to train and upgrade domestic staff is through the hiring of experienced expatriates. Most expatriates bring with them the technical and managerial know-how, and thus provide opportunities for the on-site training to local employees. Thus, the overly restrictive policy toward expatriate employment appears harmful rather than one of serving the best interest of country—it works to constrain companies' ability to upgrade themselves, and to train more and better qualified local professionals.

105. It is also important for the government to understand that expatriate hiring is expensive to companies—the salary of a foreign worker is easily 3–5 times that of a local—and, for that reason, companies would usually not hire the expatriates unless there is an absolute need to do so.¹⁷ In fact, for the reason of reducing costs, most companies around the world using expatriates have on-site training programs for local employees, with the objective of reducing the number of expatriates as quickly as possible.

106. The especially difficult process involved in renewing work permits and visa needs to be addressed. First of all, a maximum of two years for initial contracts may not be sufficient to meet the need of many companies. Secondly, although companies have sometimes promised to reduce the use of expatriates at the initial stage of a project, they may face unexpected difficulties in upgrading the local staff or simply have to cope with a more rapid business growth than was anticipated. It is proposed that more flexibility should be given to companies, allowing them to hire expatriates according to their business needs, and to keep encouraging on-the-job training.

107. Concerns about illegal immigrants associated with international crime activities are legitimate, but they should be dealt with through strengthened security and police measures, not through restrictions on expatriate work permits. Everywhere in the world, the use of the latter measure tends to penalize legitimate investors while failing to prevent real criminals. Also, if Mozambique is concerned about immigrants from certain

¹⁷. Of course, some small, family oriented foreign companies could be exceptions, but those are not the majority of the investors.

neighboring countries for social and security reasons, it does not need to apply a punitive policy to immigrants from all source countries. In this case, a discriminative approach, which is not uncommon around the world, may better serve that purpose.

108. In the past decade, more countries in the region and the world started to re-examine their need for expatriate employment and to relax restrictive policies and programs so that those can respond better to their own interests and needs. The general trend has been to remove or reduce restrictions, simplify the procedures for issuing work permits, and encourage on-site training. Mozambique can follow the example of Malawi, where expatriates' entry used to be a major issue. The government effectively made it easier for expatriates to enter by exempting 46 countries, including most industrialized countries and many of its neighbors (see Table III-1), from visa requirements. Citizens of those countries can legally enter Malawi under a visitor's permit, which is issued without any bureaucratic hassle. In Tanzania, the government eased similar problems by introducing an automatic approval system for expatriate hiring, based on the specified ratio of foreign to domestic employees.

Table III-1: Countries Exempt from Obtaining a Visa to Malawi

Australia	Iceland	Singapore
Bahamas	Israel	Solomon Islands
Bangladesh	Ireland	South Africa
Barbados	Jamaica	Sri Lanka
Belgium	Lesotho	Swaziland
Botswana	Luxembourg	Sweden
Brunei	Malaysia	Tanzania
Canada	Malta	Tonga
Cyprus	Mauritius	Trinidad & Tobago
Fiji	Netherlands	United Kingdom
Finland	New Zealand	United States of America
Gambia	Norway	Zambia
Germany	Portugal	Zimbabwe
Ghana	San Marino	
Guyana	Sierra Leone	

109. Based on its own interest, the Government of Mozambique should reconsider the current policy regarding expatriate employment. This reform should take place at two different levels. First, there is an urgent need to ease current administrative procedures that are sources of delays for most companies operating in the country. These actions should be implemented as soon as possible but can only address imperfectly the current problems. This is why the authorities will need to act at the policy level, looking for international best practices and political consensus in the process.

110. At the minimum, the following administrative measures should be considered:

- ***Simplify the job advertisement process.*** The current requirements to advertise in newspapers and obtain a declaration from the Employment Center could be replaced by a simple letter to the Employment Center describing the position and

skill requirements. If no candidates apply after a week, a company should be able to hire expatriates. This would save investors' time and money, and would still allow the Employment Center to supply companies with information about unemployed local workers (similar to what happens in the United States and other countries that keep records of unemployed people searching for work).

- ***Standardize the application for MOL authorization.*** The MOL should issue a simple and standard application form. Detailed resumes and other personal records of the candidates should be the concern of employers and not that of MOL. Finally, MOL should set a time limit for its approval or rejections.
- ***Eliminate the need to obtain opinions from line ministries and unions.*** The law is ambiguous on this subject as it requires MOL to obtain only “opinions” from relevant ministries. Therefore, eliminating the need for opinions would require only a modification or a clarification of the current regulation. Furthermore, the requirement to obtain the consent of unions for expatriate (including managerial) hiring is source of conflict interests, as the union is judge and party in the process. This requirement should be abandoned immediately.
- ***Extend the authorization time limit and allow easier renewal of contracts.*** Most companies may require the skills of expatriate employees for more than two years before they secure competent local professionals. Currently, the law clearly allows renewals, but MOL officials often refuse to renew a contract based on their interpretation of the law. Such an inconsistency should be stopped and precise guidelines should be enacted. An independent appeal mechanism may also be created to diminish the discretionary power of MOL officials.

111. To improve the situation more substantially, the Government of Mozambique should further relax the restrictive policies towards expatriate hiring. To this end, the following policy options could be considered:

- ***Establish a list of professions in which the need for foreigners is most important.*** Such a positive list would help companies to target professions in which expatriates are most needed and should help the authorities in processing applications. MOL could conduct a study or survey to identify the skills that are in short supply (e.g., finance and accounting, engineering, medical specialists, etc.) in the country. The Government could also consider a negative list in which it indicates professions in which companies cannot apply for expatriate permits – this is common practice around the world.
- ***Establish a list of countries that are exempted from immigration restrictions.*** If the Government is truly concerned about immigrants from certain countries, it should use a more targeted prevention strategy. Like Malawi, Mozambique could differentiate applications by country. Such a discriminatory policy can be sensitive politically, but it is standard practice and would not penalize all immigrants by overly restrictive measures.

- ***Establish a quota for automatic approvals.*** As occurs in Tanzania and other countries, the government may wish to consider allowing companies the freedom to hire expatriates up to a given foreign-local employee percentage or, alternatively, by specified investment size. A similar system already exists in the free zones in Mozambique, and although not yet operational, the government could expand it to other investment projects. The advantage of such a system is that the companies are able to determine *ex ante* how many expatriates they want to hire. It is also easier for the authorities that have only to ensure that the quotas are respected and not be involved in the detail of the employment contract, which should be only the concern of employers and employees .
- ***Encourage local staff training but not impose it.*** Training programs for local staff as a precondition to expatriate hiring are not realistic, nor have they been effective. It has been reported that in most cases, proposed training programs have nothing to do with reality. The Government has to become less suspicious of private companies as most of them have a strong interest to encourage the training of local staff –from their own interests. Experience in other countries has proved that a cooperative approach has been usually much more effective than a conflictive one in establishing good training programs. Increasing flexibility is also necessary since some projects can be more complicated than expected; others may have expanded and therefore have additional training needs. Restricting a company from adjusting its training program does not benefit Mozambican employees.
- ***Streamline the process between MOL and the Immigration Authority.*** A better coordination between the two authorities is needed. For example, a uniform database should be developed and information should be exchanged on a regular basis, including with provincial immigration authorities. The two authorities must get together to review the process that applies to expatriate workers to identify overlaps and to establish a clearer process that would help investors as well as ensure coordination and consistency between their executing offices.
- ***Improve personnel management within MOL.*** Once the system is more streamlined and transparent, officials at the operational level would have less opportunity to demand irregular payments from companies, and companies would have less incentive to offer such payments. Still, MOL and the Immigration Authority must strengthen the training and discipline of their staffs. Those who uphold good practices should be acknowledged while those break the rules should be punished. There is a need to be more open about the implementation of current policies and the approval decision process.

D. Domestic Labor

1. Progress Since 1996

112. In 1996, the government exercised excessive control over domestic employment. Labor laws and regulations set many restrictions on hiring and firing, and the Ministry of Labor (MOL) and other public entities intervened extensively in many small matters of labor management that should concern only employers and employees. There was an excessive reporting system, under which companies were required to submit to MOL, on a monthly basis, detailed information of their workforce, job structure, working hours (including overtime and vacations), and other matters of labor management. The laws and regulations also gave the unions the power to sanction the hiring and firing process, and labor inspections were found to be excessive.

