

MOZAMBIQUE

ADMINISTRATIVE BARRIERS TO INVESTMENT: THE RED TAPE ANALYSIS

November 1996



INTERNATIONAL FINANCE
SERVICE
CORPORATION (IFC)
Bank)
1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.
Telephone: (202) 477-1234
Fax: (202) 477-6391

DIRECTORATE GENERAL FOR
DEVELOPMENT COOPERATION

Ministry of Foreign Affairs
Office XVI Piazzale della Farnesina
00100 Roma, Italy
Telephone: (39-6) 323-5885
Fax: (39-6) 323-5922

FOREIGN INVESTMENT ADVISORY

(a joint service of the IFC and The World
Bank)
1818 H Street, N.W.
Washington, DC. 20433
U.S.A.
Telephone: (202)473-0760
Fax: (202) 522-1205

This report was prepared by a World Bank Group team which included Robb Smith from FIAS, Araceli De Leon from IFC and Carlos Calcopietro (Consultant). The Italian Ministry for External Affairs through its National Directorate for Development Cooperation financed part of the effort to make this possible. The report highlights the transactions costs to businesses caused by administrative procedures of the public sector. The procedures, documents and steps needed to apply and obtain licenses and permits are presented and reflect the experience of a number of private companies and individuals who have been operating in Mozambique. The report also traces the legal framework behind each procedure because any changes or simplifications will require a change in the laws. An important finding is that major changes such as decentralization of decision making can be done without modifications to existing laws. This is not to say that it is an easy task. Any steps to change the status quo will require work on the part of policy makers, persuading parties to support new practices in business, negotiating with various entities within government, and so on. The uses and purpose of the report is to demonstrate the reality of excessive administrative barriers and their costs to investors. It can be used as an instrument to show how serious these costs and delays can be. In the course of their work, the team met with many frustrated individuals from both the private and the public sector who live with the entanglements of bureaucratic barriers. Many expressed an interest to see their jobs relieved of repetitive and pointless steps and were hopeful that this work would assist them in this. The team wishes to thank all for their cooperation and hopes this will be a useful piece in making Mozambique a more welcoming destination for investment.

TABLE OF CONTENTS

	<u>Page</u>
Executive Summary	i
Chapter 1: Introduction	1
Purpose of the Report.....	1
Chapter 2: An Action Plan.....	6
Timetable	7
Short Term	7
Medium Term	9
Longer Term	10
Chapter 3: General Approvals and Registration	11
Establishing a Private Company under Mozambican Law	11
Registration Process.....	12
Establishing a Branch by a Foreign Company	18
Registering with the Mozambique Chamber of Commerce.....	22
Registering for Taxes	23
Labor and Social Security Regulations	29
Obtaining Project Approval from the CPI	31
Registering Capital Inflows and Authorizing Repatriation of Profits.....	37
Registering and Licensing as an Importer or Exporter	41
Chapter 4: Site Development	43
Land Development and Construction	43
Rural Land.....	43
Urban Land	48
Utility Providers.....	51
Electricity	51
Water.....	52
Telecommunications	53
Post.....	54

Chapter 5: Major Operating and Trading Licenses	55
Ministry of Industry, Trade and Tourism	55
Requirements for Industrial Licensing	56
Requirements for Commercial Licensing	56
Requirements for Hotels and Tourism	59
Commercial Licensing in Maputo	62
Interaction with Other Government Agencies	63
Procedures for Commercial Licenses	63
Agricultural Licensing Regulations	63
Forestry	63
Wildlife and Hunting	66
Livestock	67
Seed Import, Production and Commercialization	67
Pesticides	67
Plant Inspection and Quarantine	68
Fisheries	68
Construction Companies	70
Tourist Services, Hotels and Travel Agencies	74
Construction of New Tourism Businesses	74
Norms for Technical Licensing of Travel Agencies	76
Chapter 6: Operational Requirements	78
External Accounts	78
Payment of Tax Obligations	78
Labor and Social Security Obligations	79
Enforcement	83
Import Process	83
Licensing	83
Chapter 7: Conclusion	86
The Costs of Administrative Barriers to Businesses	86
Administrative Processes are Excessively Detailed	86
Administrative Processes are Overlegislated	87
Monetary Costs Can be High	87
Limitations of this Report	88
Ambivalent Attitudes Towards a Market Economy and the Private Sector	89

Purpose of the Report

1. This report collects information on the formalities, time, and costs required to be an investor in Mozambique. It describes administrative processes in their most elementary form, using information collected over two field visits. The report does not cover every economic sector. For example, very specific sectors such as mining and banking were left out deliberately. This report should serve as a departure point for removing or simplifying administrative barriers facing business in Mozambique, and as such the report constitutes a road map of the present state of affairs for Mozambique. A more detailed study of the legislation will be needed to identify the most important administrative barriers that can be eliminated.
2. This report demonstrates that administrative barriers to new investments are high, partly due to the legacy of a centralized system and partly due to the manner in which legislation is applied. Either way, they are an impediment to private initiative, and have stifled opportunities for investment. Many of these regulations are inspired by the wish to maintain some control over the direction of private activity. But observation of various government offices reveals to see that there is still “much ado about nothing”, papers, forms, copies and notarization of various documents and intermediate steps are requested and collected into files often with no clear purpose. An enormous amount of paperwork is exacted from private companies for every transaction creating an illusion of control. Investment, employment and the opportunity to revitalize Mozambique's economy at a faster pace are all sacrificed by impossible levels of red tape.
3. Regulatory costs are more damaging for foreign investors than for domestic investors. Foreign investors are generally large, highly visible and have stronger internal auditing systems than smaller local companies. They are also more vulnerable to public opinion and a negative image.
4. One major impediment to investment is that even when companies try to comply with regulations they are not certain of the legality of transactions. There are several reasons why it is often difficult to know what the applicable regulation is within Mozambique's administrative system.
 - a) *Although based on laws, administrative processes are not well disseminated or understood by officials and/or by the public.* Partly because they are sometimes complicated and partly because they are changing, few public employees know exactly what these steps are, or what happens when one of them is not fulfilled.

Neither is the public well informed about its rights or about the documents legally required for each process/transaction. This means that situations such as those portrayed in the various charts represent an optimal path or a best case scenario.

- b) *Sometimes laws have been changed by government without explicitly revoking the old laws.* This can happen when the government decides to change policies by simply not enforcing old laws. The reason is that this avoids open political confrontation over the new versus the old laws. However, this creates an uncertain environment for investors.
 - c) *Procedures are applied inconsistently from case to case and company to company.* As a result, the outcome (whether the investment is approved, at what cost and time) varies with the type of investor, sector, ministries involved, and with the investor's tolerance for chaotic conditions. The ability to make frequent trips to Mozambique to keep the different bureaucratic processes alive appears to be an important element in ensuring completion of administrative processes.
 - d) *Preliminary documentation is excessive.* Often the processes themselves are not as cumbersome as preparation of necessary documentation to initiate them. It can take several months of gathering documents before starting registration of a company for example.
 - e) *Processes are excessively centralized.* Most authorizations are issued at high levels of the public administration—even for minor formalities. Partly because they do not understand the rules, lower-level employees rarely finalize or resolve matters, and instead send most applications and documentation upstream for processing. As one former head of customs told the mission, “When in doubt, ask for another document.”
5. It is possible to make improvements and alleviate administrative barriers to businesses in the short term and there are examples of successful experiences. For example, the Ministry of Finance and Planning has initiated a pilot program in Maputo to assign taxpayer identification numbers that will consolidate paperwork for different taxes. Tax related paperwork is increasingly becoming a problem.
6. The ways in which administrative barriers create transaction costs is illustrated with the example of setting up a company in Mozambique, in Charts 4 and 5. Obtaining approval covers at least twelve different processes: incorporation of the company, tax registration, customs registration, social security registration, connections to utilities (telephone, electricity, etc.), and so forth. Completion of these processes will establish the company in Mozambique, but they do not include administrative steps or processes that are required during the life of the company. Jointly these processes comprise over 145

different steps and involve over 65 different institutional entities¹. Chart 5 illustrates the time and costs of completing each process. Time cannot be accurately inputted because some of these processes are simultaneous. Neither can fees charged be added because the costs are not only those of fees charged but often involve additional legal fees and even bribery to expedite the process. However, the chart gives an idea of the variability of outcomes in terms of time and money. Time can vary from one month to two years, depending on the location, size of investment, number of people employed, nationality of people employed, level of staff.

7. Administrative costs vary with the type of business but the processes are quite similar. All investors must register their company, secure land or premises, and apply for operating licenses. Once the company has been established, the more frequent administrative costs are compliance with tax regulations, labor legislation and use of the customs administration. Reforms are underway in customs and in tax administration which should improve the management of these agencies and reduce the costs to investors. The costs of complying with labor regulations can be considerable when all rules are followed. No reforms are currently envisaged for labor laws.

¹ In some cases, the same institution is involved in two different steps for the same process, this is counted as two different institutions because investors claim that there seems to be no internal exchange of information between different institutional departments or areas within one Ministry.

9. This study has identified a number of actions that the Government of Mozambique can take to reduce administrative barriers to investment. The strategy derives from a diagnostic of administrative systems where excessive transaction costs are due to excessive formalities, where these formalities are the product of practice and not necessarily the law and where there is lack of information about the minimal documentation required to complete a transaction. Accordingly the strategy has the following elements:
- a) *Target administrative steps that can be dropped with low political costs, or without changes to existing laws.*
An example of this is the possibility of greater decentralization in decision making within each ministry involved in licensing or issuing special documentation to investors.
 - b) *Target administrative steps responsible for creating the most significant burdens to businesses:*
 - i. **Reduction in the use of Notarization, Stamps and Seals (Carimbos).** All procedures reviewed in this report, (company incorporation, operating licenses, hiring of workers, etc.) include the presentation of at least 4 different notarized documents. Notarization makes up about 20% to 30% of the number of steps involved. The need for notaries could be restricted to a minimum, and a number of the steps that now need notarized documents could be eliminated. Likewise, the requirement for fiscal stamps for almost any document should be eliminated. Fiscal stamps cost very little in financial terms but are just one more bureaucratic step. All seals (*carimbos*) should be dropped immediately.
 - ii. **Removal of industrial licensing.** This is a major hurdle for investors, is costly, discourages competition, and has no place in a market economy. Its complete removal should be advanced as soon as possible.
 - iii. **Reassess the process of obtaining title to land or buildings.** The process of applying and obtaining title to land or real estate is one of the main sources of complaints by private businesses. Part of the problem is that there is little transparency in the manner in which the DCU and the Administration of Buildings Property of the State (APIE), decide on the allocation of properties to different parties and in the availability of different sites. The action plan envisages the development of a data base of cadasters at the Municipal Council or at DCU, and also at the APIE for state-owned property.

- c) *Raise the level of awareness about legal procedures and information available to the general public.* By establishing clear, uniform, and well disseminated guidelines, each of the processes illustrated in this report should be made faster. With the establishment of databases for the registries, for the APIE and for the CPI, the quality of information will be vastly improved. The availability of this information is essential for markets to perform their self regulatory functions.

Timetable

10. **Short Term:** (by January/February 1997), according to institutional area affected:

- a) *Company Registration:*
- i. Eliminate the need to publish company registration in the Official Gazette. Instead, the company should publish in the newspapers the act of registration and the Articles of Association. This should be done after the registration is completed so the process need not be delayed.
 - ii. Set the registration fee as a nominal amount instead of as a percentage of the capital. The fee should be no more than US\$1,000. In addition, such a fee should apply to all companies, not just those that register with CPI.
 - iii. Eliminate the need to repeat the registration process if the company changes address within the same urban area.
 - iv. Review the changes adopted in European countries with legal systems similar to those of Mozambique and see if simplifications in the use of notaries can be adopted in the short term. Presently, Mozambique uses notaries not only to verify the identity of parties to a transaction, but to check on the legality of the transaction itself. Limiting the use of notaries to the first area would simplify and reduce costs, not only at registration but in many other processes.
- b) *Treatment of Foreign Investors: In Direct Investment (new projects and new stand alone foreign companies) and in Trade Investments (branches).*
- i. CPI should eliminate the need for cash guarantees.
 - ii. CPI should not evaluate projects.
 - iii. CPI should simplify procedures further and eliminate the need for
 - Bank references.
 - Criminal record certificate.
 - Authenticated signatures.
 - Certificate of studies.
 - Title to land or lease on real estate.
 - Feasibility plan for project.
 - Inspections to premises.
 - iv. CPI should establish a database of registered foreign investors describing their main area of business, country of origin, telephone, fax and address in Mozambique. This information should be freely available to the general public.

- v. Branches of foreign companies should be given the same treatment as foreign direct investment and should not be penalized with heavy red tape. The following should be eliminated as prior conditions for registration:
- Obtaining title to land and leases on it.
 - Approval by the Ministry of Planning and Finance.
 - Approval of labor contracts by Directorate at Ministry of Labor.
 - CPI approval, by presenting evidence of equity capital for branches of foreign companies.
 - the issuance of visas should be expedited.
- c) *Ministry of Industry, Trade and Tourism:*
- i. Eliminate industrial licensing.
 - ii. Eliminate licenses for non industrial businesses. Such as service operations:
 - equipment maintenance, information.
 - iii. Establish a unit whose main responsibility is to spearhead the changes in this paper. This unit should be equipped with an office, computer, fax and telephones.
 - iv. Simplify the granting of commercial and trading licensing by eliminating the following:
 - Criminal record certificate.
 - Certificate of studies.
 - Inspection and certificate by Health Ministry (inspections should be done randomly and only in businesses that are relevant such as food processing facilities, private hospitals, etc.).
 - Inspection and certificate by DCU. This requirement should only apply to obtain the DCU title to the land or real estate.
 - Bank certificate of sufficient funds.
 - The notarization of documents.
 - Fiscal stamps.
- d) *The Directorate of Tourism:*
- i. Eliminate "Open Door" licenses in hotels and tourism establishments.
 - ii. Allow tourism businesses to be established without a DCU approved title to premises.
 - iii. Allow tourism businesses to set up a hotel association of their own.
 - iv. Eliminate the complaint book requirement.
 - v. Carry out inspections on a random basis or on the basis of specific complaints.
 - vi. Eliminate need for criminal record certificate and for notarizations.
 - vii. Drop requirement to present proof of financial resources and the bank certificate to the Directorate.

- e) *The Ministry of Labor:*
 - i. Revise legislation and drop the requirement for companies to file weekly updates of their payrolls, overtime, vacation information.
 - ii. Eliminate the need for annual job description charts.
- f) *Procedures for Profit Remittances.*
 - i. Eliminate the need for operational license to be presented.
 - ii. Eliminate the presentation of annual reports.
 - iii. Have CPI accelerate issuance of tax solvency certificate and forward this to the Central Bank.