113. FIAS recommended reducing general government intervention and modernizing the labor regulations according to market conditions. In particular, FIAS proposed that MOL stop intervening in the process of employment contracts, reduce the reporting requirements, and modify the inspection operation.

114. Since 1996, there have been several important improvements in domestic employment regulations and laws. The Labor Law, No. 8/98, has introduced the following important changes in the system:

- Reduced the government's intervention in companies' hiring and firing processes, and relaxed the rules and conditions for the dismissal of redundant or unwanted workers.
- Abolished the previous system of fixed salaries for different categories of jobs, and introduced minimum wages.¹⁸
- Established regulations on working hours, overtime, and annual leave that are adequate and in accord with international standards.¹⁹
- Modified the reporting requirements. Today, only an updated, nominal list of employees has to be kept at all times and this has to be submitted to the Directorate of Labor in the region in which the workplace is located.

2. Remaining Concerns

115. Despite the new Labor Law, many changes have not been implemented, especially in the provinces and districts. Investors have complained that MOL officials

¹⁸ Currently, the minimum wage is approximately US\$34/month in the commercial and industrial sectors and approximately US\$23/month in the agricultural sector.

¹⁹ For every effective year of service rendered, an employee has the right to 21 remunerated days of leave after having completed 12 months of effective work, and 30 days during each subsequent civil year. The law also allows to substitute, in exceptional circumstances, leave for remuneration, if it is convenient to the employer and the employees agrees.

and labor inspectors at the operational levels remain ignorant of new changes in the law and continue to act like a police force. They continue to intervene in a company's business on the basis of old requirements.

116. Investors also noted that the present labor regulations were still too rigid and biased toward employees, even though they have been improved over the previous labor law. Although dismissals are allowed, their imposed costs are so high that most companies find them difficult to afford. Because of this, many companies end up with keeping more workers than they need and remain reluctant to increase the salaries of actual employees, or to hire new ones. As this happens, the interests of workers may not be effectively served as originally expected by the Law.

117. Investors complained about many bureaucratic requirements that still remain. MOL has to approve the work schedule of each company. The information a company is required to submit monthly to social security officials is more detailed than needed. Also, for each permanent worker, employers are still required to issue a worker's card and if they are found with a new worker who has not been issued a card, inspectors can impose fines. The card has to be appropriately stamped by the respective Directorate of Labor, who represents MOL in the municipalities. Furthermore, employers are required to affix a staff chart and their leave plan to a wall. Finally, although the spirit of the new Labor Law is for the government to set minimum wages and to not intervene in specific salary negotiations between employers and employees, companies reported that they are still required to obtain authorization from MOL for their salary structures and job grades.

118. Another serious concern expressed by companies was the practice of labor inspections. There is no clear regulation regarding inspections, and much remains to the discretion of inspectors. There are about 200 labor inspectors in the country, most of them with only an elementary education, in isolated locations, and poorly paid (about \$50 a month). In general, companies find labor inspectors to be incompetent and unfriendly. They behave as if their job is to find flaws and levy fines, and with power that is not constrained by any official standards. Some investors believe that many inspectors simply look for extra income, as often indicated by their increased visits right before holidays.

119. Finally, there is a concern about dispute settlements. Investors find it difficult to approach regular courts on labor issues because they perceive judges as either being not familiar with the labor legislation or they avoid having conflicts with the unions. There are still no specialized labor courts in the country, although such courts were promised eight years ago through Law 18/92.

3. Analysis and Recommendations

120. Labor policies are politically sensitive and must be treated with care by the authorities. The government has made noticeable improvements in this area in the last few years but the current system continue to impose excessively high costs for companies. Hiring/firing regulations are satisfactory neither for employers nor

employees. Plenty of administrative requirements remain, rarely justified, and most companies met by FIAS view labor inspection as highly discretionary.

121. The Government could improve the current labor regulations by addressing, in the short run and on an urgent basis, the remaining bureaucratic procedures and the discipline of labor inspectors. Such problems are a bother to companies on a daily basis, and they allow the behavior of lower level officers to damage the image and credibility of the government. To improve the situation, several steps would be required:

- ***Eliminate the requirements that no longer serve useful purposes.*** Many requirements, such as issuing labor cards and affixing a staff structure chart to a wall, do not seem to serve any useful purposes. It is recommended to abandon them. Their abandonment would not only relieve companies from the hassle of having to do so, but they would also help labor regulators and inspectors to focus on more important labor matters, such as labor rights and labor safety. Moreover, the continued need that MOL authorizes companies' salary structures and job grades contradict the new labor law, and such intervention should be stopped immediately.
- ***Establish clear criteria and standards for any remaining requirements.*** Any remaining requirements should be accompanied by clear criteria and standards, which should be published and made available for all companies and labor inspectors. This way, companies will know what they need to do to comply with the law and inspectors will know what is to be checked and how to judge compliance.
- ***Train and discipline inspectors.*** Currently, MOL has a program with support of the International Labor Organization that is aimed at improving both the mindset and skills of labor officials and inspectors. The ministry is also developing a computerized communications system with inspectors throughout the country. These efforts are crucial and should be speeded up.
- ***Establish high ethical standards and disciplines.*** Officers with good performance should be rewarded, and abuse of power should be severely punished. The current regulations give incentives to labor officials to levy and collect fines, and it does not seem to have discouraged corruption as was originally expected. Additional measures should be introduced to discipline inspectors who behave unlawfully.

122. In the long run, Mozambique could benefit more by further relaxing regulations that govern worker layoffs. Designing such changes will require consultation with the key parties involved, including employers and unions. Introducing such changes may require modifications in the existing Labor Law and/or the development of clear implementation rules and regulations of the Labor Law.

E. Industrial Licensing

1. Progress Since 1996

123. In 1996, the cost, delays, and management attention required to obtain industrial and commercial licenses were considerable. The FIAS study found that industrial licensing in particular was among “one of the most critical areas of red tape in Mozambique.”²⁰ It further pointed out that industrial and commercial licensing was based on the previous system that emphasized government control and protection of domestic companies, and that such concepts were no longer consistent with the new government policy that emphasizes an open and market-oriented economy. Based on this, FIAS recommended that industrial licensing be eliminated.

124. Since 1996, the Ministry of Industry and Commerce (MIC) and the Department of Industry and Commerce of Maputo (DIC Maputo) Municipality have made a number of efforts to simplify and streamline the process of industrial and commercial licensing. Among the most notable measures taken are the following:

- NEW regulations on industrial and commercial licensing (Decreets 43/98 and 44/98). The new rules substantially reduce the number of supporting documents required; eliminate some pointless requirements such as 25-line paper, fiscal stamps, and criminal record certificate; and apply time limits and the principle of tacit approval if the response was not made during the time limit.
- Abolishment of the licensing requirement for “class 3” companies.²¹ Instead, class 3 companies are required only to register with MIC, which involves a simple and automatic process.
- An active campaign following issuance of the new Decreets to promote awareness of the new licensing procedures among the business community . Especially in the city of Maputo, substantial efforts were made to advertise the changes in the media and to train the officials who serve as liaisons with the companies.
- Efforts by the management of both MIC and DIC Maputo to respond to the urgent need of businessmen seeking to start operations. An example of this is the issuance to investors of provisional documentation on request, often to meet the documentary requirements of other ministries.
- Continued efforts by the DIC Maputo to facilitate investors’ need for multiple licenses and approvals issued by various government departments and authorities.

²⁰. FIAS report, 1996; p. 61.

²¹. Decree 44/98 classifies companies in three categories (i.e., large, medium, and small).

125. These efforts have led to some real improvements in the licensing process and have had a positive effect on the businesses activity. Especially in Maputo, where major efforts were made to implement the changes, investors generally agreed that registration for class 3 companies was no longer a problem, and the red tape involved in obtaining industrial and commercial licenses for companies in classes 1 and 2 was also significantly reduced compared to four years ago. It was confirmed that obtaining an industrial or commercial license in Maputo usually took a few weeks, and almost all applications were approved. In fact, some existing companies interviewed by FIAS complained that the process of obtaining licenses had become too easy and thus no longer provided them with the protection from newcomers they were still seeking.