11. **Medium Term** (six-months to one year):

- a) *CPI:* Improve telephone access to CPI. Establish a free information assistance service to answer inquiries about investment procedures not only at CPI but also at other government offices.
- b) *Ministry of Industry:*
 - i. Set up an intellectual property rights/author's rights registry at the Ministry of Justice, along with other registries.
 - ii. Revoke the Industrial Conditioning Law.
 - iii. Decentralize all decision making in the Ministry, as permitted by the present laws. The present system is highly centralized and overwhelms the Minister's office, especially in requesting trading licenses.
 - iv. Eliminate price control functions.
 - v. Deregulate transportation of merchandise.
 - vi. Allow businesses to establish their own work schedules with employees and to establish their own hours of business with the public.
- c) *Ministry of Industry: Trade Area (subject to modifications as reform progresses):*
 - i. Eliminate the need to present both a certificate of registration and notarized Articles of Association. Only the first of these should be necessary.
 - ii. It is also excessive to require both tax solvency and proof of presentation of financial statements to the Ministry of Finance. Tax solvency is sufficient.
- d) *Directorate of Construction and Urbanization (DCU):*
 - i. Set up a cadaster for properties in Maputo.
 - ii. Eliminate the centralization of all functions at DCU during the application for titles to real estate. Presently DCU carries out most functions on behalf of the Municipal Council, Ministry of Health, Fire Department and other agencies. This is intended to help the applicant but it has not worked and the process should be re evaluated.

- iii. Unify all payments to DCU in one stage, after final inspection. (Presently fees are paid at various points in the process.)
 - iv. Eliminate need to present notarized Certificates of Education of promoters.
 - v. Eliminate criminal record requirement.
 - vi. Requests to DCU should not necessitate more than one proof of ID.
- e) *Ministry of Public Works/Ministry of Industry (for construction companies):*
- i. In the case of public contracts, strengthen the scrutiny of company credentials during bidding of contracts, not at time of company establishment.
 - ii. Establish clear and uniform bidding procedures for all public contracts.
 - iii. In the case of private contracts, private contractors will request background information from the company and there is no need to add other screening requirements.
 - iv. Allow companies to register on their own initiative in a construction company registry or association.
- f) *Ministry of Labor:*
- i. Reform legislation so that the Ministry of Labor does not actively participate in or draft individual contracts through the Employment Center or other offices.
 - ii. In the case of foreign workers, eliminate the need for approval of Ministry of Finance for salaries over US\$1,000 a month.
 - iii. Eliminate participation of the Employment Center.
 - iv. Eliminate need to report on foreign workers yearly.

12. **Longer Term** (over 1 year, up to two years):

- a) Reassess the mail sorting and distribution system. Presently Mozambique does not have a functioning delivery system.
- b) Reform labor laws to leave room for direct dealings between the company and its employees.
- c) Clarify or regulate the application of Land Law Article 33 (for constructions prior to 1991) so that the same treatment applies to urban and rural areas and the state holds no preemptive rights in the event of a sale between two private individuals.
- d) Improve conditions at the Registries and the Notaries. Presently they have poor storage and data processing capabilities which can barely cope with the current volume of registration transactions.

Inventorize assets administered at APIE, the entity that administers real estate owned by the government and the privatization of much state owned real estate and residential property. This information should be freely available to the public and updated regularly.

CHAPTER 3

General Approvals and Registration

This chapter describes the general approvals and licenses required for local and foreign companies in Mozambique to set up a business. Most procedures are common to all businesses.

Establishing a Private Company under Mozambican Law

13. In general, under Mozambican law, companies may register as private companies, as branches of foreign companies, or of foreign investments. The cost of registering a company can fluctuate between 5% to 10% or sometimes more of the initial investment, and the time needed to register can be anywhere between 10 or 12 weeks to six months. The main source of delay in registering a company is the time taken by the *Imprensa Nacional* (National Printing Press) to publish the Articles of Agreement, and the main source of costs are the notary and the commercial registry fees. The process is illustrated in Chart 1.

Conservatoria do Registo Comercial
(Commercial Registry)
Av. Samora Machel No 11, 2 floor
Maputo Maputo
Telephone: (258-1) 426632
Contact: Maria Gracinda Samuel Cumbe

Segundo Cartorio Notarial
(Second Notary)
Av. Eduardo Mondlane No 2885
Telephone: (258-1) 400578
Contact: Victoria Carolina Manganhela

Conservatoria do Registo
(General Registry)
Bairro 25 de Junho
Maputo
Telephone: (258-1) 470423
Contact: Julieta Titose

Segundo Cartorio Notarial
(Second Notary)
Av. Vladimir Lenine No 1472
Maputo
Telephone: (258-1) 428419
Contact: Guilherme Luis dos Santos

Primeiro Cartorio Notarial
(First Notary)
Rua de Bagamoio No 48
Maputo
Telephone: (258-1) 428417
Contact: Antonio Salvador Citoi

Imprensa Nacional
(National Printing House)
Rua da Imprensa
Maputo
Telephone: (258-1) 424864
Contact: Venancio Manjate, Director

14. Each province contains a General Registry (*Conservatoria do Registo*) that is responsible for registering vehicles, real estate, commercial matters subject to registration, and so on. There are also eight notaries. In addition to the three in Maputo listed above, there are two in Beira, one in Nampula, one in Quelimane, and one in Xai-Xai.

Registration Process

15. Incorporating companies with specific objectives may require completing steps that do not apply to all businesses. One example is the incorporation of banks, where the law (Decree 34/92) mandates that Articles of Association and other relevant documentation be approved by the Central Bank before any other procedure is initiated.
16. ***Preparation of Needed Documentation Prior to Registration:*** The more common process for incorporating limited liability and closely held limited liability companies is described below:
 - a) *Drafting the Articles of Association (estatutos).* The Articles of Association must include the name of the company, location of its headquarters, amount of share capital to be employed, objectives (intended activities) of the company, and rules concerning the corporate bodies of the firm. These minimum contents are fixed by law; within the law's limits shareholders may establish their own by-laws. The objectives of the company should be as broad as possible to avoid having to alter the Articles of Association and reregister, should other activities be undertaken in the future. It is also common, within the limits of the law, to put the lowest possible figure for the share capital since it determines the fees for notarization and registration.
 - b) *Obtaining the certidão negativa do nome.* The *certidão negativa* is a certificate verifying that no other company is registered under the company's intended name. The certificate, obtained from the Commercial Registry (*Conservatoria do Registo Comercial*), costs about 7,000 meticaís. Obtaining the certificate in Maputo only takes a day or two; the time it takes in other jurisdictions is not clear.
 - c) *Opening a provisional bank account.* Closely held limited liability companies must open bank accounts to prove that at least half of each capital quota has been paid before the Articles of Association are notarized. For limited liability companies at least 10 percent of the shares of each founding shareholder must be paid when the company is incorporated.
 - d) *Notarizing the Articles of Association.* Notarization is done by a public notary and requires the following documents:
 - i. Articles of Association of the company to be incorporated;
 - ii. *Certidão negativa do nome*;
 - iii. Copy of deposit slips showing that at least half of each quota (or 10 percent of the shares of each shareholder) has been deposited in the provisional account;
 - iv. Identification (such as a passport) for the persons who will sign the notary deed; and
 - v. A power of attorney from each founding shareholder who is not present to sign the notary deed;
 - e) If any founding partner is a company, additional required documents include that company's identification documents (Articles of Association or Certificate of Commercial Registration), a board resolution about the company's incorporation

in Mozambique, power of attorney for representatives of the company to sign the Notarial deed for incorporation of the new company (sometimes included in the board resolution), and official translation of any original documents.

17. Once these steps have been completed, the notary establishes the date for incorporating the new company. The statutes are handwritten in the records book (*livro de escrituras diversas*) kept by the notary office. The client receives a photocopy of the document, which is stamped and authenticated by the notary. In other countries the steps completed by the notary are usually associated with chambers of commerce or registrar general entities. But in Mozambique the notary also certifies that the legal requirements are satisfied, that the statutes conform with the law, and that all partners freely consent to the agreement.
18. **Costs:** Notary fees are fixed by Ministerial Diploma 9/95. This decree includes a scale that requires higher percentages for lower levels of share capital, ranging from 0.5% to 2.5%. Actual charges are calculated in a rather complicated manner. Registration fees vary according to a scale fixed by Ministerial Diploma 9/95, which establishes higher percentages for lower levels of capital (0.5% to 2.5%). The high cost of registration causes many companies not to register, especially locally owned retail and commerce businesses. Large investments are particularly penalized under this system.
19. **Provisional registration:** The next step is to take the notarized deed of incorporation to the Commercial Registry (*Conservatoria do Registo Comercial*) to register. As the Imprensa Nacional (*Imprensa Nacional*) sometimes takes several months to publish the Articles of Association, companies often operate under a provisional registration until the articles are published. Provisional registration is not legally required, and some companies choose to wait for publication before beginning operations. Once the Articles are published, the company takes a copy of the Official Gazette to the Registry for final registration. Registration fees are due at the time of registration. If a company obtains a provisional registration it pays the registration fee when it obtains its provisional registration and a minor fee when final registration is completed.
20. **Publishing the Articles of Association in the Official Gazette (Boletim da Republica):** The Imprensa Nacional requires presentation of notarized Articles of Association as well as payment of a fee per page. Publication is supposed to take place within ninety days of the request, but time and costs vary and this can take longer. Businesses have a six-month period during which they can operate under a provisional registration. If publishing is delayed for more than six months, companies must register again. Apparently the law allows for an extension of the term of the provisional registration, but few investors are aware of this.

21. ***Incorporation (final registration)***: Once the Articles of Association are published, the final step is to take them to the Commercial Registry, at which point the provisional registration becomes permanent and a minimum fee applies. Companies that wait for their articles to be published must pay the registration fees in full at this time. Together with the authenticated copy of the Notarial deed of incorporation, investors must then submit a copy of the Official Gazette. Stamp duties of 2 meticaís per 1,000 on the share capital apply.
22. The CPI and the Ministry of Justice are studying ways to reduce notary and registration fees for newly incorporated companies and to simplify registration procedures, and have recently come up with a definite proposal to reduce notary fees.

Legal Foundation

23. The Commercial Code is the main body of legislation governing the incorporation of companies.

Constraint Analysis

24. Company registration is one of the main sources of costs to new investors and can exceed 10% of the company's initial capital. Notary and Registry fees account for a large portion of such fees and as a result companies in Mozambique are established with artificially low capitalization levels. This practice reduces the costs of registration but companies that are legally undercapitalized will have trouble obtaining credit from commercial lenders later. In addition to direct financial costs, the time involved in registration is long and variable as shown in Chart 1. It can take up to six months to incorporate a company. The shorter waiting times are achieved when investors provide complete documentation. For example, foreign investors are often required to submit official translations and need to renew their visas and/or demonstrate former business associations with Mozambican entities. At times investors fail to provide these documents. Any missing or expired documents that entail deviations from steps familiar to government staff will cause long waiting periods. One frequent reason for delays is change in address of the company. Any time a company changes its domicile or address, the Articles of Association need to be altered accordingly even if the change takes place within the same municipal unit. Any of these requirements can signify delays of several months to incorporate. The more a process deviates from the norm, the longer it takes. In all cases, however, the Imprensa Nacional is late in publishing the Articles of Association. Incorporation of a company should be an easy and expeditious process. For example, in the state of Maryland, incorporating a company takes about US\$140 and less than a month. The following table illustrates fees charged in various US states, and the Cayman Islands, by legal services for incorporating, checking the *certidao negativa do nome* and for preparing all necessary documentation.

State/Territory	Incorporation Fees (US Dollars)
Alabama	184
Arizona	254
Arkansas	219
Delaware	124
California	1024
Connecticut	399
Illinois	214
Pennsylvania	364
Texas	416
Cayman Islands	2200

25. The standard state incorporation fees are slightly below those shown on the table. For example, in the state of Delaware, the standard fee is US\$110. This fee rises by US\$500 to expedite the process to two hours, US\$100 for same day incorporation's and US\$50 for 24 hour incorporation's. There is an annual franchise fee of US\$50 and there are no minimum capital requirements. Corporations can be formed by mail, fax or phone and incorporation's do not require the physical presence of the person. An important comparison for Mozambique: in Delaware corporations can have many different purposes and conduct many different types of businesses. More than one type of business can be conducted by the same corporation without changes to the documents filed in the state.

Recommendations

26. *Simplifying the notarization requirements for registration of companies:* The steps for incorporating companies in Mozambique are analogous to those formerly applied in Spain, Portugal and France with a similar legal system. Reforms in these countries to harmonize with the European Community have simplified procedures. In Spain and Portugal for example, it is no longer necessary to write the Articles of Association in the Commercial Registry, nor do they need to be published in the Official Gazette. Notarization of the Articles of Association varies across countries. For example, in France they do not need to be notarized although a notarized "Declaration de souscription et de versement" was required. This is a deed under which the shareholders of a joint stock company or "societe anonyme" declare that they have duly subscribed so many shares and paid up so much of the par value of the shares. This requirement was abolished in 1983 and replaced by a bank certificate stating that the equivalent of the paid up amount of shares is deposited in the bank. This certificate is then presented to the Commercial Registry.
27. Another area of potential improvement in registry costs is to eliminate the requirement of publication in the Official Gazette. There is no reason why private transactions should have to be published in the Official Gazette. Private transactions such as the constitution of a new company, etc. should be able to be published in either the local private newspapers (as in Argentina) or in a special private publication that specializes in these matters. For example, in some Latin American countries with legal systems similar to those in Mozambique, the Mercantile Gazette, a privately owned and managed

organization, is the place where most companies publish acts of constitution, change or alterations to Articles of Association, liquidation, etc. The objective of wide publication is to provide information to third parties such as creditors about the legal situation of a company and this can be accomplished through a private channel.

Establishing a Branch by a Foreign Company

Ministerio de Industria, Comercio, e Turismo
Departamento das Representações Comerciais
(Ministry of Industry, Trade, and Tourism,
Department of Foreign Commercial Representation)
Praça 25 de Junho
Maputo
Telephone: (258-1) 426092/3
Contact: Lina Magaia

28. Foreign companies often explore the business potential of a country via the establishment of a branch before embarking with a large investment. The legal procedure and steps are contemplated in Decree 7/83. Foreign companies must obtain a license from the Ministry of Industry, Trade, and Tourism, must have prior commercial relations with Mozambican entities and must have business activities either in or out of Mozambique, or must have been or be currently involved in some project in Mozambique.
29. The following steps apply:
 - a) *Applying for a license.* A letter of application (*requerimento*) must be submitted to the Minister of Industry, Trade and Tourism, accompanied by:
 - i. the company's Certificate of Incorporation and proof of registration in its country of origin or, in the case of an individual, a certificate of registration in his or her country of origin;
 - ii. proof that the company has commercial relations with Mozambican entities or is developing or participating in a project in Mozambique;
 - iii. letters of recommendation from entities in Mozambique with whom the foreign company maintains commercial relations, including government entities;
 - iv. identification of the person who will represent the company in Mozambique, preferably either a Mozambican national or a holder of a resident's permit; and
 - v. power of attorney giving the representative legal powers to represent the foreign company in Mozambique.