126. Investors also appreciated the facilitation efforts of the DIC Maputo. It appears that the facilitation service created by the department, sometimes called a “one-stop shop” service, has shorten the time and simplified the process of obtaining different licenses from MIC. However, it was less effective in speeding up the process of approvals required by other ministries and authorities. Even with mixed results, investors were still encouraged to see that some parts of the government cared about their interests and were trying to help.

2. Remaining Concerns

127. Notwithstanding the improvements that have been made, the industrial and commercial licensing process remains a concern to investors. First, too many licenses are still required. For instance, a company engaged in multiple activities, say, manufacturing, trading, and direct exporting/importing, must apply for a separate license for each activity—all from the same ministry; in this case, MIC. A meat or vegetable processing company that produces ingredients and processed products requires licenses and approvals by both MIC and the Ministry of Agriculture. Those numerous requests mean that investors have to spend time and energy, and often incur irregular payments.

128. Second, whereas class 3 companies are largely relieved from project screening, companies in classes 1 and 2 are still subject to a complicated screening process. As required by Decree 44/98, companies applying for an industrial license must file a formal request with MIC, and the request must be accompanied with substantial documents including a topographical map of the site; full drawings of industrial installations; a detailed description of the project including the number and gender of the workers to be hired and the number of bathrooms on site, etc.; and an environmental impact study or evidence that the project should be exempted from such an evaluation impact. Preparing these documents is time-consuming and could be confusing because it may involve visiting several offices in other parts of the government. It is also expensive, especially for small and medium companies that do not have the human capacity or the financial resources to hire a specialist to comply with all these requirements. From an administrative point of view, it is not clear why MIC needs all this information.

129. Third, the positive changes made to the laws, such as fewer required documents and established time limits for official approvals, have been neither widely understood nor implemented, in most part of the country. The DIC d in Maputo is among the few that have implemented these changes with any seriousness. In the provinces, knowledge of the new legislation, or willingness to apply them, is low or nonexistent. According to UNIDO consultants who worked in some remote provinces, sometimes there were only one or a few copies of the new regulations for the entire government office, and such copies were often locked in the drawers of department heads. Thus, operational officials continue to apply the old procedures and they often could not (or refused) to explain why they did so when questioned by investors. Even in Maputo, there was an acknowledged passive resistance among low-level personnel within the MIC department, which could effectively slow down the process.

130. Fourth, the licensing process involves multiple ministries and agencies. Basically, the system requires that MIC departments receives all application documents from investors, forward the files to four departments/authorities of other ministries (i.e., health, fire, environment and labor), and ensure timely approvals by those departments. Decree 44/98 sets a time limit of 30 days for other departments and authorities to review application documents and render their “approvals in principle.” After that, MIC departments should issue their “approval in principle in 5–8 days. The regulation allows MIC to approve tacitly the project if “no response” is obtained from other department/authorities within the time limit.

131. Finally, it is worth underscoring that the final license will be delivered after that the investment site has been inspected by the relevant authorities. The site inspections, which will review in detail in the next section, are sources of frustration and delays for investors. With the “approvals in principle” investors could start construction, and must, within 180 days of this “approvals in principle” request a site inspection at the completion of the construction. At this stage, Article 19 of Decree 44/98 assigns relevant authorities the power to impose additional conditions on the operation of a facility that has received an industrial license, particularly with regard to protection of workers or the surrounding environment.

132. The inspection system requires that MIC coordinate site inspections by various departments once an investor has built the industrial facility. In practice, it is difficult for MIC to coordinate the approvals of other departments and authorities, especially to ensure approval by other departments within the time limit. When delays occur on the part of other departments, MIC faces a difficult situation—to frequently apply the tacit approval principle could potentially harm the relationship between MIC and other departments, whereas to wait for approval from other departments could significantly slow down its own decision-making process. To speed up the process and to improve cooperation with the other involved ministries, MIC and DIC Maputo have made a significant effort to promote the “one stop shop” facilitation concept. However, the process of getting other departments and ministries to coordinate their work has not been easy and, after 2–3 years of trying, there is still no clear agreement among all involved

parties on the principles and working mechanisms of the cooperation. This process has frustrated MIC.

3. Analysis and Recommendations

133. The government has made progress in reducing the red tape associated with industrial and commercial licensing, but the need to maintain such licensing should be questioned. Everywhere in the world, as governments move towards the market economy, the concept of industrial licensing becomes obsolete. More and more governments have abandoned industrial licensing and come to rely on vigorous enforcement of company registration instead.

134. Special licensing may still be required in a limited and specified areas in which vital public interests are perceived by the governments. For example, special government permits may be required when rights are being granted to a public monopoly (such as public utilities), when a nonrenewable public resource is being tapped (such as forests and mineral deposits), when public trust is at issue (such as banking), and when public property is being sold (as privatization). Some justified political motivations for screening may include concerns associated with national security or sovereignty, including defense-related industries and mass communications. To limit licensing to the minimum extent possible and to make the need for licenses clear to the public, many governments have adopted the use of a “negative list”²² to specify activities that are still subject to government approval and licensing.

135. In Mozambique, the continuation of screening and licensing industrial and commercial activities does not appear consistent with the new economic direction, and it does not support government’s objective to encourage private investment. Like most other countries, the Government of Mozambique should further liberalize the economy by limiting licensing to few areas where such licensing is justified by vital public interests.

136. The present Mozambican regulation already distinguishes the few industries that are sensitive to public interests from those that are not. Article 2 of Decree 44/98 specifies certain industries (including drug manufacturing and distribution, mining, fishing and energy) and subjects them to the regulatory control of relevant ministries and authorities. The same Decree, however, continues to subject all other industrial and commercial activities to the licensing requirement of MIC.

137. Based on these observations, FIAS propose three key areas for further improvement.

- ***Eliminating industrial and commercial licensing.*** Industrial and commercial licensing is still a serious barrier to investors, and eliminating this requirement is

²² It is called negative list” in the sense that activities included on the list are not yet freely open to private investors’

necessary if the Government is to continue to liberalize the economy. The government needs to reevaluate its rationale to issue industrial licenses, and indeed licenses for many other sectors, and to make a decision on how to limit licensing only to those that are of vital public concerns. Like many other governments, the Government of Mozambique may consider adopting the “negative list” concept, by clearly stating that only those activities specified (say, in Article 2 of Decree 44/98) will continue to be subject to the licensing requirement and that all industrial and commercial activities that are not listed in Article 2 are free for private investors without government licensing. To make this change, Decree 44/98 would need to be substantially revised.

- ***In the interim, the Government could adopt automatic registration for all companies that are not subject to licensing.*** This move is consistent with the eventual elimination of licensing but allows MIC to maintain certain contact and gather statistics during the transitional period before an industrial statistical system is fully functioning. The automatic registration could be similar to the one that is already applied to class 3 companies, which does not require that companies submit substantial project information for screening, but only to complete a simple, standard form with basic company information. To make this change, it will also require changes in Decree 44/98.
- ***Limit screening only to the relevant aspects of the project that are of the government’s concern.*** Once the need for licensing would be limited to a few “strategic” sectors, the Government should screen only the relevant aspects of the project. Superfluous factors can only reduce the efficiency and effectiveness of the screening process. In particular, the authorities should avoid to second-guess investors on their assessments of the viability of their projects as well as detailed feasibility studies, which are counterproductive and waste the time of investors and government officials alike.
- ***Abandon using sectoral licensing as the mechanism to safe-guard environment, public health and building/labor safety.*** The role of government ministries in ensuring legal compliance by health, fire, environmental, and labor authorities—using licensing as a mechanism—should be questioned. Protecting public health, the natural environment, and ensuring building and labor safety are legitimate purposes, but they should be achieved through the establishment of pertinent laws and regulations and a well-run system that compels all companies to obey laws and regulations. It requires the development of professional institutions with special knowledge and skills in relevant areas. Asking ministries—be it MIC, or the Ministry of Tourism, or the Ministry of Agriculture, etc.—is not practical solution. The role of regulatory authorities that oversee health, security, and environmental compliance would not be diminished, but their focus would shift from a preoperational, substantive review of a project on its merits (or promises), to one of post-commencement monitoring and enforcement. (There will be more specific discussion on enforcement shortly.)

138. The above improvements in the licensing system are needed in first priority. They are a pre-requisite to any institutional change that the authorities may consider. Experience around the world suggests that without an efficient system, coordination through one ministry (the so-called one-stop-shop) is always difficult because the responsible ministry does not have the prevailing authority or power to do so. It is always difficult to streamline an administrative system with multiple and complicated procedures, diffused in many organizations. One-stop-agency has been tried in many countries, but has rarely worked either because the agency does not have the necessary power, or officials in the agency are unlikely to have the needed knowledge and skills, access to necessary information, or the time to do so, even if they have enough honesty to do the job.

139. The truth of the matter is that, given the weakness of the general system in Mozambique today, efforts to facilitate the licensing process, similar to that made by the DIC Maputo provides some relief to investors and should be continued and expanded. The effort by the DIC Maputo to facilitate investment and disseminate information should become an example for all government institutions and authorities. Staff has to become familiar with existing laws and copies of them should be made available at a reasonable cost. However, such facilitation at various operational levels can never be truly effective if the system itself is not further simplified and streamlined. Moreover, policy makers at the highest level should realize that using licensing, as a mechanism for facilitating investors' needs is self-contradictory, and can be counterproductive. Licensing means that ministries play a regulatory role rather than a facilitating role. It certainly gives officials who have no interest in assisting investors the opportunity to erect more barriers rather than paving the path for them, at various operational levels—a phenomenon that is common in most provinces in Mozambique. Government officials at all levels should understand the functional shift from regulating to facilitating investment.

140. Last but not least, there is a need for training, training, and training. As in other areas of public service, officials involved in the registration and licensing process of private companies need to be vigorously trained in both skills. The need for staff training is apparent at all levels, but is especially acute for mid-to-low level officers in provinces and districts. These officers work with investors on a daily basis, and their competence will ultimately determine the success of the government's strategy to facilitate private investment in the country.

F. Tourism Licensing

141. The tourism industry taps the natural resources of the country, creates large numbers of jobs, and earns foreign exchange. This industry, however, has been barely developed in Mozambique despite the country's great potential in this sector.

142. In the last two years, the Government started to recognize the potential of this sector in the Mozambican economy and made some special effort to support it. In 1999,

the Government separated the authority of tourism from the previous Ministry of Industry, Commerce and Tourism, and established the new Ministry of Tourism (MOT). At the same time, the Government issued the Law 69/99, or the “Tourism Act” as often referred to, to provide some general guidance to the process involved in establishing tourism projects.

143. Law 69/99 is relatively new, and it yet requires an implementation regulation that spells out the details of the operational rules and procedures. Largely due to the serious infrastructure constraints, there have been relatively few new tourism investment projects thus far. In the current practice, the problems with the tourism licensing procedures appears similar to those with the industrial and commercial licensing. A number of investors interviewed commented that, in general, hotel and restaurant-related licenses seemed to be issued with relative easy, at least in the Maputo City.

144. However, and like investment in any other sectors, establishing tourism projects outside Maputo is difficult, time-consuming and confusing. Especially, new tourist lodging projects often must require land and thus are penalized by the most difficult procedures involving multiple authorities. A number of operators mentioned that, in their experience, consideration of applications for licenses and approvals of all sorts could only be eased and speeded if bribes were paid to the responsible officials.

145. Given the importance of the tourism to the Mozambican economy, and the intense regional/global competition in this industry, continued governmental support for the sector is necessary. The Government may consider set up a special task force led by the MOT to work on an overall tourism development strategy. This task force should consult closely with the investor and make reference to the practices of neighboring countries competing for investment in this sector. It should also work closely with other key ministries and authorities including those responsible for land, environment, construction safety, foreign and domestic labor regulations.

146. Unlike industrial and commercial licensing, licensing for star hotels and restaurants is not unusual around the world and it serves the purpose of quality control and standard compliance. However, the process does not have to be overly complex and it certainly requires clearly established rules, standards and procedures. Box III-3 provides a brief summary of some of the most important administrative tools used in many countries to promote a healthy tourism industry. The proposed task force should seek to design administrative procedures and a monitoring system based on clear and simple criteria. In doing all this, it could look at the systems in use in other countries for reference.

Box III-3: International Experience in Managing the Tourism Industry

1. Licensing for star hotel and restaurant operation is not unusual around the world and it serves the purpose of quality control and standard compliance. Also, the construction of large tourist hotels and resorts often has major implications on environment, infrastructure support, and demographic impact on the local communities, and thus is subject to certain screening and approval.
2. However, the process of quality control and protecting public interests does not have to be overly complex, but it requires high professional competency. In many developing countries, where the role is mandated to bureaucratic entities, it actually becomes weak because these entities do not have the technical expertise and professional capacity.
3. In most developed countries, professional associations rather than administrative entities are responsible for grading hotels and maintaining standards. In the areas of protecting environmental and other public interests, specialized and independent public agencies are usually established to play an orderly role. The government authorities, in most countries, have focused on developing a sound regulatory framework that sets and monitors common rules and standards.
4. The experience of many countries also suggests that long-term and efficient tourism and hotel development can be assisted by a good master plan and zoning policy that carefully consider overall business, economic, and environmental ramifications. In many countries, this is done through a coherent government effort, often with substantial private sector input

G. Company Incorporation

147. Company incorporation has been not perceived by investors as a major concern. However investors pointed out that continued efforts can be made to further reduce the time, expense and management attention required to incorporate and register companies.

148. Three institutions are still involved in the process, namely, the Notary Office (for the incorporation of a company), the Public Commercial Registry (*Conservatória de Registo Comercial*, for the commercial registration of a company) and the Government Printing Office (*Imprensa Nacional*, for the publication of the company's articles of incorporation). Currently these three institutions do not work in a coordinated fashion. It is still the investor who must shuttle between these offices, ferrying the information required by each of them, and importuning the responsible officials to speed up their work.

149. The procedures used to record and convey information remain the same as in the 19th century. The Notary Office still writes out the public deed of incorporation longhand in bound ledgers, and prepares longhand extracts thereof for the use of the other agencies. The Public Commercial Registry then records extracts of those extracts, all by hand, in similar ledgers. In both cases, the methods used are painfully slow and lend themselves to the compounding of error. Other parts of the commercial registration process also require manual entries in unique ledgers. In total, the process of commercial registration, which should take a few hours at most, takes at least 30 days. Publication of the

company's articles of incorporation requires no less than 90 days and more often closer to six months.

150. Fees for all of the foregoing frequently total in several hundreds of dollars, amounts that smaller businesses in particular may find exorbitant for the value added. Also, the management time and attention that this process absorbs is considerable. At a stage of a business's start-up, these costs are at their greatest premium.

151. The slowness, the expense and the management attention required to incorporate a company does not make it easy for businesses to move from the "informal" to the "formal" status.

152. The Government should make an effort to improve the company incorporation process. There is a quite urgent need to modernize the process, such as, to replace the handwritten entries with computers that would save time and labor and increase accuracy and consistency. Similarly, the ancient presses of the Government Printing Office should and can be replaced with a small network with a desktop publishing program and some high-capacity copiers. Modernizing the process can also certainly simplify the procedures it uses, and help reduce the charges for the antique "services." All these changes will require some investment, but can be done relatively easily because they would only require modest changes of rules.

153. The government should also redesign the system in order to integrate the activities of the three agencies involved in the process. This might begin with the linking of the three agencies by an intranet which allow them to easily access the needed information from each other, and saves the investor the trouble of shuttling papers from place to place.

154. Finally, the Government should consider which of these services need to be maintained by the Government agency, and which might be plausibly managed by a private parties on a concession or other basis.

H. Ex-Post Monitoring and Site Inspections

1. Progress Since 1996

155. The ex-post inspections were not treated as a separate section in the 1996 FIAS report and, thus, it is difficult to identify the progress realized over the past four years. Nevertheless, the investors have raised a number of common issues on the current inspection system used in Mozambique, and therefore the issue deserves a special attention.

2. Remaining Concerns

156. At the present, industrial and commercial production sites, once they have been implemented, are subject to inspections by many authorities for different purpose. Some of the inspections, such as those conducted by the inspectorates of environmental, health, fire, labor, and fiscal matters, are legitimate and have the purpose of ensuring compliance and enforcement of the pertinent laws and regulations.