- b) *Registering with the Chamber of Commerce.* Branches of foreign firms must also register with the Mozambican Chamber of Commerce (see below).
- c) The fees that apply to branches of foreign firms include:
 - i. US\$600 as an initial application fee to the Ministry of Industry, Trade, and Tourism;
 - ii. US\$500 as an annual subscription fee, also to the Ministry;
 - iii. US\$500 as an initial registration fee to the Chamber of Commerce;
 - iv. US\$750 as an annual membership fee to the Chamber of Commerce (optional);
 - v. charge per page for publication in the Official Gazette.
- d) The entire process takes at least forty-five days and is illustrated in Chart 4.

Constraint Analysis

30. Establishing a branch of a foreign company is costly and fraught with delays that can go on for months. As shown in Chart 4, there are at least 12 different processes involved from incorporation of the branch as a company in the commercial registry to the application for trading and commercial licenses. Each of these processes involves the completion of steps such as trips to the registry, gathering of company background documentation in the home country, drafting an explanation of how the branch will contribute to the economic development of Mozambique, and so on. In total there are at least 70 points of contact with government institutions and about 150 steps involved. Unlike the process to be followed by applying for CPI authorization for investment projects, setting up a branch has not been the focus of attention for new investment friendly policies. The government has adopted policies which seek to encourage foreign direct investment in the foreign investment law of 1993. However foreign direct investment comes not only in the form of investment projects but is often initiated with trading outposts in new locations. Through branch operations, a foreign company acquaints itself with local business practices and acquires a sense of the risks involved in investing in a particular location. This information may assist it in engaging in expansions or setting up transformation activities. However, in Mozambique this practice is hindered by the numerous bureaucratic steps needed to open a branch. As Charts 8 and 9 indicate, documentation required is extensive and putting it together can result in a wait of several months before a final approval is obtained.

Recommendations

31. *The policies intended to favor treatment of foreign direct investment should be extended to branches of foreign companies.* It does not make sense to make special efforts to attract new investment by foreign companies on one hand and then discourage the establishment of branches of foreign companies on the other. An important element of investment promotion is to convey an image of receptiveness to foreign business in general. Harassment of foreign business that come as trade operations with a branch office is likely to hurt Mozambique's image for more permanent investment too.

32. *Branches of foreign companies should not be forced to register in the Mozambican Chamber of Commerce.* There are no benefits from this regulation to the company which has to pay fees to the Chamber for no apparent services. Companies should not have to pay for registration since they don't receive immediate services.
33. *The Ministry of Labor should not be involved in the negotiations or drafting of labor contracts.* It is likely that many cases involving branches of foreign companies are cases of franchise operations. Especially in the service sector, franchises are good providers of employment and training of unskilled and semi-skilled labor. The interference of the Ministry of Labor in the terms of contracts can only discourage the entry of these businesses in Mozambique.
34. *Approval by the Ministry of Planning should be eliminated.* Branches of foreign companies do not receive assistance from the CPI. The investment screening function of the Ministry of Planning, by way of CPI, should be eliminated. That same recommendation applies to the Ministry's screening of the branches of foreign companies (although without CPI involvement).
35. *Operating Licenses:* The Ministry of Industry decides on the basis of national interests whether the activities of the branch to be proposed are or are not beneficial to the country. This is an extension of the policy of "Industrial Conditioning" whereby each economic sector is analyzed according to its contribution to national interests. This requirement should also be terminated as soon as possible.

Registering with the Mozambique Chamber of Commerce

Camara de Comercio de Moçambique
(Mozambique Chamber of Commerce)
R. Mateus Sansao Muthemba, 452
Maputo
Telephone: 491970
Fax: (258-1) 492211
Contact: Carlos Klindt, President

Camara de Comercio de Moçambique, Beira
(Mozambique Chamber of Commerce, Beira)
C.P. No. 286
Beira
Telephone: (258-3) 324167
Contacts: Mussagy Renane, Delegate, and
Azarias Vilanculos, Chief, Administration and
Information

36. The Chamber has 450 affiliated members, although only 120 regularly pay their fees. Companies are classified according to their share capital and are subject to the following fees:
 - a) Group A (share capital above 10,000,000 meticaïs) pay 200,000 meticaïs for membership and 100,000 meticaïs as a monthly fee;
 - b) Group B (share capital between 5,000,000 and 10,000,000 meticaïs) pay 150,000 meticaïs for membership and 70,000 meticaïs as a monthly fee; and

- c) Group C (share capital below 5,000,000 meticaais) pay 100,000 meticaais for membership and 40,000 meticaais as a monthly fee.

37. The Chamber of Commerce's main role is to issue certificates of origin to exporters. It also helps companies conduct promotional activities, participate in fairs and exhibitions, develop links with potential partners, and lobby the government, and it provides training and translation services. The chamber of commerce also helps the CPI evaluate the bona fides of project promoters and other parts of projects.

Constraint Analysis

38. Registering at the Mozambique Chamber of Commerce by itself does not create special problems for investors as it is fairly straightforward, but it brings no special benefits for foreign companies that become members. In fact, they are penalized by having to pay fees from which local companies are exempted from. Branches of foreign firms are legally required to register with the Mozambican Chamber of Commerce, whereas membership is not mandatory for local firms. This creates a bias against foreign investors who also need to pay fees. There is no reason why legislation should give preference to one particular business association. There can be several chambers of commerce operating simultaneously and individual businesses can chose between them according to the advantages provided by each.

Recommendations

39. No company, foreign or local, should legally be forced to register with the Chamber of Commerce. This regulation should be revoked as soon as possible as it only hinders the establishment of foreign investors.

Registering for Taxes

Ministerio do Plano e Financas
Direcção Nacional de Impostos e Auditoria
(Ministry of Finance and Planning,
Directorate of Taxation and Auditing)
Av. 25 de Setembro 1008, 6th floor
Maputo
Telephone: (258-1) 429945
Fax: (258-1) 421453
Contacts: Aboobakar Changa, National Director,
Taxation and Auditing, and Tapu Mamane, Chief,
Tax Department

Delegacao da Beira
(Beira office)
C.P. 515
Beira
Telephone: (258-3) 322508
Contact: Jose Pedro Antonio da Silva Beirao,
Sofala Province Director

40. Before starting operation, companies must register as tax payers. Registration for tax purposes is carried out at the offices of the Finance Ministry and is not felt to be a particularly difficult problem. The Directorate of Taxation and Auditing (*Direcção Nacional de Impostos e Auditoria*) is responsible for assessing and collecting taxes in

Mozambique. The system is decentralized at the provincial level; major urban areas have two or more fiscal districts (*bairros fiscais*). The following fiscal obligations were instituted under Law 3/87. There are a number of different taxes in Mozambique:

a) *Direct Taxes:*

- i. Taxes on profits from commercial and industrial activity (*imposto de contribuição industrial*). The standard corporate tax rate is 50%.
- ii. Withholdings tax, section A (*imposto sobre o rendimento do trabalho, secção A*). These taxes are charged on income earned from salaries and wages or from any type of professional activity performed on behalf of a third party.
- iii. Withholdings tax, section B (*imposto sobre o rendimento do trabalho, secção B*). These taxes are levied on the profits made by cooperatives and individual agricultural businesses. The tax rate is determined at the provincial level and is progressive, from 1-30%.
- iv. Complementary tax (*imposto complementar*). This is a surtax on the overall income of individuals, including income accruing from capital gains, commercial activities, and earnings from industrial activity.

b) *Indirect Taxes:*

- i. The turnover tax (*imposto de circulação*) is levied on all transactions carried out in Mozambique. Its rates vary from 5-20%.
- ii. The consumption tax (*imposto de consumo*) taxes local industries' use of certain raw materials or consumption of intermediate goods and is paid according to a table that is periodically updated by the Council of Ministers.
- iii. The national reconstruction tax (*imposto de reconstrução nacional*) is a compulsory levy paid by residents to cover government expenses.
- iv. Custom Duties (*direitos aduaneiros*) are charged for import transactions. The Council of Ministers determines the number and level of these duties and the stamp taxes (see below).
- v. Stamp taxes: (*imposto de selos*). Almost every official document—even between private parties—must have a fiscal stamp. Stamp taxes are much less of a nuisance than they appear, however, because stamps can be bought at the district tax offices of the Ministry of Finance and Planning in much the same way as postal stamps. While this could be an effective way of generating tax revenues, the funds generated by stamp taxes are insignificant—in 1994 they amounted to less than 1.6% of fiscal revenues.
- vi. Carimbos are seals that are applied to most materials used for marketing and displayed in public places. The carimbo tax applies to calendars distributed for publicity, theater and movie tickets, and all sales receipts.
- vii. Tourism tax: Certain types of businesses are also subject to a tourism tax (*imposto de turismo*). Legislative Diploma 2732/66 regulates and taxes the activity of bars, restaurants, hotels, and so on. Decreto 33/95 determines the tax duties of travel agencies.

Constraint Analysis

41. Taxes are numerous and this alone makes compliance administratively burdensome. Taxes would also be financially impossible if they were fully applied, but between poor control and information systems in the government and the availability of fiscal incentives, the fiscal burden on companies is less than it would seem. The norms which dictate tax liabilities have, however, become more complex as a result, and contribute to high overheads to businesses. The turnover tax is particularly onerous for companies with a high sales volumes such as soft drinks, food and low price consumer goods. Because such taxes are charged on value added, both the tax office and the business put special care in figuring out the tax liabilities. In the case of a beer manufacturer, for example, this signifies posting full time personnel to the screening and monitoring of work in progress and inventories solely for the benefit of tax calculations.
42. The taxes related to labor obligations, seal taxes and turnover taxes are examples. Labor related taxes are discussed in a separate section below. *Carimbo*s are fees charged by the Ministry of Finance for stamping marketing, publishing and other promotional material used by businesses. For example, posters and calendars need to be carried to the offices of the Ministry in downtown Maputo and stamped in the back. Failure to have all such materials stamped can result in heavy fines. Revenues collected from such taxes are minimal as the amounts oscillate between 1000 and 500 *Meticais*. For stamping 1000 calendars, a company would probably need to pay about US\$80 in taxes and about half that figure in wages for transporting and handling the materials to the tax offices. Revenues collected from both seal taxes and stamp taxes, (every document in Mozambique needs to have stamps of some kind to be “trustworthy”), are insignificant and are estimated to be to less than 1.6% of total government revenues in 1994.

Recommendations

43. The form of payment of taxes and the efficiency of each should be part of an overall evaluation of fiscal reform. The system of requiring seals on every check and sales receipt for each company is an obvious case of excessive red tape and should be promptly modified. The Carimbo taxes should also be eliminated. Both these taxes are nuisance taxes and their compliance exact an unquantified amount of resources to businesses.
44. **Tax Registration:** Investors must register to pay taxes within fifteen days of incorporating a business. This process involves communicating initiation of activity to the tax department of the appropriate fiscal district through a form known as *Modelo 6* (which in fact is numbered with a 4 rather than a 6). A taxpayer number corresponding to the tax on commercial and industrial activity (*imposto de contribuição industrial*) is assigned and an individual file, for this tax only, is manually opened. Procedures for each tax duty are not uniform, and the steps that investors must follow may vary according to the organization of each tax district. Still, the taxpayer number assigned through *Modelo 6* also serves as the registration reference for the turnover tax (*imposto de circulação*) and allows companies to process invoices. Investors are usually asked to provide a copy of

their operating licenses (*alvara*) and a notarized copy of their Articles of Association.

45. In addition, *Modelo 7* needs to be filed to register, under a different taxpayer number, for the *imposto sobre o rendimento do trabalho, secção A*, and *Modelo 44* is the registration form for the complementary tax.
46. Separate files are also opened for the *imposto de consumo* and *imposto de turismo* where they apply, but apparently no individual forms are available for registration.

Constraint Analysis

47. The registration of new companies in the tax office does not seem to pose any special problems other than those created by the on-going reform in the fiscal administration system, and the putting together of the documentation required for any formal procedure in Mozambique (see Chart 10). The tax registration process itself is not particularly troublesome. Efforts are presently being made to unify procedures for each tax payer and simplify processes.

Recommendations

48. It should not be necessary to present both notarized Articles of Association and certification of Commercial Registration. The latter should suffice for the effects of registration unless the registration process has not been completed in which case, copy of the provisional registration should be the document required. Presentation of notarized Articles of Association should be eliminated from the list. Another item for elimination is the need to present an operating license. (See Chart 11.)

A Pilot Project

49. The first fiscal district in Maputo has introduced a new system whereby taxpayers can register under a single number for every tax obligation. The information is collected through the *Ficha de Identificação do Contribuinte* and loaded in a database established at the *Direcção de Impostos e Auditoria*. This system has significantly improved the organization of tax administration for the files in the pilot project. Comprehensive information contained in the form allows immediate knowledge of each taxpayer's situation. Files also include copies of each company's operating license and Articles of Association. Sources at the Ministry of Finance and Planning have indicated that the method now tested with this pilot project could be extended to other parts of the country if financial resources were available.

Labor and Social Security Regulations

Ministerio do Trabalho
Direcção do Trabalho da Cidade
(Ministry of Labor, Directorate of
Labor for the City of Maputo)
Av. Zedequies Manganhela No. 520
Maputo
Telephone: (258-1) 421142
Contact: Félix Manhique, Director

Ministerio do Trabalho
Instituto Nacional de Segurança Social
(Ministry of Labor, National Institute
of Social Security)
Av. 24 de Julho 2365
Maputo
Telephone: (258-1) 421140 / 427051 / 427052
Contact: Lidia M. Arao, Department Chief

50. **Regulations for Local Workers:** Under this law private labor contracts may be either open-ended or fixed term, but in both cases they must be sanctioned by the Employment Center and made on an exclusive basis. Only in exceptional cases does the law authorize a company to hire workers already under contract with another firm. In addition to signing a contract between the company and each worker, the following requirements must be fulfilled:
- a) the employer must submit a special form (*oferta de emprego*) to the local Labor Directorate describing the job opening and the candidate for the position;
 - b) the candidate must register with the provincial Employment Center;
 - c) the employer must send a list of the personnel already hired to the director of the Employment Center; and
 - d) the employer must provide all workers with a personal identification (*cartão de trabalho*) that the employer stamps every quarter as proof that he is complying with his fiscal obligations.
51. Subsequently, the investor is supposed to open a file (*processo individual*) and prepare a chart (*relação nominal*) listing the name, position, skills, date of birth, date of entry, date of last promotion, wage or salary, and number of hours due per month for every worker. The chart must be posted publicly after being signed by the employer and by the union committee and stamped by the Employment Center. This chart must be updated and approved by the Ministry of Labor every year. Finally, companies are required to prepare a job description chart (*quadro de pessoal*) and request its approval by the Labor Directorate. The process is set out in Chart 12.
52. **Regulations for Foreign Workers:** Regulations for hiring foreign workers are more complicated than those applying to nationals. Under Law 1/76, which regulates the employment of foreign workers, employers that wish to hire foreign workers must:
- a) request approval of the labor contract by the corresponding Minister or State Secretary and, when the monthly salary exceeds US\$1,000, the minister of finance;

- b) submit a letter, accompanied by a copy of the intended contract, requesting the approval of the Minister of Labor at least forty-five days before the employee begins working. If no answer is received within thirty days, the contract is approved; and
 - c) submit, every January, three copies of a list describing every foreign worker's name, responsibilities, salary, and date of initiation of activity.
53. All other regulations for local workers also apply to foreigners. The steps and sequencing are illustrated in Chart 13.
54. Under investments submitted and approved by the CPI the procedures for hiring foreign workers are simpler (although some investors complain that practices remain slow and complicated even with CPI intervention). A letter from the Center confirming its approval of the investment may be sufficient to obtain a resident permit (*documento identificação dos residentes estrangeiros*), although it does not preclude the need to obtain other labor approvals. Getting the various ministries' approvals is cumbersome, especially for nonprofessional personnel, because the company must first demonstrate that no local workers are available to perform the job. The procedures are the same for high-level staff, but in most cases it is easier for companies to prove that no Mozambicans with the required qualifications have been found. The process is more complicated for salaries above US\$1000 monthly as shown in Chart 13 because this requires involvement of the Finance Ministry.
55. A special form (*boletim de identificação de beneficiarios*) must be filled out for each worker and submitted to the *Instituto Nacional de Seguranca Social* (or to local delegations in the provinces) within fifteen days of signing the labor contract, accompanied by a copy of that worker's birth certificate or identification card. The name, relationship, and date of birth of each worker must be described in the form and authorized by the institute. Social security obligations amount to 7% of gross salaries, with 4% coming from the employer and 3% from the employee.