157. However, it is common in Mozambique that businesses are inspected by many other authorities without a clear purpose or mandates. Many of the inspections are conducted by the various ministries that have issue the initial business licenses and permits, and many are simply imposed on businesses by lower level officials of various local authorities, such as street police, district and municipal authorities.

158. Most investors understand the need for on site inspections for the purpose of environment, fire safety, public health and labor safety. They, however, have complained that the ways these inspections are currently carried out is too diffused and disorganized. There are too many agencies involved, and it is not always clear who is responsible for inspecting what. For example, a labor inspector may insist on examining the fire exits even though those exists have been recently inspected and approved by the fire inspector.

159. Secondly, investors have questioned the legitimacy of the inspections carried out by various ministries, municipal and district authorities. Such inspections are often not clear in purpose. They are frequent, often by lower level officials at the site or time as they see appropriate, and on most occasions lead to fines and penalties imposed on companies without a clear explanation. In fact, it is common that such fines can be dropped if the company is will to pay the inspector a percentage of the fine. Unsurprisingly, such inspections and fines usually see a dramatic increase in times prior to main national holidays.

160. Thirdly, most inspections -- both legitimate or illegitimate ones -- are totally discretionary. Although general laws and regulations exist, detailed guidelines and standards are often missing. Thus, the system is plagued by arbitrary decisions, inconsistency, and corruption. Many inspection agencies cannot provide clear information on standards used by their staff and cannot assist the investors who are willing to meet these standards. The situation is aggravated by a lack of competence, and often by a poor attitude by low-level officers. On many occasions, companies are refused to receive a clear explanation why they have been penalized and how their fines have been determined.

161. Finally, the system does not clearly distinguish companies with good track records from those with poor ones. Everyone is subject to frequent inspections, and the frequency of inspections seems to have little to do with the results of previous inspections. This not only discourages companies that have maintained good records, but also raises the question of how authorities focus on areas where real problems exist -- specially given the limited financial and human resources faced by most agencies.

3. Analysis and recommendations

162. Most investors understand and support the legitimate role of government to monitor and ensure compliance with rules and regulations regarding environment, public health, labor, and building safety. Indeed, most companies find maintaining good quality and standards as essential to their business interests. From the government's perspective, site inspections are important especially if the authorities are moving from the *ex ante* control approach (i.e., screening and approving projects before they are established) to the *ex post* monitoring approach.

163. The system of inspections and fines, however, does not need to be overly complex and unfriendly to business. In effect, the system could work well only if it is fully understood and supported by companies and executing agencies alike. Moreover, the system could be effective only if it is transparent, consistent and fair. It should treat everyone equally based on well-established rules and standards. Finally, the system should be designed in such a way that it prevents lower-level officials from abusing the system and making decisions that benefit personal interests while worsening government reputation.

164. In recent years, an increasing number of developing and transitional economy governments have recognized the importance of improving the system of site inspections, and some have stipulated special laws and regulations to ensure good principles and practices. Box III-4 provides one specific example in this respect.

Box III-4: Ukraine—An Example of Improving Site Inspection

For the purpose of “ensuring utmost support and further development of entrepreneurial activity,” the Government of Ukraine issued presidential Decree 906/2000, on July 15, 2000, to reinforce a number of measures for rationalizing and improving government sanctions applied to businesses.

The Decree stipulates that all relevant information about fees for services rendered in the process of establishment, registration, and operation of a business should be publicly available, including publication in the media. The Decree further contains a critical set of orders of inspecting business entities, including:

- A clearly specified list of state agencies that are authorized to perform control and inspection functions, each with outlined competence.
- The introduction of the mechanisms that would make inspection results available to the business inspected.
- The introduction of adequate control over performance of inspection bodies in order to ensure adequacy of fiscal and administrative sanctions imposed on business entities and to prevent the ability of local officials and civil servants to give preferential treatment to selected businesses.

165. Like other countries, Mozambique needs address the problems associated with site inspections in order to continue to improve the business environment. Apart from the

need to train lower-level officials and local inspectors, the government will need to make a focused effort to improve the inspection system itself. In this regard, the government may consider the following steps:

- ***Identify clearly each responsible agency.*** It is important that inspecting authorities are clearly mandated (i.e., who is responsible for what) and professionally equipped to enforce the mandates. Responsibilities of environmental, public health, building, and labor safety control authorities, if performed by different authorities, should be clearly divided so that there would be minimum overlap and confusion. This will enable investors to better answer the government requirements, and will increase the competency and accountability of various authorities and allow them to better monitor the necessary process. Responsibilities should be clearly established between central and local authorities.
- ***Introduce internal performance mechanism in each agency.*** The introduction of adequate control over performance of inspectors is an important element of this strategy. It help to ensure adequacy of fiscal and administrative sanctions imposed on business entities and to prevent the ability of local officials and civil servants to give preferential treatment to selected businesses.
- ***Establish clear rules and regulations.*** To ensure compliance with public interests and limit discretion in the inspection process, the relevant authorities should issue clear rules and regulations to guide companies in setting up product standards and operational codes. Criteria for imposing fines need to be clearly explained and communicated to companies. Some governments have resorted to various mechanisms to improve the fine system, including a) issuing initial warnings before imposing fines (in the areas where genuine mistakes are likely to happen); b) providing administrative and legal channels for dispute settlement (especially for the serious cases); c) giving performance-based awards to inspectors who carry out their duties professionally and honestly; and d) severely punishing those who demand or offer bribes. All these may or may not work in all circumstances.
- ***Improve the dissemination of information.*** Once rules and regulations are established, they have to be circulated to all relevant agencies, especially at the local level. The information should be made available to the private sector, at a minimum cost.
- ***Award the good citizens and punish the bad ones.*** Inspectors, after each inspection, should prepare a written report on the results, to be delivered to both the inspected company and the file of the responsible authority. Doing so thus develops a track record for each company. Companies that comply well with environmental, public health, building, and labor safety requirements should be awarded by more public trust and respect, whereas companies that have repeatedly breached the rules and regulations should receive appropriate penalties.

This will make the system more equitable and more effective in serving its original objectives.

CHAPTER IV

THE ROLE OF LOCAL GOVERNMENTS AND THE INVESTMENT PROMOTION AGENCY

166. Two additional areas require some special attention because they are of the concern of the Government. First, there is an urgent need to involve more explicitly the local authorities in the reform process. Some of the remaining barriers principally depend of provincial and/or municipal governments, and private investors have increasingly complained about the widening gap between the performance in Maputo and the central and northern provinces. Such a trend, if it continues, will be detrimental to Mozambique's long-term economic and political interests. Second, it is relevant to examine more closely the role of the Investment Promotion Agency. This agency has been successful in facilitating a handful of large projects and in raising public awareness of the need for removing bureaucratic impediments. The success of this "flagship strategy" has been useful but has contributed to discriminate between large (foreign) and small (domestic) investment project.

A. The Role of the Local Governments

167. The complicated investment procedures seen in Maputo exist in all provinces—to a much more serious degree. A series of studies conducted by a UNIDO team in several provinces on administrative barriers to investment identified exactly the same issues everywhere. Moreover, the UNIDO studies point to the serious lack of information and capacity at the local levels, which further adds to the problems faced by investors. A study conducted by GTZ consultants on private sector development in Sofala, the second most important industrial areas in Mozambique, also found that formidable administrative barriers were among the top concerns for investors.²³

168. Among the UNIDO recommendations, the most important ones include information circulation, staff training, and overall institutional capacity building. UNIDO also emphasized the need for investment facilitation, as has been tried in Maputo Municipality.

169. The FIAS mission was able to examine the situation in the provinces only briefly. However, impressions were completely consistent with the UNIDO and GTZ findings. FIAS also supports the recommendations made by UNIDO for an urgent need for information, staff training and capacity building, and investment facilitation.

23. UNIDO Project Activities Related to Regulatory Environment in Zambézia and Sofala Provinces, May 2000; GTZ Inception Report, "Development of the Private Sector in Sofala Province Opportunities, Constraints & Scope for Policy Intervention; August 2000

170. Nevertheless, it appears that several additional policy needs and considerations should have the attention of the government if the situation at the local level is to substantially improve.

171. First, the process is more difficult at the local level due to the matrix structure of the investment approvals. As discussed in the section on industrial licensing, investment approvals in provinces are difficult to obtain primarily because the approval systems are overly complicated. In Maputo, at least there is a joint effort by MIC and the municipality authority try to provide investors with a “one-stop shop” facilitation service that helps speed up the process to some extent; in most provinces, such an effort does not exist. To issue a business license, for example, involves a structure that not only requires approvals of provincial and municipal authorities, but also of the representatives of line ministries (i.e., directors of industry, agriculture, public health, etc.). These directors are appointed by line ministries in Maputo (although often with consultation with the governors of the provinces). In operation, they must report both to the line ministries and local governors. Their accountability is therefore not clear.

172. This structure has caused confusion and delay in the process. An investment application often travels back and forth several times between various offices representing central and local government authorities. Sometimes, a project that is approved by one office is questioned or rejected by another. In most cases, investors have to submit their applications to several offices, and follow up on all of them in order to obtain the required approvals. This means enormous time and energy spent on the process. Often it also means financial costs as officials in each place need to be bribed to help speed up the process.

173. Secondly, and in a related sense, there seems to lack enough room for local initiatives. The economic system of Mozambique is highly centralized. Many of the provinces have land and other natural resources suitable for the development of the agriculture and tourism sector, but they have limited decision making power, few incentives, and little financial resources to tap the natural resources and develop economic potentials of their regions. Some provincial leaders seem to have a strong desire to attract more private investment for local development; however, they would need more autonomous power to make important economic decisions.

174. The FIAS mission noted a few attempt at public-private collaboration to develop local infrastructure. In Matola, for example, the municipality authority negotiated with investors on developing a small industrial estate. They jointly identified land that was suitable for the project and the investor agreed to pay the cost of relocating those with some “prior rights,” but the municipality took the responsibility for the relocation process. The investor got the land at a relatively low cost, but in return they took over the obligation to develop the surrounding infrastructure that would significantly benefit local development. Such a deal seems fair and practical, and the experience could be multiplied elsewhere. Elsewhere in the country, investors have also expressed their willingness to join local governments in the effort to develop infrastructure (such as roads, airport runways, etc.) that would benefit both the investment projects and the local

economy, but in most cases, their proposals have not been met with positive reactions from local authorities.

If the Government is serious about the need to increase investments in provinces, it must encourage the local governments to play a more important role. To strengthen the role of the local governments, the Government may wish to refer to the recommendations made by UNIDO and other studies. In addition, and on the basis of its observations, FIAS recommends that the government consider the following:

- ***Reduce regulatory requirements and simplify the investment approval procedures at the local level.*** The matrix structure for project approval is not only a waste of time for investors, but also a source of confusion and inefficiency for the various authorities involved. Two efforts are needed to simplify the structure. One, much of the redundant and overlapping approval procedures should be removed (see the section on licensing), and this alone would dramatically shrink the scope of investment screening and approvals. Two, for the remaining needs of screening and approval, the process should be decentralized as much as possible. Ministries and other central government authorities should reserve its concerns only for projects with strong national implications and strategic importance, such as infrastructure projects and mega-sized projects in manufacturing and agriculture that would require national support.
- ***Strengthen investment facilitation while reducing regulatory requirements.*** There is no question that investment facilitation is badly needed everywhere. Investors in the provinces are currently left struggling by themselves. As a minimum, all provinces seeking more investments should replicate the efforts made by DIC, Maputo, to allow a single contact point for investors to apply for all the required approvals. Like in Maputo, the provinces will need to train local officials in both mindset and skills for focused investment facilitation. It must be noted again that this option will work effectively for investors and the facilitation agencies only if it is accompanied by simultaneous efforts to eliminate bad regulations.
- ***The option to pilot reforms.*** To facilitate decentralization of investment approvals, the Government of Mozambique may wish to consider a pilot approach for testing a few cases and to accumulate experience. In many other countries, such as China as described in Box IV-1, governments have found it useful to start with one or two selected provinces or municipalities. The selection could be based on many considerations such as economic potential and political sensitivity, but most importantly it should be based on the willingness of local governments to make commitments and take initiatives on their own. Selected local governments should be given more autonomy to make economic decisions and experiment with new ways of dealing with the various constraints to regional development. Once they are successful, their experience becomes a powerful demonstration and can be spread to other provinces and municipalities.

B. The Role of the National Investment Agency (CPI)

175. The national investment promotion agency, *Centre of Investment Promotion* (CPI), has played an important role in attracting foreign and domestic private investment in the country. Annex A provides an overview of the trends of private investment in the country based on CPI's statistics.

176. CPI is mandated by the country's Investment Law to be the national agency to facilitate investors in obtaining all the required official approvals for establish and operating businesses in the country. Among those investors who did seek CPI assistance, CPI enjoys a positive image as a investor-friendly agency. Apart from the improved process of granting tax incentives which is a direct and main function of CPI,²⁴ companies interviewed by the FIAS team also praised the agency for its role in easing the investment process in that was sometimes described as "a minefield of bureaucracy." This represents a significant shift in relation to the situation described in the 1996 FIAS report, which labeled the CPI "one more stop shop."

177. During the field visits, the FIAS team noted the competence of CPI professional staff and the quality of the information brochures prepared by the CPI. It seems that the CPI can quickly obtain from other government offices the documents used to prepare the approval files: work permits for expatriates, documents for obtaining plots of land, customs duty exemption for products appearing on the "K" list (i.e., capital goods), and tax benefits.

178. The role of the CPI can, however, appears limited especially in the following three areas:

- As with other government offices that try to facilitate investors such as MIC, there is a marked difference between the functioning of the central office in Maputo and CPI's local offices in the rest of the country. CPI currently has a limited number of the offices in the provinces, and the capacity and efficiency of the few existing provincial offices is low.
- Also like other agencies making efforts to facilitate investors, CPI finds itself constrained by limited power and resources. Facilitation is especially difficult in the areas where the requirements are complicated and the responsible ministries are not cooperative. CPI currently has a professional staff of 45 persons, which is not possible to accommodate the need of over one thousand projects that it approved in the past three years. As a result, CPI currently devote most of its resources to large project often with foreign origins. This has given local

²⁴. The waiting period for obtaining CPI approval for incentives appears very short, between six days and three weeks. Most of companies, particularly the small- and medium-sized enterprises, were grateful for the assistance that they received in preparing their files.

investors the impression that CPI discriminates against SME and domestic projects.

- In particular, the CPI is seen very weak in providing after-care services to the projects that it has approved. Project monitoring after approval is a task for which the CPI is responsible, pursuant to Article 21 of the Decree implementing the Investment Law. The shortcoming of the CPI in this area has a direct impact on the project implementation rate. CPI statistics cover projects approved rather than investment projects actually implemented. In fact, CPI is not able to provide exact information on the current activity of the enterprises for which investment projects were approved. The time period between approval of a project and start-up of an activity is estimated by both the CPI and investors to be too long, ranging from 18 months to two years on average.

179. The major factor explaining the abnormally long time period between approval of a project and its implementation is specifically linked to the plethora of administrative barriers encountered by potential investors after obtaining CPI approval. As in most other places, CPI as an investment agency does not have sufficient leverage to exert pressure on the different government departments, which are bent on the autonomous exercise of their authority. Sometimes, CPI intervention aimed at reducing the various bureaucratic obstacles runs the risk that it is criticized for stepping in the areas under the authorities of other relevant ministries.

180. The key problem here is that there are still too many regulatory requirements that make the process too difficult. Clearly, the facilitation function of the CPI continues to be needed and should be strengthened. It does help reduce the time taken for approvals for some investors. However, more importantly, CPI is in a position of knowing investors' needs and concerns; and it should and could become more active in advertising and pushing for the overall reforms aimed at reducing administrative barriers to all investors. In many other countries where national investment promotion agencies are given a more important role in the procedural reform process, such agencies are given more authority over other government offices. They are something placed under the auspices of the Prime Minister's office.