Legal Foundation

56. Law 5/89 requires businesses with ten or more employees to register with the Social Security System (*Systema de Segurança Social*). Law 1/76 regulates hiring foreign workers. Law 8/85 provides the basic legal framework for hiring local workers.

Constraint Analysis

57. Compliance with labor regulations is time consuming and penalizes the large companies and the foreign companies who must abide by the book. Local and smaller companies can get away with more informality in their labor practices and therefore get around the legislation. But for those who cannot, there are estimates that fulfillment of labor regulations takes up the time of one full time administrative professional for each 50 to 70 employees. Another negative aspect of labor regulations is the degree of interference

by the Labor Ministry and other entities in the terms of transactions that should only concern employers and employees. There have even been cases of other government ministries negotiating the fees payable to specialized workers. This apparently has been the case in the hiring of expatriate labor for large foreign investors.

Recommendations

58. Labor regulations should be updated to support economic policies of the government. Many of the existing policies reflect concerns with treatment of illiterate workers by colonial companies and seek to protect the workforce from exploitation in a traditional sense. Modern working conditions and competition between companies should by itself improve the terms offered to workers. Given the large reported unemployment and the need to accommodate an increasing number of adults into the labor market, it is important that regulations governing labor markets be modernized. Several actions are suggested:
- a) Eliminating the involvement of the Ministry of Labor in minor aspects of labor management of the company. Grievances should be dealt with when they arise, on a case by case basis. At present, the Ministry tries to anticipate possible reasons for future grievances by revising individual contracts (or rather requiring that draft contracts be submitted for consideration and approval).
 - b) Eliminating the need for frequent and periodic reporting of data on the workforce to the Ministry. Reporting of overtime, vacations and other individual information should be eliminated as soon as possible. The monthly submission of a list of all employees to the Ministry should be eliminated.
 - c) Eliminate the inspection procedures. Inspectors can fine companies for not having the payroll information pinned on the wall and other minor infractions. These visits cost time and money to companies and should be eliminated. Chart 14 illustrates these suggestions and shows how the burden of hiring of employees could be lightened for companies by reducing some steps.

Obtaining Project Approval from the CPI

Center for Investment Promotion
Av. 25 de Setembro 2049, 1st floor
Maputo
Telephone: (258-1) 422456/7
Fax: (258-1) 422459
Contact: Fernando Sumbana Jr., Director

59. Foreign investment projects receive preferential treatment under Law 3/93 (later supplemented by Decrees 14/93 and 36/95). This law provides the legal framework to apply for support from the CPI, which facilitates investment approvals, obtains required

licenses, grants tax exemptions, and repatriates profits and capital. The CPI must be involved in the approval of a project for it to be eligible for these benefits.

60. Three copies of the investment application must be submitted to the provincial delegation of the CPI, supported by the necessary documentation. The application can be submitted directly as a project proposal or can be used to guide a project proposal submitted in the company's preferred format. A separate viability study is not necessary when the investor submits a proposal using the CPI's format. The CPI analyzes the adequacy of each investment proposal in relation to national economic interests; it does not assess the financial viability of investments.
61. The following items must be attached to each application:
 - a) if the company does not yet exist, its proposed projects, activities, and Articles of Association;
 - b) if the company does exist, any proposed alterations to its Articles of Association;
 - c) when the applicants are individuals, identification (such as a passport), curriculum vitae, and criminal record of the main persons responsible for implementing and operating the project;
 - d) when the applicant is a company, documents proving identification;
 - e) the incorporation certificate of each company (in Portuguese), as well as other documents such as reports and accounts of the previous financial year, catalogs, brochures, and other publications that illustrate the company's activities; and
 - f) bank references for each prospective investor.
62. Proposals that involve indirect investments must also include:
 - a) the deed or title to exclusive access or use of the specific form of indirect investment under consideration, indicating the respective period of validity of the deed;
 - b) the contract proposal or other valid document establishing the forms and conditions applicable to the use or application of the form of indirect investment in question.
63. Foreign corporate investors hoping to establish a branch in Mozambique must present, in addition to these items, the following:
 - a) legal documents proving the existence and activities of the firm or institution intending to establish a branch in Mozambique;

- b) an indication of the equity capital of the branch to be opened and operated in Mozambique, indicating explicitly the form of its realization; and
 - c) the minutes of the general meeting convened to deliberate on creating a branch in Mozambique, translated into Portuguese and authenticated.
64. Investors are not required to submit an environmental impact assessment when they submit the investment application or proposal. In cases where project activities are likely to have environmental consequences, however, the investor must submit an environmental impact assessment to the Ministry for Coordination of Environmental Issues after approval by the CPI.
65. One of the objectives of Law 3/93 was to stimulate the development of Mozambican entrepreneurs. While no explicit regulations force foreign investors to associate with locals, the CPI looks favorably on project proposals that include Mozambican partners. Foreign investors are aware of this, and investment proposals are often made as joint ventures with a local association, especially in projects involving the exploitation of natural resources.

Alterations

66. If an investor or company changes its ownership or the scope and type of its activities after receiving approval by the CPI, it must reregister with the Commercial Registry and provide this information to the Ministry of Planning. The company notifies the Ministry using a notarized Certificate of Alteration of the Articles of Association. The Ministry must be informed of such changes because it is responsible for granting fiscal benefits. Since these benefits are granted on the merits of the initial proposal, they might not be justified for different activities or for projects that do not involve Mozambican partners. Changes in scope are infrequent, however, and usually involve an expansion of existing activities.

Time Frame

67. Under Law 3/93 the CPI has forty-five days to respond once an investor submits a complete application. The Center usually takes much longer, however. In an effort to remedy this situation, the most recent modification of Law 3/93 established that approval was automatic if the Center did not reply within ten days. These new procedures have not yet been tested.
68. In reviewing an application, the CPI analyzes the investment project and confers with the monitoring Ministry and other government agencies involved in granting licenses to the project. Investments exceeding US\$100 million require, in addition to the approval of the Ministry of Planning, approval of the Council of Ministers.

69. The Center has been charging 0.5% of the invested capital for its services but is considering lowering this to 0.1%, to a ceiling of US\$25,000.

Constraint Analysis

70. Despite repeated efforts at reform by the CPI, investors continue to express frustration at the low pace at which new projects are considered, and the process continues to be complicated and lengthy. CPI can repeatedly question the assumptions and financial viability of projects presented, a practice that creates the need for frequent visits. CPI continues to emphasize the screening of projects. As long as CPI uses fiscal incentives and tax reductions as the main tool for investment promotion, it will be difficult to shed the culture of project screening which is the main culprit for delays at CPI. In the view of most investors, the use of CPI does not accelerate approval processes at other government offices. The Center states that financial risk should be weighed by investors, not the government, but these statements are not always consistent with practice. For example, CPI is now requiring financial guarantees before approving projects. Another area of concern is the fact that CPI's treatment and allocations of fiscal incentives is not uniform and lends itself to negotiation between companies and the Center. For example, projects with similar activities and profiles can obtain different fiscal benefits even if the two are requesting similar conditions from CPI.

Recommendations

71. The CPI role should be one of promotion by facilitating information to investors, not by offering fiscal incentives. The provision of these incentives preserves the culture of project screening. This provision has also fostered inefficiencies in the manner in which companies behave to be eligible for such benefits. For example, companies, especially local ones, will slice their investment plans into the smallest units possible so they can present them as individual projects to the CPI. Businesses in such cases adopt complicated legal structures to appear as different companies. It also creates an artificial sense of success at the CPI because those investments would probably have taken place anyway, or would be even more efficiently encouraged by simplification of customs procedures. Fiscal incentives are particularly attractive in the case of exemption from custom duties, but CPI involvement runs the risk of creating a parallel customs system. The provision of all fiscal incentives as part of promotion policies for foreign investment should be phased out.

The process can be further simplified. Partial progress is being made towards conversion of CPI into a "one stop shop" for investors, but there are still too many reported cases of delays and excessive red tape which make it "one more stop" instead. For example, the requirement of criminal records, education certificates, guarantee deposits at a commercial bank, and signature authentication should be eliminated in the short term. Once fiscal incentives are abolished as part of CPIs promotional toolkit, then the submission of a feasibility study would not make sense either, and should also be eliminated.

Registering Capital Inflows and Authorizing Repatriation of Profits

Banco de Mocambique
(Bank of Mozambique)
Av. 25 de Setembro 1679
Maputo
Telephone: (258-1) 425483
Fax: (258-1) 423573
Contact: Esmeralda Fernandes
Capital inflows

72. Foreign investors are required to register capital inflows with the Central Bank's Department of External Debt and Exchange Control (*Departamento de Controle Cambial Divida Externa*). These transactions are regulated by Law 3/96 (*Lei Cambial*), and implementing regulations are being developed. Because the bank is assuming responsibility for an activity previously performed by the Ministry of Finance and Planning, it has not designed its own forms.
73. The current procedure for registering capital inflows (see Chart 15) involves preparing four copies of *Modelo E-10 Boletim de Autorização de Importação-Inspeção de Crédito e Seguros-Operações de Capitais Privados*—two for the Central Bank, one for the commercial bank where the investor has an account, and one for the investor. This form requires a detailed description of the intended use of the capital. Proof that the local commercial bank has received a wire transfer from a foreign bank must be also attached to the registration request. The director of the Department of External Debt and Exchange Control is responsible for approving the capital inflow registration. The Central Bank does not charge a fee for this procedure. As the Chart below illustrates, initiating this process entails two trips to the notary, and possibly one to the Commercial Registry. In addition, banks can request other information not portrayed here such as criminal records or proof of a deposit account with a foreign bank.

Profit Remittances

74. Repatriation of profits requires authorization by the Central Bank. This procedure involves the following steps (see Chart 14):
 - a) The investor sends a letter to the Tax Department (*Direcção Nacional de Impostos e Auditoria*) in the Ministry of Finance and Planning requesting clearance for repatriation of profits, accompanied by the company's annual financial report, authorization from the CPI, and proof of payment of all due taxes.
 - b) The Ministry that granted the company's operating license issues a letter declaring that the profits were generated in accordance with the terms under which the investment was originally authorized.

c)

- c) Finally, the Central Bank issues the *Boletim de Autorização de Pagamento* registering the operation and authorizing a commercial bank to proceed with the transfer of funds.
75. As with the registration of capital inflows, the director of the Department of External Debt and Exchange Control authorizes repatriation of profits. No fee is charged for the Central Bank's approval.
76. The above procedures also apply to technical assistance and patent rights contracts between foreign and local companies. In addition, these contracts must be previously approved by the Ministry of Planning and Finance. The Ministry of Planning and Finance authorizes the level and percentage of royalties eligible for repatriation, which must be established in the technical assistance contract. In some cases the Ministry has played a role in negotiating the royalties, salaries or wages offered in technical assistance contracts.

Legal Foundation

77. These transactions are regulated by Law 3/96 (*lei Cambial*), and implementing regulations are being developed.

Constraint Analysis

78. The registration process for capital inflows does not seem to pose particular problems, but those associated with profit repatriation could be simplified further (Chart 14). Examination of one particular transaction of profit remittance for just over US\$500,000 by a specific company found that authorization and registration by the Central Bank took one week and that the Tax Department took less than a month to authorize the transfer of dividends. This is one of the first transactions done under new guidelines and may not be representative of future procedural times and costs. As the number of private companies increases, the Central Bank will have an increased flow of operations of this type to handle and could have difficulty in doing it in a short time. One bottleneck is the need to present a copy of the operating license by the supervisory Ministry. This license could have expired or have been suspended for a number of reasons and the company would not be able to service its financial obligations with external parties as long as the reasons remained unsolved. Another requirement, the need to provide a tax solvency certificate, means that the Finance Ministry is involved. This requirement is understandable from the point of view of the government who has problems of tax evasion and low collection levels. As fiscal management improves, however, requirements like these should be deleted because they can seriously impair the ability of a company to manage its finances effectively.

Recommendations

79. Eliminate the need to present operating licenses. Make the process of profit repatriation as clear and transparent as possible. Few other pieces of information will be as closely watched by investors as their ability to draw a return from Mozambican investments. The more consistent the treatment awarded to different investors and companies, the greater the credibility of Mozambican institutions and the more likely investors will reinvest resources in the country.

Registering and Licensing as an Importer or Exporter

Ministerio de Industria, Comercio, e Turismo
Direcção Nacional do Comercio Externo
(Ministry of Industry, Trade, and Tourism,
National Directorate of External Trade)
Praça 25 de Junho
Maputo
Telephone: (258-1) 426093/7, 431137
Fax: (258-1) 421301
Contact: Ana Maria Aly

Importers

80. In Mozambique importers must both register and obtain a license. Their activity is regulated by Ministerial Diploma 17/91. The National Directorate of External Trade (*Direcção Nacional do Comercio Externo*) grants the license, although the procedure is undertaken at the provincial level. A standard application form (*Ficha de Inscrição de Importador*) must be submitted to get the importer's registration number and obtain the license to operate. The application form must be accompanied by the following documents (illustrated in Chart 16):
- a) copy of the commercial registration certificate;
 - b) copy of the operating license issued by the supervisory Ministry (*alvará*);
 - c) notarized copy of the Articles of Association, including any amendments;
 - d) certificate issued by the Tax Department proving compliance with tax obligations;
 - e) proof that the annual financial statement has been submitted to the Ministry of Finance and Planning (in the case of Group A companies);
 - f) certificate issued by the Customs Administration proving that there are no pending matters in dispute; and
 - g) bank references (*abonação bancaria*).