CHAPTER V

LOOKING FORWARD TO THE NEXT STEPS

181. The Government of Mozambique has been able to achieve significant progress in its effort to streamline the administrative barriers that investors face when they establish and operate in the country. The local and international community has praised this progress. Still, private investors continue to complain about excessive bureaucratic procedures. The previous chapters have helped to identify the remaining concerns raised by the private sector –both local and foreign, and proposed to the Government an agenda of *what* to do in the short and medium term.

182. This agenda is an essential step toward a simple and efficient administrative system. The challenge facing the government is *how* to implement this agenda in the most efficient manner. Streamlining administrative barriers is not an easy process since it requires to modify not only texts and rules but also behaviors and mentality in both the business community and the administration. The recent experience in Mozambique has shown that a strong political leadership is needed. At this stage, it would be even more important because most of the remaining issues go beyond simple bureaucratic changes and will involve policy and institutional reforms. Resolving these issues requires a strong commitment at the highest levels of leadership.

183. The objective here is to provide guidance to the government on how to implement the proposed agenda of reforms and strengthen the on-going effort of removing administrative barriers. This chapter addresses the conditions that can increase the likelihood of success. These conditions are based on the recent experience in Mozambique and on FIAS knowledge of other countries. This short review will be useful, as it will help us to make a few suggestions on how to implement the proposed agenda. There is certainly a need for the Mozambican authorities to focus on an increasing participation of the private sector and the development of performance indicators that are necessary to evaluate the ongoing process and identify the remaining issues. These performance indicators should not only be based on the number of laws and regulations that have changed, but also on the practical results obtained on the ground with the private sector.

A. A Four-phased Strategy to Strengthen the Reform Process

184. As emphasized earlier in Chapter II, the Government of Mozambique will need to recognize the weaknesses in the reform process thus far, and form a new strategy to overcome those weaknesses. For this purpose, FIAS would like to propose a four-phased strategy to help carry out the implementation of the recommendations provided in the

previous chapters. The FIAS recommendations are meant to provoke the thinking and discussions among those in the private sector and in the relevant ministries. They aim at asking questions rather than providing definitive answers. Ultimately, it is the Government, its responsible ministries and agencies, and the private sector community who must work together and find the optimal solution for the successful implementation of the proposed reforms.

Phase I: Build the Political Will and Reinforce the institutional Setup

185. Of all the factors that will help the country succeed in the next stage of the procedural reforms, the key one is a *strong political will*. Policy makers at the highest levels need to help all citizens; businessmen and civil servants alike understand that removing administrative barriers should be among the top priorities of the country.

186. Although there was a will at the top leadership to remove administrative barriers in Mozambique, this support has lost of its initial the momentum over time. Today, it is crucial to reinforce this support. The following actions are proposed:

- ***Bring the question of administrative barriers to the attention of the highest level.*** The issues related to administrative barriers as identified in this report and many other studies should be brought to the attention of the highest leadership of the Government. After considering the analysis and recommendations made by the studies, the leadership will have to make a decision on the implementation of the main recommendations provided, and make a commitment to it.
- ***On the basis of the commitment, issue a statement at the highest political level.*** This would help reinsure the business (local and international) business community and sent the right message to government officials. Such a strategy has been followed with relative success in Morocco and Senegal.
- ***Reinforce Inter-ministerial Committee.*** As noted earlier, after a promising start in 1996-97, this committee has been less and less attended by top government and business leaders. It is necessary to reinforce the committee, to make it truly functional and effective, so that it helps to coordinate the efforts of various ministries and authorities into coherent action plans that are built upon shared visions and goals.
- ***Continue and strengthen private/public consultation.*** The Government should not be satisfied with the conferences and workshops at which private sector representatives are invited to express their views. Executing agencies should become more responsive to many of the good ideas suggestions agreed at such public forums. Such an action would encourage the private sector to keep involved and contributing critical inputs to the process.

- ***Ensure participation of local authorities and the investment agency.*** As discussed in Chapter IV, local governments should play an increased role in attracting investments to the provinces. They should be more involved in the process of reforms and in redesigning the procedures systems for the future. Likewise, CPI is mandated national investment facilitation agency, and it should also play a more important role in the reform process. CPI is in the position to convey investors' needs and concerns to the various government authorities, and to contribute inputs to the re-designing of the new investment procedures.
- ***A Coordinating Agency.*** While the political commitment is indispensable at the highest level, it cannot be expected that top government leaders will be able to follow the implementation process on a regular basis. In most successful countries, an agency (often the national investment agency) has been designated to ensure this role. This agency has to be backed by the highest level in the government but sufficiently independent to respond to the preoccupation of the private sector. It has also to be designated in a way where its management (and staff) will be accountable for the results and receive the right performance incentives.

187. The Mozambique Government and the private sector should together evaluate the need and identify an appropriate agency competent for coordinating the implementation process. Some of the existing national establishments, such as CTA and CPI, could be further strengthened to carry such a role. Some ministries or local governments, if keen in the reforms, could also be effective in leading pilot reform programs in their responsible areas.

Phase II: Formulate an Action Plan for a Wide-based Support

188. To be effective, political commitment for the reform process needs to focus on a clear and precise action plan. Ideas have to be translated into recommendations, and recommendations into actions. The measures proposed in the previous chapters can guide the government in designing the action plan. However, there is still a need for the Mozambican authorities and private sectors to define clearly the priorities, the timing, responsibilities and the results that are expected of each action.

189. It is also important that the action be properly discussed and endorsed by both business and public leaders. The 1997 Action Plan developed by the MIC and CTA and presented to the private sector conference that year was not thoroughly discussed by the various responsible ministries and agencies; nor did the Government formally endorse it. As a result, its implementation has been only half-hearted at the best, without the full support and participation of all responsible ministries and agencies.

190. It is recommended that the action plan, once endorsed by all parties, has to be widely publicized to increase the accountability of the relevant parties.

191. In designing the action plan, it is important that the authorities do not focus only on “inputs” (i.e., changes in laws and regulations) but also on the “outputs” of the reforms. The success of the reforms should not be measured in the number of laws changed but rather in the reduction of costs and time for the private investors. The development of adequate performance indicators should be an integral part of the action plan. Such indicators may be the number of days and the costs that the private sector has to spend to obtain a certain license or permit. It will be argued below that such an orientation is extremely useful for the implementation and the monitoring of the reforms.

Phase III: Implementation

192. Implementing the action plan is a difficult exercise. As indicated earlier, the private sector has been complaining a lot on the lack of implementation of the recent reforms. The responsive ministries and agencies do still not resolve many of the important issues raised by the private sector, during the first PCS forum and again at the subsequent ones. This lack of responsive follow-up efforts has hurt the confidence of the private sector in the sincerity and capability of the government. If not reversed, the trend could seriously undermine the reform process underway.

193. To enhance the implementation process in Mozambique, the international experience suggests that the government should emphasize the following set of actions:

- ***Accountability and transparency.*** As stressed above, the action plan needs to identify clearly the actions and who is responsible for their implementation. Each agency will have to be accountable for the results obtained. This has to be done much more explicitly than it has been done so far.
- ***Identify Winners.*** Implementation problems have partially related to the so-called “passive resistance” from unmotivated executing agencies and officials. One way to counteract this is for the government to reward the most performing agencies. This would be helpful in counterbalancing the possible reluctance of some agencies to carry out the reforms. The French Government with notable success has recently used such an approach.
- ***Capacity Building.*** It is also important that the reforming agencies or ministries receive the adequate support to carry out the proposed actions. Many studies have emphasized the weakness of implementation capacity of the executing agencies in Mozambique, especially at the lowest operational levels. These agencies, if sincere in their efforts, should receive the necessary technical and financial resources. The support of donors is frequently essential in providing training and capacity building.

- ***Private Sector Participation.*** The private sector has to be more effectively involved in the process. This involvement can be twofold. First, the private investors can be asked to provide a feed back on the implementation of the reforms. The use of periodic surveys has proved to be useful (see below). Second, the authorities should be ready to disseminate the information and sharing the results obtained over time.

Phase IV: Monitoring/Evaluation/Adjustment

194. The fact that the Mozambique Government has asked FIAS to evaluate the existing process demonstrate its recognition of the need of this phase. However, evaluation and monitoring should be on-going and should not have been waited for 3-4 years, and should have been more frequent in the past to have positive impact on the pace of the reforms. Monitoring is the principal instrument for evaluating the success of the reform process over time. Streamlining administrative procedures is an iterative process where adjustments have to be made to respond to the eventual changes in the private investors' needs.