81. A stamp of 10,000 meticaís must be attached to the application, but no other fees are charged for registering and issuing the license. Penalty fees are imposed if applications are submitted after the deadline, up to a period of three months.
82. Importers are registered by class of goods; there are twenty-one categories. Investors can only register and apply for the importer's license in classes that are compatible with their operating license. The operating license is only granted for one class of merchandise. Three classes (weapons, explosives, and pharmaceuticals or medical equipment) require additional special permits.
83. The import license is valid for one year and must be renewed between September 1 and November 30 in Maputo, and between September 1 and December 30 in the provinces. For renewals the application only needs to be accompanied by the certifications from the Tax Department, Ministry of Finance and Planning, Customs Administration, and bank.

Exporters

84. Exporters also must register (Ministerial Diploma 91/93), but no license is required. Investors need to register only once by submitting a standard application form (*Ficha de Registo do Exportador*), accompanied by an authenticated copy of the operating license and a stamp for 5,000 meticaís. The investor receives an exporter's code and is registered for the entire period of validity of the operating license.

Constraint Analysis

85. As in other areas of Mozambican bureaucracy, the main problem is the number of documents that need to be formalized and gathered to be presented with the application for registration. Another problem is the need to register for each category of imports which at times can be complicated.

Recommendations

86. There is no sense in requesting both a Certificate of Registration and notarized Articles of Association unless there have been major changes in the initial registration statement and the company is now engaging in a totally different set of activities. In that case, notarized Articles of Association and provisional registration should be sufficient but these are likely to be exceptions to the rule. In general, the Certificate of Registration should be sufficient.
87. Likewise, it is excessive to require both tax solvency (as opposed to solvency with trade duties) and proof of submission of financial statements to the Ministry of Finance. This requirement does not gel well with companies of categories B or C which, according to the most recent fiscal reforms, are subject to less stringent requirements for preparation of accounting and financial information.

CHAPTER 4

Site Development

Land Development and Construction

88. Under Mozambique's Constitution, land is the exclusive property of the state; private investors can only get concessions to use land for up to fifty years. Laws 6/79 and 1/86, regulated by Decree 16/87 and Ministerial Diploma 36/95, outline the procedures for applying for and obtaining the right to use and add value (*uso e aproveitamento*) to land.
89. The government is updating land legislation. The Council of Ministers has approved a new land policy and implementation strategy, and a draft of the new law has been circulating since January 1996. Among other changes, the new legislation will relax the requirements and procedures for gaining access to land, emphasizing domestic and foreign investment, and will allow concessions to be transferred among private individuals or entities. The new law also improves legal transfer mechanisms for integrating traditional land holdings, a particularly important issue for small landholders. In addition, the new law clarifies the various uses of land, differentiating land used for agriculture and forestry (*uso agrario*) from land used for nonagricultural purposes (including urban development, mining, and tourism) and establishing the areas subject to protection or preservation. For urban land, the new law will be harmonized with Law 3/94 (*Lei dos Municipios*). The new law may also simplify procedures for obtaining title to land.

Rural Land

Ministerio da Agricultura,
Direcção Nacional de Geografia e Cadastro
(Ministry of Agriculture,
National Directorate of Geography and Cadastre)
Av. Josina Machel, 537
Caixa Postal 288
Maputo
Telephone: (258-1) 422786 / 422021/3
Fax: (258-1) 421460
Contact: Jafar Daude Mussa, National Director

90. The National Directorate of Geography and Cadastre (*Direcção Nacional de Geografia e Cadastro*) is responsible for land concessions and for technical evaluations of land requests. Requests of land for agricultural use must be submitted to the Directorate's provincial delegations. The Directorate does not operate in urban areas unless Municipal Councils have no explicit authority over these issues. Applications for land concessions are introduced at different levels of government, depending on the size of the land:

- a) Province level: Less than 1,000 hectares for forestry, 500 hectares for livestock, 250 hectares for farming, and 10 hectares for all other activities.
- b) Ministry of Agriculture: Less than 10,000 hectares for forestry, 5,000 hectares for livestock, 2,500 hectares for farming, and 50 hectares for all other activities.
- c) Council of Ministers: All concessions for land extensions above these limits.

91. The process for obtaining a land license can be summarized as follows:

- a) The request, submitted to the appropriate level of authority, must be accompanied by three copies of form M/1 (*Pedido de Ocupação*). It must also be accompanied by:
 - i. a topographic blueprint (original and three copies);
 - ii. proof of payment of the corresponding processing fees (original and four copies);
 - iii. a project summary (original and three copies);
 - iv. an assessment of the investor's technical capacity (*plano de exploração e de capacidade tecnica*) granted by the supervisory Ministry (original and three copies);
 - v. proof of financial solvency, granted by a local commercial bank (original and three copies);
 - vi. notarized copy of the Articles of Association (in the case of societies).
- b) If the request is accepted, the investor receives a temporary occupancy permit (*termino de ocupação precaria*), but the authority does not assume any responsibility for reimbursing the cost of the investments made during this period. The length of validity of this permit varies.
- c) The Directorate of Geography and Cadastre determines that the land concession can be granted and submits its decision with form M/7 (*despacho*) to the provincial governor, Ministry of Agriculture, or Council of Ministers, whichever applies. The Directorate calculates the fees that apply.
- d) The applicant pays the corresponding taxes and fees at the provincial delegation of the Ministry of Finance and Planning's Tax Department. Subsequently, the provincial authority grants the license. The original title is given to the applicant and is subject to registration at the Real Estate Registry. The Directorate keeps a copy on file, along with all the original documents produced during the process.

Constraint Analysis

92. *Lack of human resources and physical equipment.* According to the Directorate of Geography and Cadastre, the provincial units lack the human and technical resources to keep track of all the licenses granted. This creates some confusion and discourages private investment. In some cases land has already been assigned to another party who may claim restitution in the future. To avoid this problem, the provincial delegations

publish advertisements (*edital de abandono*) in the Official Gazette (*Boletim da Republica*) or in major newspapers before granting a license, calling for potential claimants of a determined plot of land to reassert their rights within a predetermined period of time, after which no further claims will be accepted.

93. *The process can take time.* It takes an average of one and a half years after a request is submitted for a license (*titulo de uso e aproveitamento da terra*) to be granted. The time required can be significantly reduced if the applicant provides the transportation and other assistance that Directorate officials may require to perform their tasks.
94. *Cost of obtaining rural land can be complicated to calculate, and this complication creates delays in the system.* The cost of obtaining a land concession was established by Ministerial Diploma 159-A/87 and is calculated by hectare. The diploma includes tables detailing the prices charged by the Directorate for demarcation, recognition, geometric leveling, opening of roads, and so on. The fees were last updated in 1992 but with the intervening inflation, their value has greatly eroded, which means much effort is being spent on collecting very small amounts.
95. *Taxes on land use are paid yearly and are complicated to calculate.* In addition, Ministerial Diploma 118/87 established taxes corresponding to the use of agricultural land (*taxa do uso e aproveitamento da terra para fins agrarios*). These taxes are calculated through a complicated process and vary according to the district where the plot is located, the type and dimension of the terrain, and the investments required by hectare. The tax must be paid each year between January and March at the provincial unit of the Ministry of Finance and Planning's Tax Department, using Form M/10 (*Guia de Depósito*).
96. Even when all the above steps have been completed, there have been instances of overlaps by the different provincial and central authorities in the information given to applicants. In some cases, applicants have proceeded with all the above steps to find out that other parties hold claim to the same land and the system has failed to inform them of it.

Recommendations

97. There are a number of actions which are being presently contemplated as part of changes to the land reform laws. They should include completion of a modern cadaster facility and an information center which can assist officials in the administration of these lands and in ensuring that no two parties hold titles for the same land.

Urban Land

Conselho Municipal da Cidade de Maputo,
Direcção de Construção e Urbanização
(City of Maputo Municipal Council,
Directorate of Construction and Urbanization)
Av. 24 de Julho
Caixa Postal 1449
Maputo
Telephone: (258-1) 426842 / 423133 / 427248
Contact: Alfredo S. Mandua, Director

98. Municipalities are responsible for managing urban land and real estate and for granting concessions for building permits. The DCU, which is part of the Municipal Council, grants building permits, while the Municipal Council grants the right to use land. Both decisions are centralized within the Directorate, however, and both are required for new construction. In Maputo, the largest market for new construction, the Directorate has jurisdiction over urban land use for every purpose, including residential, commercial, and industrial use. The Ministry of Public Works Directorate for Administration of State-Owned Real Estate (*Direcção da Administração do Parque Imobiliário do Estado*) is responsible for selling state-owned building and residences.
99. To obtain land for new construction or to renovate existing construction, applicants must go along the following sequence which is illustrated in Chart 3:²
- a) An application to the DCU for the right to use the land along with a detailed description of the land's location and an explanation of its intended uses.
 - b) The Directorate determines the availability of the land and makes its decision. This process can take anywhere from one day to six months depending on the location of the plot, the size and intended purpose of construction, and zoning constraints.
 - c) The application is approved by either the DCU or the President of the Municipal Council.
 - d) Once the application is approved, the interested party receives a memo of approval once fees have been paid. The fees vary with location and intended uses.
 - e) The applicant presents a building plan to the Directorate specifying the time needed.

² Not all of these steps are stated in the law but they are now common practice.

- f) The DCU forwards the project to the Directorate for Urban Services (*Direcção de Servicos de Urbanismo*) and other entities for approval.
- g) Once these approvals are obtained, the DCU issues the construction license.
- h) The time frame used for the concession is the same as for the building project. Most concessions are granted for an initial period of two years, with an option to renew.

100. New constructions require the following:

- a) The DCU issues a certificate of work in progress that the applicant can use to obtain a provisional registration at the Real Estate Registry (*Conservatoria de Registo Predial*). When the works are completed, the Directorate carries out a technical evaluation (*vistoria*) and issues a certificate of completed work.
- b) The house or building is registered at the Real Estate Registry once the applicant has the final certificate of completed work.

Constraint Analysis

101. Land development and the securing of land and real estate titles are one of the worst problems facing investors and businesses in general in Mozambique. The cost of securing land for commercial purposes in the city of Maputo can reach US\$50,000 far in excess of posted fees. The process of obtaining the right to use land and/or real estate in Maputo is fraught with long delays and high fees. Much can be attributed to the lack of information available to the public regarding land and real estate ownership, both in rural areas and in Maputo, but also much is attributable to the confusing situation of property rights over land and over the assets on land, and also to the number of government entities involved in the process. The treatment of real estate property in the land laws, especially concerning land in non-rural areas and the right to lease property constructed before 1991, are not clear to legal interpretation. Land law 6/79 from 3rd July establishes that:

- a) While for urban areas, the right of use of land is automatically transferred with the transfer of real estate assets on the land and there is no need for a new title, in non-urban areas the situation is less clear. Construction and buildings on the land can be transferred, but the transfer needs a new title over the right to use the land. (Land Law Art. 33). There are no specific guarantees that with the transfer a new title will be issued automatically nor are the conditions for issuance of the new title well known.
- b) Leases: It is now possible for private Mozambicans to construct houses with the intent of selling or leasing them (Law 5/91 of January 9th). However, under the law there is no clear treatment of houses or residential property constructed before

the Law was passed in 1991 and most private sales or leases of older buildings are done under a wide interpretation of the law, but the specific treatment in case of dispute is not tested.

- c) This same law waives away the State's pre-emptive rights in the event of a sale of buildings by private parties. State authorization is no longer required. However the law does not specify whether such recommendation is applicable only to urban areas and not in non-urban areas. Lack of clarity in the legal situation in the cases outlined above is partly responsible for the large degree of arbitrariness with which applicants are treated by the corresponding authorities.

Recommendations

- 102. *Allow companies and individuals to take their applications to the different authorities involved in the process.* Presently, according to the head of the DCU, the DCU centralizes the functions of granting use of land on behalf of the Municipal Council and licensing for construction; in practice, the internal interagency consultation process is not streamlined. It would be simpler then to allow applicants to handcarry their application for land use to the Municipal Council and afterwards or simultaneously engage in the process with DCU. Once communications between these agencies are better established, it might make more sense to allow for DCU or another entity in the Municipal Council to centralize all petitions. The separation of these functions would also increase the transparency of the process for all as the source of fees and delays would be isolated.
- 103. *The operations of APIE, the state entity in charge of the privatization of government owned real estate, should be simplified.* According to reports by private companies and individuals, the allocation and sale of state owned buildings and residential property does not have clear rules. In practice each transaction is done with different criteria and has different results for those requesting the use of real estate property.
- 104. *Set up a cadaster and an information center which will be available to the public and which includes information about property status, current claims, zoning conditions, technical plans and other features of buildings for sale in the cities.* Greater transparency of information would eliminate delays and opportunities for arbitrary treatment of each case by authorities.

Utility Providers

Electricity

Electricidade da Maputo, Direcção Comercial
(Maputo Electricity, Commercial Directorate)
Av. Eduardo Mondlane 1352, 1st Floor
Maputo
Telephone: (258-1) 424266
Fax: (258-1) 423586
Contact: Tomas Roque Sando, Director

105. Electricity distribution is decentralized at the provincial level. In Maputo consumers must apply by letter to the commercial director of the local company and attach the following documents:
- a) Stamps worth 220 meticaís;
 - b) Photocopy of identification documents;
 - c) Copy of either lease contract or property deed; and
 - d) Certificate of residence (*certidão do domicílio*) issued by the DCU.
106. The cost of installation depends on the amount of energy requested:
- a) Residential customers pay a connection fee (*taxa de ligação*) of 28,000 meticaís and a guarantee deposit of 280,000 meticaís.
 - b) Companies pay a connection fee of 55,000 meticaís, a user fee (*taxa da potencia contratada*) of 55,000 meticaís multiplied by the service charge (measured in number of kilowatts), and a guarantee deposit of 550,000 meticaís multiplied by the power effectively brought in.
107. The electricity company provides the meter but the consumer is responsible for the cost of wires and other materials used during installation. In most communities installation proceeds fairly quickly once power lines are ready. The process takes longer for companies located outside the range of existing lines, since it may involve a series of negotiations with the local power provider to determine cost sharing in cases where the lines are to be extended to communities that do not yet have access to electricity.

Water

Agua de Maputo, Departamento Comercial
(Maputo Water, Commercial Department)
Av. Eduardo Mondlane 1352, Floor
Maputo
Telephone: (258-1) 426116 / 428171/6, ext.254
Contact: Reino Oliveira Lossola, Department Chief

Aguas da Beira, Departamento Comercial
(Beira Water, Commercial Department))
Rua companhia de Moçambique, 35
Beira
Telephone: (258-3) 323102
Contact: Roio, Distribution Engineer

108. Water distribution and management is decentralized to the provincial level. In Maputo applying for water services is an uncomplicated process that varies according to the situation of the client. The following requirements apply only to new installations or construction:

- a) For new construction the first step is to request a connection. The request is made by submitting a plain-paper application, with a stamp of 220 meticaís, to the director of the water company.³ The application must say how the building will be used (residential, commercial, or industrial) and include a copy of the construction permit (issued by the DCU), the concession to use the land (issued by the DCU or the Directorate of Geography and Cadastre), a site plan, a description of the expected water use, and so on. The letter circulates through the department of studies and construction projects (*departamento de estudos e projectos de obras*) and the department of operations and commercial sectors (*departamento de operacoes e sector comercial*), which advise on the availability of water in the area, the proximity to the mains, pressure, and so on. The project must also be approved by the Municipal Council. The water company then inspects the site (*vistoria*) and establishes the materials needed. The applicant is responsible for procuring the materials and equipment; the water company provides the labor.
- b) The process moves more quickly if the client provides transportation for the technicians responsible for site inspection.
- c) The cost of water installation for companies varies according to the length, diameter, and pressure of the pipes required but is fixed according to a table approved by the Council of Ministers. For existing residential use the connection fee is about 270,000 meticaís.
- d) Tariffs are established in a table approved by the Council of Ministers. When the investor contributes materials or other work and the water connection can be extended or serve public uses, the user fees are lowered to compensate the builder or investor for the additional costs of installation.

³ A 1974 law allows for any application to public sector entities to be made on plain paper. Not all government agencies are aware of this law, however, and some insist on twenty-five-line paper.

- e) The request for a water connection can be made before construction starts or once construction is completed. If the application is made before construction starts the contract is made between the builder and the water company. The contract is then transferred to the final owner once construction is finished.
109. Beira's water company seems to be better organized than Maputo's, and has comprehensive forms for processing water connection requests. The required attachments to the forms are similar to those in Maputo. Installation costs are determined by the site inspection fee (*taxa de vistoria*), which varies according to the following scale:
- | | | |
|----|----------------|---|
| a) | Private use | 23,000 meticaís (45,000 if the request is urgent) |
| b) | Commercial use | 30,000 meticaís (60,000 if urgent) |
| c) | Industrial use | 60,000 meticaís (90,000 if urgent) |
110. Aguas da Beira claims that installation normally takes place within thirty days of the request being submitted to its director (ten days if the request is urgent). A standard contract is then signed between the company and the client.

Telecommunications

Telecomunicações de Moçambique
 (Telecommunications of Mozambique)
 Avenida da Rádio
 Maputo
 Telephone: (258-1) 431921
 Contact: Jaime Manungo, Director, Client Services Division

111. Telecommunications of Mozambique (*Telecomunicações de Moçambique*) handles all procedures relating to telephone and telex connections. Local and foreign companies undergo the same procedures to obtain connections, although foreign companies pay higher rates for installation. To obtain a telephone or telex connection, companies must submit a letter (*requerimento*) and:
- a) A form furnished by the telecommunications company;
 - b) Proof of classification of the company according to its category of fiscal accounting (A, B, or C);
 - c) Rental or lease agreement for the premises; and
 - d) Identification of the parties signing the contract with the telecommunications company, issued by the company applying for the connection. (This requirement

- e) was added because of concerns about individuals pretending to represent private companies in order to obtain telephone services.)
112. Telecommunications of Mozambique charges local companies 977,500 meticaïs and foreign companies US\$970 for installation. In both cases stamp duties of 2,178 meticaïs are added and monthly telephone rental is 46,000 meticaïs. Rates are reviewed quarterly in accordance with international communications agreements.
113. According to the telecommunications company it takes about a week to obtain a new telephone line. Other sources, however, indicate that in the past payments to company employees have been necessary to expedite installation.
114. The cost and scope of other telephone services vary according to the type of service. Specialized telecommunications services are more expensive than conventional telex and telephone services.

Post

Correios de Moçambique
(Mail Services of Mozambique)
Av. 25 de Setembro no.
Maputo
Telephone: (258-1) 431921
Contact: Langa, Head of Postal Boxes

115. It is relatively simple to rent a mailbox in Mozambique. The interested party sends a letter (*requerimento*) to the *Direccao Geral de Correios* indicating its company type and address. The problem, however, is in the distribution of mail, which does not seem to work.

Constraint Analysis

116. For electrical, water and telephone connections, red tape is not significant and the processes are fairly simple. As long as investors and companies have the resources to supplement the activities of these agencies, the services are connected within a reasonably short time. However because this entails informal arrangements between companies and the state suppliers, once the number of applicants increases, a rationing of sorts is likely to set in.

Recommendations

117. Privatization of these services could be an efficient manner to anticipate future bottlenecks and avoid rationing of the services via red tape.
118. The law for foreign investment should be revised to allow the possibility of private provision of these services.

CHAPTER 5

Major Operating and Trading Licenses

Ministry of Industry, Trade and Tourism

119. Except for specialized sectors like mining, fishing, forestry, and telecommunications, most economic activities are licensed by the Ministry of Industry, Trade, and Tourism (*Ministerio da Industria, Comercio, e Turismo*). The Ministry licenses businesses in two ways: it dispenses licenses for industrial activities, tourism, and retail and wholesale commerce according to location and technical and sanitary standards (for which inspections and permits by other ministries and government entities might be required) and it licenses activities in accordance with the Law of Industrial Conditioning.
120. Activities subject to industrial conditioning (*condicionamiento industrial*) licensing include manufacturing, opening of a new business, reopening of a business closed for more than two years, change of address, and change or expansion in productive equipment. The rules for approving or denying licenses under the industrial conditioning law are unclear and leave much room for government discretion. According to Ministry sources, these rules are being updated since this legislation dates from before independence. Sources at the Ministry have indicated that the laws regulating industrial conditioning are being modified so that businesses can have a say in such aspects as the entry of new competitors or relocation of current businesses. Much of the industrial conditioning legislation is based on the idea that the state can intervene in the economy. Preliminary information regarding changes to these policies indicates that existing businesses can, for example, plead excess production to prevent the entry of new competitors in their markets.
121. Operating licenses for industrial activities require extensive documentation and inspections. Although service activities (*prestacao de servicios*)—such as consulting services, specialized equipment installation and repair, and some counseling services—are not included in the legislation, the Ministry has been issuing licenses for them. The following sections describe the requirements for each type of license.

Legal Foundation

122. Commercial activities are regulated by Law 7/79 and Ministerial Diploma 47/80. Other relevant laws include Articles 3 and 13 of the Commercial Code, Legislative Diplomas 2671/66 and 2022/60 (both diplomas legislate the types of merchandise to be traded and their classification), and company laws.

Requirements for Industrial Licensing

123. The actual steps for obtaining an industrial license are illustrated in Chart 2. As with other bureaucratic processes illustrated here, the chart portrays what was reported to be the most common route for an investor.
124. Licenses for industrial activity are usually granted for fifteen years, after which they are automatically renewable for five years. The same terms apply to commercial licenses (see below). Investors wishing to obtain an industrial license must submit the following:
- a) Letter of application (*requerimento*) to the Minister of Industry with an authenticated signature, sealed with a 55,000 meticaais stamp.
 - b) Copy of the company's Articles of Association or a photocopy of the identification book (*libro de datos*) of the Commercial Registry.
 - c) Notarized photocopies of personal identification documents.
 - d) Criminal record issued by the Ministry of Justice (for foreign investors, the criminal record must be issued by the appropriate authority in the country of origin and translated into Portuguese). The Mozambican certificate costs between 1,000 and 2,000 meticaais.
 - e) Certificate of studies (*habilitacoes literarias*).
 - f) Fiscal stamp (value is adjusted from time to time).
 - g) Certificate of available funds, issued by a bank.
 - h) Technical plans of the proposed installations in 1/1000 scale.
 - i) Opinion of the Ministry of Health's Center for Environmental Hygiene; costs 80,000 meticaais. Usually takes three weeks to two months to obtain.
 - j) Opinion (after inspection) of the Fire Department.
 - k) Approval by the local administrative authority for use of land and for authorization of construction (DCU in Maputo).

Requirements for Commercial Licensing

125. The Ministry of Industry, Trade, and Tourism organizes its activities for commercial and trading licenses into internal trading or commerce (for which licenses are issued in combination with provincial and gubernatorial authorities) and external trading, export, and import licenses. Internal retail and mixed (retail and wholesale) trading licenses are

126. handled at the provincial or municipal level, or at the Ministry level if no municipality is directly responsible for the area of the intended business. Licenses for external trading are issued by the National Directorate of External Trade within the Ministry. Applications for internal retail, wholesale trading, and operating licenses can be submitted to either Directorate (industry or trade); the Ministry then forwards them internally.
127. Companies that are involved in trade must follow the procedures established in Law 7/79 and Ministerial Diploma 47/80 and obtain a trading license. As it stands the law is quite restrictive. It used to be the main instrument effecting price controls over a wide range of tradable goods and is intended to guarantee the supply of food and other essential goods to the public, and to prevent speculation with essential goods, it imposes fines on merchants or shop owners who fail to meet these criteria. Special legislation applies to sensitive sectors such as telecommunications or explosives. Investors hoping to obtain a commercial license must submit the following:
- a) Letter of application addressed to the Ministry of Industry with an authenticated signature, sealed with a 55,000 meticaís stamp.
 - b) Copy of the company's Articles of Association or a photocopy of the identification book (*libro de datos*) of the Commercial Registry.
 - c) Notarized photocopies of personal identification documents.
 - d) Criminal record issued by the Ministry of Justice; costs between 1,000 and 2,000 meticaís.
 - e) Certificate of studies (*habilitacoes literarias*)
 - f) Fiscal stamp (value is adjusted from time to time).
 - g) Certificate of available funds, issued by a bank.
 - h) Three copies of the technical plan for the physical layout of the business at 1/1000 scale, with evidence that they are currently dedicated to the same type of commercial activities as those applied for (this is not a construction plan).
 - i) Opinion of the Ministry of Health's Center for Environmental Hygiene; costs 80,000 meticaís. Usually takes three weeks to two months to obtain.
 - j) Opinion (after inspection) of the Fire Department.
 - k) Approval by the local administrative authority for use of land and for authorization of construction (DCU in Maputo).

Requirements for Hotels and Tourism

128. Licensing: Investors hoping to obtain a hotel tourism license must submit the following (Chart 17):
- a) Letter of application addressed to the Ministry of Industry with an authenticated signature, sealed with stamps for 200 meticaís.
 - b) Copy of the company's Articles of Association or a photocopy of the identification book (*libro de datos*) of the Commercial Registry.
 - c) Notarized photocopies of personal identification documents.
 - d) Criminal record issued by the Ministry of Justice; costs between 1,000 and 2,000 meticaís.
 - e) Certificate of studies (*habilitacoes literarias*). Managers and directors of the company must have completed the fourth grade.
 - f) Fiscal stamp (value is adjusted from time to time).
 - g) Certificate of available funds, issued by a bank.
 - h) Engineering blueprints or plans for installations, accompanied by a full description of their uses and functions and sealed with stamps for 220 meticaís for each proposed construction.
 - i) Property title or rental agreement and last rental receipt in cases where the building or premises are not the property of the applicant, or a permit to use the premises on behalf of the state (*cedença de exploração*) when the premises are state-owned.
 - j) Opinion of the Ministry of Health's Center for Environmental Hygiene; costs 80,000 meticaís. Usually takes three weeks to two months to obtain.
 - k) Opinion (after inspection) of the Fire Department.
 - l) Approval by the local administrative authority for use of land and for authorization of construction (DCU in Maputo).
 - m) Opinion of the Mozambican Association of Tourism and Hotels.
129. In addition, requirements for individuals for all of the above categories include:
- a) Proof that the applicant is at least 21 years old.

- b) Evidence (issued by the Ministry of Justice) that the applicant has never been sentenced to prison for more than two years.
- c) Evidence that the applicant has adequate financial resources (generally defined by the entity that issues the documents).

Constraint Analysis

130. Industrial licensing is one of the most critical areas of red tape in Mozambique. It is fraught with delays and costs for companies as they go through the process of applying for them and sometimes companies need more than one operating license as they operate across sectors. The process is quite complicated, as shown above. At least 12 documents must be prepared before presenting the application to the Ministry. Each of these preliminary documents involves a number of steps in turn to complete legal actions at other government offices.

Recommendations

131. The requirement for industrial licenses should be completely eliminated. There is no reason for a process of industrial licensing. A market economy works best without it and the process responds to past attempts to direct economic activity. The ideological justification of the industrial licenses comes from the “Industrial Conditioning Law”. This law was originally introduced by the Portuguese and sought to protect Portuguese industries by limiting the activities that Mozambicans could legally engage in. It is designed to limit competition. While the industrial licensing process is not explicitly connected to the content of the old law, approval or rejection of industrial licenses was until recently done on the basis of that industry’s contribution to Mozambique’s development. A modern version of this law is being prepared by the Ministry of Industry, Trade and Commerce.
132. The Ministry of Industry, Trade and Commerce should not publish a new industrial conditioning law. Among other things, a new law would limit the number of companies operating in a particular sector, thus limiting competition.

Commercial Licensing in Maputo

Ministerio da Industria, Comercio, e Turismo,
Direccao da Industria, Comercio, e Turismo da Cidade de Maputo
(Ministry of Industry, Trade, and Tourism,
Directorate of Industry, Trade, and Tourism of the city of Maputo)
Av. Josina Machel No. 57
Maputo
Telephone: (258-1) 420694 / 428371
Contact: Armindo Braz Barradas, Provincial Director

133. Licenses for commercial activity are issued for wholesale commerce, mixed commerce (wholesale and retail), retail chains, services (hotels and restaurants), manufacturing industries, and all registration for importers and exporters. Except for import and export requests, all license applications are accepted at the Directorate of Industry, Trade, and Tourism of the City of Maputo (*Direccao de Industria, Comercio, e Turismo de Cidade de Maputo*) offices and forwarded to the corresponding department at the Ministry of Industry, Trade, and Tourism. Conversely, applications submitted directly to the Ministry are forwarded to the Directorate if appropriate. Retail commerce is licensed at a lower level of government than wholesale commerce. The most frequent requests are made on twenty-three standard forms that the Directorate provides to the public. These forms are on public display at the Directorate's receiving area in its downtown offices. For licenses issued in Maputo, the letter is addressed to the President of the Municipal Council with a stamp of 50,000 meticaïs. The investor or prospective businessman must also submit the lease contract of the premises or a specific authorization by the DCU. Requirements for other cities are similar. Companies that apply for a trading license must allow inspectors from the Ministry or the municipality to examine their books at any time. In addition, the company must receive additional authorization from the Ministry or provincial government if any of the following takes place:
- a) Alterations to the company's Articles of Association;
 - b) Change in the name of the business;
 - c) Change in the nature of merchandise sold; or
 - d) Sale of business to new investor.
134. Licenses are issued according to the category or goods traded after an inspection process has taken place. Licenses can be suspended if taxes are not paid, technical malfunctioning occurs, or premises lack adequate sanitary and aesthetic care. The application must be made by a letter (*requerimento*) that includes the promoter or owner's name, age, nationality, and residence. In addition, an identification form provided by the Ministry must be filled out. Other required information includes the intended business's address (including district) and type of activity (including a description of the kind of merchandise to retail or wholesale).