195. For these reasons, the authorities should consider the introduction of an evaluation system as a priority. It is proposed that the following instruments be developed: a) survey of investors on their perception of the performance among the relevant agencies; b) consultation dialogue with relevant agencies; and c) publication of periodic reports on the results of the reforms and d) development of benchmark indicators based on best practices performance at the international and regional levels.

Concluding Remarks

196. Mozambique has a great deal of investment and economic development potential. It is conveniently located to provide coastal access to several land-locked neighboring countries, it has great prospects for economic cooperation with South Africa, and it is rich in natural resources and land. Through several years of implementing consistent policy and legal reforms, Mozambique has achieved a stable and liberal macroeconomic policy framework that lays the foundation for encouraging private investments.

197. Nevertheless, the journey toward sustainable economic development and poverty alleviation remains long and hard. For many investment opportunities to materialize, Mozambique needs to create an enabling business environment. Administrative barriers in general remain an essential impediment to investors and the government needs to act more aggressively to remove them. Success in this respect will not only substantially improve the every-day life of the business communities and enhance the efficiency of the government operation, but also help increase the country's competitiveness in the

regional and world market which will contribute to the needed long-term development and poverty alleviation.

ANNEX A

MOZAMBIQUE: PRIVATE INVESTMENT TRENDS, 1985-99

The CPI (*Centre de promotion des investissements*) provides detailed data on investment plans submitted by private operators, local and foreign, wishing to take advantage of the incentives offered by the 1993 Investment Law. These data have the advantage of being broken down by sector, by region, and by the nationality of the potential investors.

Since 1993, private investment has been increasing, and the Mozambique economy has become undeniably attractive to investors, including those from abroad.

It must be noted, however, that the CPI statistics suffer from two weaknesses. The first is that they relate only to planned investments, while the actual implementation rate of CPI-approved projects is unknown. The second weakness arises from the fact that not all projects are presented to the CPI. This is certainly the case with micro-projects undertaken in the informal sector, and it may also be true for larger projects where the investors have not applied for benefits under the Investment Law.

Despite the difficulties in arriving at a precise evaluation, there is no doubt that Mozambique offers comparative locational advantages that place it among the leading countries of Sub-Saharan Africa in this regard. Table 1 demonstrates this point through comparisons with a number of other countries in the same region. Nevertheless, the country's attractiveness is still largely unexploited. If Mozambique is to achieve development "take-off", it must give priority to reducing the administrative barriers that now hold back private investment, both local and foreign.

Table 1: Flow of foreign direct investment to selected Sub-Saharan African countries (\$US millions)

Country	Amount
Mauritius	49
Madagascar	58
Namibia	114
Swaziland	- 4
Zambia	163
Zimbabwe	59
Angola	1814
Cote d'Ivoire	279
Botswana	112
Nigeria	1400
South Africa	1376
Mozambique	384

Source: World Investment Report, UNCTAD, 2000

1.2 Record of investment projects

The increase in private investment is a recent phenomenon. Over the period 1985-1999, 1,361 projects were submitted, of which 822, or 60 percent, were presented after 1995. Between 1993 and 1999, a total of 1,217 projects were approved. The cumulative value of projects submitted by foreign investors is four times higher than the value of local projects (US\$1.9 billion vs. US\$500 million). Table 2 shows the total number of projects, the breakdown between local and foreign projects, and the amount of planned investment.

Table 2

	Number of projects			Value of investment (US\$ millions)		
	FDI*	LDI**	Total	FDI	LDI	Total
1993	27	27	31	18.0	7.5	71.1
1994	72	116	130	91.2	63.3	446.5
1995	55	150	166	50.4	52.5	279.0
1996	112	239	270	86.6	54.6	519.0
1997	91	152	184	695.3	60.4	1 754.3
1998	110	153	202	157.7	89.9	837.8
1999	125	183	234	121.9	150.7	762.3
Total	592	1020	1217	1 221.4	434.3	4 675.4

*FDI: Foreign Direct Investment

** LDI: Local Direct Investment

Source: CPI, Status of Authorized Investments, January 2000

For the period 1993-99 as a whole, the number of foreign (FDI) projects was less than 60 percent of the number of local (LDI) projects. On the other hand, their total value was three times higher: the unit value of foreign investments is much greater than that of local projects. Mega-projects such as the 1997 Mozal undertaking have a major impact on the annual value of investment flows.

1.3 Sector distribution of projects

Table 3: Distribution of projects for the period 1997-1999, by sector (US\$)

Sector	N° projects	FDI	LDI	Total
Industry	149	1 414 700,2	74 348,2	1 968190,6
Mining	2	51 600	44 650	1 814 324
Agriculture	106	43 915. 9	23 944.8	468 458.4
Banking/insurance	12	41 004.4	27 171.9	80 899.0
Transportation	43	13 239.3	10 439.1	87 843.7
Tourism	45	15 689.2	10 435.4	166 675.4
Construction	37	10 536.8	6 256.4	76 357.4
Fisheries	27	65 470.3	56 293.0	159 334.7
Others	82	19 338.8	10 413.4	78 502.2
Total	498	1 623 936. 3	219 347.1	3 088 074.9

Source: CPI, op . cit.

In terms of the number of projects, the leading sectors are, in descending order: industry, agriculture, tourism, transportation. In terms of the value of investment projects, the two leading sectors, for both foreign and domestic investors, are industry and fisheries. The gap between planned investment size for FDI and LDI is, however, much greater in the case of industry than fisheries. Agriculture ranks third in the case of FDI, while banking/insurance occupies this position for LDI. The relative lack of LDI interest in agriculture is surprising, considering that most of the country's population is rural. Investment in the agriculture sector may well be discouraged by the prohibition on land ownership. This interpretation may be confirmed to some extent by the fact that the amount shown in the "total" column for agriculture (\$468.4 million) is much higher than the sum of foreign and local investments (\$67.8 million): the difference reflects the significance of investments financed through loans and by official development assistance.

1.4 Geographic distribution of investments

Most investment projects are located in the Maputo region, which attracted 711 projects, or 58.4 percent of the total, between 1993 and 1999. In 1999, 75.6 percent of the total value of investment projects was to be found in this region, while foreign investment is even more highly concentrated here (77 percent of the total). The province of Sofala stands in second place, with 18 projects in 1999 (7.7 percent of the total) for a total value of \$15.8 million, or 6.9 percent of the total. It should be noted that the value of foreign investments is a three times greater than that of domestic investments.

1.5 Sources of foreign investment

The most important source of foreign investment is South Africa. In 1999, South African investment accounted for nearly one-third of the total, by value. During the period 1985-99, the CPI approved 233 South African projects. What sets these projects apart from those originating in other countries is that they involve large investment projects as well as those of medium and small scale. The latter are concentrated primarily in the industrial and tourism sectors. It will be recalled that South Africa is the only African country south of the Sahara that makes significant investments abroad (between 1997 and 1999, the average outward flow of direct investment was \$1.7 billion).

The second most important foreign investment source is Great Britain, which accounted for 19 percent of total FDI in 1999, and 92 projects since 1985. The British presence has declined since the 1980s, when it was evident primarily in large public projects. Today, Britain maintains its ranking thanks to the participation of Billiton SA in the Mozal project.

French investments place that country in third place, with 10 percent of total investment planned in 1999, and 15 projects since 1985. In this case, Pechiney's

involvement in the Mozal project is significant, as was the takeover of the Laurentina brewery. Yet French businesses are also active in the banking sector and in large-scale infrastructure projects (highways, water supply, etc.). Interestingly, French investors are newcomers in the country, and their arrival reflects the move to diversify the French presence in Africa south of the Sahara.

Portuguese investors cannot be regarded as newcomers; indeed, many projects have been undertaken by Portuguese returning to Mozambique after leaving it at the time of independence. They now stand only in fourth position, with nine percent of total investment value in 1999, but they are well ahead of other foreign investors in terms of the number of projects (374 since 1985). These relate primarily to small businesses engaged in manufacturing and in services. Portuguese investors have also taken part in the privatization program. Funding for their projects has come primarily from loans provided by the European Union and the Portuguese Government.