Interaction with Other Government Agencies

135. Once the original application is submitted, the Ministry of Health studies the application, sends an inspector to the premises (*vistoria*), and issues an authorization that is sent directly to the Ministry of Industry, Trade, and Tourism. The Ministry of Industry, Trade, and Tourism also informs the Fire Department of the need to carry out an inspection, if one is needed. After all the documentation is in place at the Ministry, a summary and recommendation sheet is prepared for the director's consideration and approval. The applicant is then informed of the director's decision. Each document in the process requires a stamp of 220 meticaís. Notary fees vary with the number of documents submitted.

Procedures for Commercial Licenses

136. These procedures are similar to those required for the centralized applications at the Ministry of Industry, Trade, and Tourism, as described above.

Agricultural Licensing Regulations

137. Requests for agricultural licenses are handled by the Ministry of Agriculture (*Ministerio de Agricultura*) in Maputo. The current contact person is Conceição Quadros, the Legal Adviser at the Ministry.

Forestry

138. Requests for permits to undertake commercial logging activities must be submitted to the provincial delegations of the Ministry of Agriculture. Provincial governors grant licenses for areas of less than 1,000 hectares. Licenses for areas above this limit must be approved by the Ministry of Agriculture. The request must be made by stamped letter accompanied by the following:
- a) Coordinates of the proposed area and the use to be made of the timber;
 - b) Topographic map on a 1:250,000 scale or better;
 - c) Description of flora, species, objectives of the venture, intended annual production, level of technology, markets for the products, means of transport, and type and cost of facilities; and
 - d) Proof of financial ability to undertake the investment.
139. The request is acknowledged by a receipt (*despacho*) of no objection by the relevant authority. The investor must present, within ninety days, a forest management plan (*plano de exploração*) that reproduces all the above information in greater detail (for example, the map must be now on a 1:50,000 scale and include demographic data).

Together with the business plan, the investor must deposit or provide a bank guarantee for an amount equivalent to the expected annual turnover. The investor must also sign a contract with the authority that provides the license (*alvará*), which requires publication in the Official Gazette to become operational. The date the license is granted becomes the start-up date of the concession. The investor must pay the first installment on the concession within twenty days.

140. Forestry exploitation can take place in two forms: with a license for volumes and species, under which the timber cuts (*corte de madeira*) are carried out without exclusivity, or as a forestry concession or on a contract of exclusivity with the Ministry of Agriculture. Use of the second form is more likely when large tracts of land are involved. It has not been too common but is expected to increase as logging activities expand. For investments in sawmills, the license is included in the license granted by the Ministry of Agriculture for forestry exploitation if the plant is located within the area of the concession, and a separate license from the Ministry of Industry is apparently not required unless the company is also going to market or trade the timber.

Legal Foundation

141. Regulations governing forestry activities date from 1965 (*Regulamento Florestal de Moçambique*). These regulations were amended in 1991 in an effort to update and improve procedures for granting concessions for commercial purposes (*Exploração Florestal em Regime de Concessão por Arrendamento*). In addition, the amendments established the cost of obtaining a license and the value of fines imposed on offenders (Ministerial Diploma 99/91). Subsequently, Ministerial Diploma 145/92 updated the classification of species and defined the minimum size of trees subject to commercial exploitation (*diametro minimo de corte*).

Wildlife and Hunting

142. A hunting license is required for all three categories. The cost of obtaining a license varies according to the category (four different categories apply to rural populations, to resident sport hunters, to foreign sport hunters, and to commercial hunters). The provincial delegations of the Ministry of Agriculture grant the hunting licenses.
143. Trophy trade is permitted but is subject to strict regulations, with fines applied to offenders. Unfortunately, the lack of capacity to enforce these and other regulations relating to the protection of the natural environment has resulted in indiscriminate hunting activity that has jeopardized the survival of entire species.

Legal Foundation

144. Decree 7/78 regulates hunting activities. It considers wildlife as a renewable natural resource subject to preservation. These regulations were introduced to protect rural

populations' access to food while preserving the environment and developing tourism. The law defines three categories of hunting: for food, in self-defense, and for sport.

Livestock

145. Animal health is regulated by Portaria 27/75. Fines for violations were updated by Ministerial Diploma 35/92. The regulatory framework establishes prophylactic norms to prevent animal diseases and regulates transit, import, export, and sanitary inspection of livestock and livestock products. Health certificates, issued by the National Directorate of Livestock at the request of the provincial delegations of the Ministry of Agriculture, are required to import or export livestock.

Seed Import, Production and Commercialization

146. Seed import is regulated by Ministerial Diploma 45/91. The Ministry of Agriculture controls the variety of seeds that can be imported using a national list of seed varieties. Only the listed seed varieties can be traded in the country.
147. The decree also regulates local production and commercialization of seeds. The Ministry has established five different categories of seeds subject to production and improvement. Introduction of new varieties requires the approval of the Orange International Seed Lot Certificate or a field inspection certificate (the field inspection requires a test that can last more than two years) and a phytosanitary certificate from the Ministry of Agriculture. Producers must register at the Ministry of Agriculture, although no license is required. Companies that want to commercialize seeds must obtain the corresponding operating license at the Ministry of Industry, Trade, and Tourism and at the Ministry of Agriculture.

Pesticides

148. Under the Pesticide Regulation (Ministerial Diploma 88/87), pesticides that can be used in agriculture are described and authorized by the Ministry of Agriculture after consultation with the Ministry of Health (for all pesticides) and National Veterinary Institute (for pesticides used on animals). If these institutions approve, the Ministry of Agriculture issues a pesticide registration certificate.
149. Registration for locally produced products is requested by a letter indicating the name and address of the company or individual producer, trademark of the product, class (insecticide, herbicidal, and so on), and formula or international code. This letter must be accompanied by a technical description of the product, samples, packaging, and so on. Each original document must be accompanied by five copies. According to the legislation, authorization takes no longer than 120 days. During this time the intervening ministries should proceed with their technical assessment of the product. If, after approval, the company changes the product, a new registration is required. Finally, publication of the ministerial resolution (*despacho ministerial*) in the Official Gazette

formalizes the approval. The registration for every product is valid for five years, and is renewable for a similar period upon presentation of the above documentation.

150. Pesticide importers must obtain a special license that is granted by the Ministry of Agriculture after the inspection approval has been granted. According to the legislation, this process should take no longer than sixty days.

Plant Inspection and Quarantine

151. Under current quarantine regulations, plants or plant products that arrive at port must be accompanied by a phytosanitary certificate (and any other required documents) issued by the plant quarantine service of the country of origin. The certificate must be issued in accordance with the import conditions stated in the phytosanitary import permit. A quarantine period is required for certain categories of plants and plant products. Similar procedures apply in the case of exports.

Fisheries

Ministerio de Agricultura, Direcção Nacional de Pescas
(Ministry of Agriculture, National Directorate of Fisheries)

Praça dos Heróis

Maputo

Telephone: (258-1) 420533

Contact: Eusebio Sequela, Director

152. The types of commercial fishing licenses are related to the types of fishing activity, classified according to the fishing zone, type of vessel, and fishing techniques adopted. These types are:
- a) Small scale fishing (*pesca artesanal*). This license allows individuals to fish on shore in marine and inland waters (rivers, lakes, and ponds). The application is made with a form provided by local maritime authorities representing the Ministry of Agriculture.
 - b) Semi-industrial fishing license, for which a license is requested at the provincial service for fisheries (where they exist) or at the provincial agriculture service. The application is made by presenting the standard form and allows semi-industrial vessels to fish in marine and inland waters.
 - c) Industrial, scientific, and experimental fishing. This license is requested at the National Directorate of Fisheries within the Ministry of Agriculture. It allows fishing at any place inside or outside the jurisdictional waters.
 - d) Foreign vessels. The license for foreign vessels only allows fishing in open waters beyond the twelve-mile restricted area from the coast, and is issued only

for tuna, a migratory species. The license, issued by the National Directorate of Fisheries, usually depends on agreements made with foreign states or international organizations, although it also may be granted on the basis of contracts between the Secretariat of Fisheries and foreign companies. These contracts establish the number of vessels authorized to fish, the permitted areas, and so on.

153. A new project for regulating fishing activities is being prepared (Project of Regulation for Fishing Activities in Mozambique). It seems that the rules contained in this project are already being applied, however. Under this project, obtaining a license involves presenting an application form, copy of the applicant's identification, title of ownership or right of use of the vessel, and certificate of qualification for navigation. Before the license is granted, every vessel is subject to inspection (*vistoria*) by the Secretariat of Fisheries.
154. The proposed regulatory decree also describes the requisites for building and operating fish processing plants, including factory ships. License types differ according to the location of the plant, type of products, processing, and so on. The application must include a note submitted to the provincial delegation of the Fisheries Administration, attaching a description of the type of premises and location, copy of the applicant's identification, and a project summary (*memoria descriptiva*). The business must be started within two years, after which the authorization is no longer valid and a new license must be requested.
155. The cost of obtaining the various fishing licenses are periodically updated by a joint resolution (*despacho*) issued by the Minister of Finance and the provincial fishing services (*servicios provinciais de pesca*).

Legal Foundation

156. Law 3/90 and Decree 37/90 provide the legal framework for fishing activities. Companies and individuals are required to obtain a license for each vessel engaged in commercial fishing. The license is usually only valid for a year and is renewable upon presentation of a new application form. If the vessel is sold the license is considered expired, and a new license is required if the investor purchases a new vessel. In addition to Decree 37/90, a Project of Regulation for Fishing Activities in Mozambique as mentioned above is pending approval.

Constraint Analysis

157. The main problem with forestry licensing is the delay in closing contracts for forestry exploitation. The concession is a contract between the government as owner of the land where the forestry resources are located and the investor. The requirements for obtaining a license for a forestry exploitation are analogous to those that would take place between two private parties but in addition there are factors concerning the manner in which the resources are maintained (supposed to be detailed in the exploitation plan) and so on,

which are often the subject of much discussion and negotiations. It might take several months to conclude such deals because of the lack of information on which to make decisions, particularly in the more distant areas. One major and unnecessary source of delay is publication in the Official Gazette which will slow down any procedure by as much as several months. Linking the start up date to publication could delay the company beyond a reasonable time. Forestry often involves the use of leases on equipment which the company must service while waiting for the license to be published.

158. There do not seem to be particular grievances from investors in obtaining hunting permits. Generally these permits are negotiated at a high level and their approval can be subject more to political than to bureaucratic requirements (the same applies for large scale forestry exploitation).
159. No special problems seem to affect the activity of importing seeds or agricultural inputs.
160. Little information was available regarding the difficulties in establishing a fishing company except that:
 - a) This activity is largely unregulated, as much of it takes place in areas distant from Maputo and enforcement is difficult; and
 - b) It can be tricky to obtain operating licenses when fishing for industrial purposes, as other ministries must get involved in the license granting process. In the case where the company assembles or puts together its own vessels, there might be even more of a bureaucratic hassle to overcome.

Construction Companies

Ministerio de Construcção e Agua,
Direcção Nacional de Construcção
(Ministry of Construction and Water,
National Directorate of Construction)
Av. Karl Marx , 606
Maputo
Telephone: (258-1) 426081/2/3
Contact: Manuel da Conceição, Director

161. The requirements for setting up a construction company are particularly intricate and numerous. The law defines the minimum number of technical staff for companies applying for a specific license. Companies that want to obtain the highest-class license to perform construction works (amounts above 1.5 billion meticaís) must employ twenty technical staff. These staff must be registered; to do so they must be either Mozambican nationals or holders of a resident's permit. Technical staff are registered with a letter to the Ministry of Public Works and Housing's National Director of Civil Construction.

The investor must attach to the application a copy of his professional degree, a literacy certificate, his curriculum vitae, and stamps for 10,000 meticaís.

162. Then the investor must obtain the constructor's license. The process is illustrated in Chart 21. The application is made by letter to the Minister of Public Works and Housing, which may be submitted to the provincial or district delegate of the Ministry. The application must be accompanied by:
- a) A list of the minimum registered staff describing their jobs, qualifications, technical degrees, etc.;
 - b) Declaration of each employee stating that he will work exclusively for this company and indicating level of studies, address, personal history, etc.;
 - c) Proof of registration of the minimum required staff;
 - d) A list of all other workers not included in the minimum required staff;
 - e) Proof of company registration granted by the Commercial Registry and a notarized copy of the Articles of Association, as well as any amendments introduced to the statutes (can be copied from the Official Gazette);
 - f) A Certificate of Commercial Registration from the district where the company had its head office or address during the previous five years, with proof that no bankruptcy procedures have been filed against it;
 - g) A certified criminal record for every manager or director of the company;
 - h) Statistics describing the main works in progress or performed by the company, location, name, and address of clients, value, etc.; and
 - i) Proof of financial solvency to undertake the type of works for which the license is requested.
163. For foreign companies, the cost of obtaining the license for each construction work is fixed as 0.1% over the limit value of the concerned class (Despacho 7-14-89) and the fee is due in foreign currency. Local companies must pay in meticaís the 0.025% over the same value.

164. The decision whether to grant the requested class of license is taken by a commission (*Comissão de Inscrição e Classificação dos Empreiteiros de Construção Civil*) composed of national directors at various ministries, a representative of registered builders, and other public officials.
165. Foreign companies must comply with additional provisions. Foreign companies with a branch in Mozambique registered for more than ten years receive the same treatment as national companies, but for others the license is granted for the duration of each specific work project and a twenty-four-month waiting period applies for renewals (unless the company applies for a different type of construction license). In practical terms, this means that foreign companies must wait two years before they can be granted a new working permit for similar types of construction works.
166. By law, a construction license for specific work can be granted to foreign companies under international tender. However, these companies must fulfill all established requirements and procedures to obtain such a license—an almost impossible task (for example, a company cannot hire twenty technicians if it is not yet registered). Dealing with the difficulties of entering the Mozambican construction market seems to require subcontracting to local firms or forming joint ventures that include local partners with licenses. In theory, however, companies that want to subcontract or to set up joint ventures must request individual licenses for each participant. In practice it seems that joint ventures have been the solution because only one company—the one already in possession of a license—declares itself responsible for the execution of the public or private works.

Legal Foundation

167. Council of Ministers Decree 25/88 provides the legal framework for the operation of construction companies in Mozambique. The Despacho of 7-14-89 provides the legal framework for the operations of foreign companies. According to the current legislation, different licenses apply to companies engaged in construction. Construction licenses differ by category (related to type of work) and by class (related to the cost of the work, as described by Ministerial Diploma 30/92).

Constraint Analysis

168. Obtaining a license for construction is reportedly one of the most convoluted bureaucratic exercises in Mozambique and in practice, much of this red tape is bypassed with payments to accelerate the process. As illustrated in Chart 21, five different ministries participate in the licensing process. There are at least four different notarization acts: curriculum vitae, signature (probably several), Articles of Association of the company (with official translation if it is a foreign company) and the list of staff to be hired. Some of the restrictions applying to the hiring of labor seek to ensure the employment of Mozambican personnel, and stringent requirements apply to the hiring of expatriate staff,

including translation of professional background documentation and pre-approvals by the Ministry of Finance.

Recommendations

169. The objective of a license is to qualify a company as professionally able to complete the job. This aspect, in the case of private transactions is the concern of the contracting party, i.e. the party for whom construction is to be performed. In the case of construction contracts on behalf of the government, it should be the needs of the work to complete which decide whether companies are or are not competent. Once this aspect of competence is decided, with third party advisors in the case of large contracts, there is no further need for a license.
170. Companies should be able to register locally as construction companies. In this case, this registry or business association would demand fulfillment of a series of conditions regarding track record, quality of craftsmanship, guarantees, etc. but, this should be a strictly private and voluntary initiative. Belonging to a particular organization or registry would in this case serve as a measure of professional prestige.

Tourist Services, Hotels and Travel Agencies

Ministerio da Industria, Comercio, e Turismo,
Direcção Nacional de Turismo
(Ministry of Industry, Trade, and Tourism,
National Directorate of Tourism)
Av. 25 de Setembro No. 1502
Maputo
Telephone: (258-1) 420147
Contact: André Augusto da Silva

Construction of New Tourism Businesses

171. Tourism projects can take a long time to get into gear because even when they go via the CPI there is quite a bit of traffic between the CPI and the Tourism Directorate at the Ministry of Industry, Trade and Tourism. Projects presented to the CPI must first be taken to the National Directorate of Tourism for a pre-feasibility study that examines the intended location of the project. Once the project has been approved by the CPI, the investor must take additional information to the National Directorate of Tourism, including a timetable for project completion and evidence that the project will proceed in accordance with the national tourism policy. The process is also slowed down by the need to obtain building permits from the DCU for urban areas or from the Ministry of Public Works (*Direcções Provinciais de Obras Publicas e Habitação*) for non-urban areas. The following steps are required:

- a) For new installations, a letter requesting approval (*requerimento*) of the proposed site is addressed to the Ministry of Industry, Trade, and Tourism and copied to either the Governor of the province or the president of the Municipal Council, depending on whether the site is in urban or non-urban areas. The application (*requerimento*) must be authenticated (notary trip and fees), sealed and submitted with three copies to the Ministry of Industry, Trade and Tourism. The letter must indicate what documents accompany it. The applicant must also provide proof of identification using forms provided by the National Directorate of Tourism and pay a 100,000 meticaís application fee. A provisional permit is issued on twenty-five-line paper when all the required documentation is presented.
- b) A request for project approval must be submitted to the same authorities with an authenticated and sealed original and four copies. This request requires a 10,000 meticaís stamp and 100,000 meticaís for fees. This letter must be accompanied by the following:
 - i. four copies of the technical plans, one of which is sealed. The plans must include a topographic chart of the intended installations showing location of buildings, access roads, nearby waterways and public ways, adjacent areas, proposed water drainage and sewerage systems, and electrical systems. These plans must be accompanied by a full description of times and schedules and the functions of each building; and.
 - ii. a license from the DCU approving the intended building activity.
- c) A final inspection (*vistoria*) by the Ministry of Industry, Trade, and Tourism must be requested once works are completed. At this time the investor must also submit price tables for approval by the National Directorate of Tourism. Inspections by the Ministry of Health, Ministry of Labor, DCU, and Fire Department are also required.
- d) Investors must have a complaint book (*libro de reclamacoes*). The investor is fined if this book is not on the premises at the time of the final inspection.
- e) If the final inspection is not approved, the investor must request a new one.
- f) If the final inspection is approved, the investor must submit a request for an operating license (*concessao do alvara*).
- g) The investor must also request a permit to open doors (*pedido de licença de porta aberta*). This request must be made in a letter that is authenticated and sealed. Obtaining this permit requires requesting an opinion and inspection from the municipal or provincial authorities that correspond to the area of the project and the provincial delegation of the Ministry of Labor. This license costs 200,000 meticaís a year in Maputo and Beira and 100,000 meticaís a year in the capitals of other provinces.

Norms for Technical Licensing of Travel Agencies

172. The following must be submitted when applying for Technical Licensing:

- a) Proof of registration as a commercial company.
- b) A sealed and authenticated letter requesting approval of the project, submitted to the Ministry of Industry, Trade, and Tourism. This letter must be accompanied by three copies of the project description and the company's Articles of Association.
- c) After the project has been approved, the investor must request an inspection of the premises and identify the technicians who will be responsible for managing the business and maintaining installations.
- d) The investor must fill out the form at the Cadaster for Travel Agencies in the Ministry of Industry, Trade, and Tourism.
- e) After the project has been approved, the investor must request an operating license from the National Directorate of Tourism.

Legal Foundation

173. Portaria 413/73 sets the technical licensing norms for all establishments under the competence of the National Directorate of Tourism (*Direcção Nacional de Turismo*), including hotels, pensions, bars, and tearooms. Provincial Decree 81/74 contains the regulations for the hotel industry and establishes that the National Director of Tourism at the Ministry of Industry, Trade, and Tourism is responsible for approving the opening, functioning, and inspection of hotels in Mozambique.

Constraint Analysis

- a) It is unclear why it is necessary to submit two applications to the Ministry of Industry, Trade and Tourism.
- b) The process at DCU should be expedited because it is a major source of delays.
- c) Submission of price tables seems to be unnecessary in a competitive environment.
- d) Frequent inspections to obtain the license (Ministry of Health, Fire Department, etc.) can be a form of harassment and can delay the opening of the business if the inspector focuses on some minor details.
- e) The process of requesting an operating license is only initiated once the final inspection has been performed and passed. This involves further delays.

- f) The process of obtaining an “Open Door” license is excessive and constitutes an inefficient form of collecting revenues.

Recommendations

- a) Eliminate the need for an operating license from the Ministry of Industry, Trade and Tourism.
- b) Eliminate the need for the “Open Door” License.
- c) Eliminate the need to submit the price table.
- d) Eliminate the need to maintain a complaint book.
- e) Carry out inspections on a random basis, not as a requisite to start operations. (Except for building inspections which are the competence of DCU).

CHAPTER 6

Operational Requirements

174. A number of other steps must be taken once a firm is ready to begin operations. These mainly relate to banking, taxation, labor issues, and import or export procedures. In addition, myriad returns and filings are required by various agencies, and these sometimes differ according to the person in charge of processing. The main problem faced by the entrepreneurs interviewed is not the extension of the red tape but the lack of certainty about what would come next. Seasoned investors who had worked in Mozambique for a number of years had learned that things that appeared complicated at first could be greatly simplified by paying an informal fee to the right person in the right position. Then, time and complications were significantly reduced. The following operational requirements affect all kind of businesses. However, a number of procedures apply only to certain types of businesses. An exhaustive study of them should be conducted on a case by case basis.

External Accounts

175. The Central Bank (*Banco de Moçambique*) is implementing regulations relating to the retention of foreign exchange, remittance of profits, and so on, included in *Lei Cambial 3/96*. At this point exporters are authorized to retain 65% of their foreign exchange earning in accounts denominated in foreign currency in local commercial banks. The remaining 35% must be sold to the Central Bank at the official exchange rate. Operations with commercial banks seem to be smooth; very little red tape has been identified.

Payment of Tax Obligations

176. In addition to the steps described in chapter 2, all companies have the following operational obligations with the Tax Department:
- a) The turnover tax (*imposto de circulação*) is paid on a monthly basis with form *Guia Modelo 1*, and is calculated as a percentage of the previous month's sales. The tax rate is described in Article 13 of the Tax Code (*Código do Imposto de Circulação*) and varies according to the field of activity.
 - b) The withholdings tax (section A) is also paid on a monthly basis and is calculated as a percentage of the previous month's payroll. The first time an investor pays this tax, he or she is required to fill out form *Modelo 11* accompanied by *Modelo 13*, which is a list describing the characteristics of workers included in the payroll and subject to this tax. Companies are also responsible for withholding 30% of the salaries paid to foreign workers (*imposto complementar*) and depositing it in

the corresponding tax office on a monthly basis, using form *Modelo 11* or any other form indicating the purpose of the payment.

177. Companies are subject to a monthly consumption tax (*imposto de consumo*), stated as a percentage from an annex table to the Code for Consumption Tax. The tax is calculated over the sales value of the goods sold in the previous month in the domestic market. The form used to pay this tax is *Modelo 3*, which lists all the items produced and sent to the market during the previous month. Companies have until the tenth day of each month to present this information.
178. Businesses such as hotels, bars, restaurants, and travel agencies are also supposed to fulfill monthly tax obligations. In addition to the circulation tax (calculated on sales), these businesses must pay the workers withholdings tax (section A) and the tourism tax (*imposto de turismo*), which is calculated as a percentage of all the invoices processed during the previous month. The tourism tax is 2% of monthly sales for travel agencies and 3% of monthly sales for bars, restaurants, hotels, and the like.

Labor and Social Security Obligations

179. Companies are required to submit a detailed description of all salaries and wages paid during the previous month (*Folha de Salarios*) to the Directorate of Labor (*Direcção do Trabalho da Cidade*). This form must be submitted within the first eight days of each month. In addition, employers must submit, before the end of each year, the holidays chart for its personnel and, during the second quarter of each year, an updated copy of the workers' chart (*relação nominal*). The format of the chart is described in Annex 2 to Law Decree 9/89. Every change of staff during the rest of the year also needs to be communicated within thirty days of the hiring or dismissal.
180. Laying off workers is regulated by Law 8/85 (*Lei do Trabalho*). Ninety days advance notice is requested for company restructuring that involves personnel cuts. Article 28 of Law 8/85 mandates worker compensation equivalent to forty-five days' salary for workers that have been with the firm up to six months (the minimum is three months); three months' salary for those up to three years; and three months' salary for every two years of work after the first three years. Companies are not authorized to retrench workers without "just cause," defined by Article 25 as the worker having committed an offense against either the law or his employment contract. However, the worker has the right to contest the employer's decision before a judicial court. In cases of retrenchment without just cause, companies are subject to penalties that are twice the normal compensation.
181. Workers' unions, according to Article 102 of Law 8/85, participate in the process of applying sanctions. In most cases previous information on the union is required. In addition, Law 23/91 provides protection to workers engaged in union activities.

Enforcement

182. Compliance with labor regulations is checked on a regular basis by the Inspectorate of Labor (*Inspecção do Trabalho*). Inspections usually cover such aspects as verification of timesheets, ensuring that the legal time of rest is granted to workers, verification of payment of legal salaries, control of overtime work and corresponding compensation, corroboration of the presence and activity of the evaluation and other internal committees (*comissões de avaliação*), verification of compliance with female workers' regulations and with social security obligations, and so on. Finally, companies employing ten or more workers must deal with Social Security obligations. Every month, the company must submit a chart (*folha de remunerações*) describing to the *Instituto de Segurança Social* all aspects relating to salaries and wages subject to Social Security contributions (Article 22, Law 5/89). The payment of these contributions can be made either directly at the Institute's cashier, using three copies of form *Guia Modelo A*, or by check to the Institute, attached to two copies of the *folha de remunerações* and *Guia Modelo A*.

Import Process

Ministerio de Indústria, Comércio, e Turismo,
Gabinete de Coordenação de Programas de Importação
(Ministry of Industry, Trade, and Tourism,
Cabinet for Coordination of Import Programs)
Av. 25 de Setembro 1018
Maputo
Telephone: (258-1) 420927 / 421146 / 420979 / 431649
Fax: (258-1) 420481/2
Contact: Calado Domingos, Director

Licensing

183. For each import operation, companies must obtain an import license (*Boletim do Registo de Importação*), which is granted by the Ministry of Industry, Trade, and Tourism's Cabinet for Coordination of Import Programs. Imports can be made using three sources of foreign currency:

- a) Own funds;
- b) The General Exchange Fund (*Fundo Cambial*) or other funds obtained in the secondary exchange market; or
- c) The Commodity Aid Fund's loans and grants (World Bank, African Development Bank, bilateral grants, and so on).

184. For own funds, companies may request the import license at the Ministry of Industry, Trade, and Tourism simply by providing proof that the funds are deposited either in Mozambique or in a foreign bank. A local commercial bank must issue a certificate confirming the availability of funds. In this case licensing is automatic.
185. In the other two cases the import process is subject to certain procurement rules that are handled by the Cabinet for Coordination of Import Programs. Investors pursuing import operations financed out of the General Exchange Fund must:
- a) Request funds from a commercial bank;
 - b) Contact the cabinet and initiate procurement by identifying suppliers, preparing technical specifications and terms of reference, and submitting a list of potential suppliers;
 - c) Based on the offers made by the suppliers, assess and select proposals;
 - d) Initiate international public bidding for amounts above US\$500,000. The tender is made through either an announcement in a major national newspaper or a specialized United Nations magazine, or through a direct letter of invitation sent to the diplomatic representations present in Mozambique;
 - e) Present the import license to the cabinet to confirm observation of the rules of procurement; and
 - f) Obtain the import license from the Ministry of Industry, Trade and Tourism's Department of Foreign Trade.
186. Imports financed by donor funds usually have their own procedures and these are all known to be lengthy. Generally, there are eight copies of the import license: two for customs and one for the bank, the Ministry, the agent, the pre-shipment inspection, the supplier, and the importer. When the import license is obtained, one copy is immediately submitted to the supplier to arrange the pre-shipment inspection. Without this certification customs clearance can only be made against the payment of a penalty corresponding to 30% of the c.i.f. value of the merchandise. Customs also requests the final commercial invoice and the document of shipment.

187. The persistence of administrative barriers is a cause of frustration for policy makers and investors in Mozambique. Policy makers had expected that once distortions to the price system were removed and sound macroeconomic policies introduced, it would be a matter of time before new investment and growth ensued. But when policy reforms are not supported by institutional changes, very little happens on the ground. In this situation, foreign investors find that the devil is in the administrative details, and that despite laudable intentions expressed by some government officials, progress completing formalities to open new businesses is slow. In these circumstances investors will scale back their plans. Bad news travel fast and other foreign investors will look more cautiously at Mozambique as a destination for investment. In the end there is a real loss of output and employment. The lesson is that policy changes must remove or minimize administrative barriers by simplifying procedures and by modernizing local government and social institutions involved with facilitating business transactions. Otherwise macroeconomic policies by themselves will not have the intended results of increasing investment.

The Costs of Administrative Barriers to Businesses

188. The main damage of administrative barriers is that they increase uncertainty and often the monetary costs of investments. Barriers discourage investment not just when administrative processes are complicated but also when they are applied inconsistently. This report puts together the minimum number of steps required for each administrative process. Chapters 3, 4 and 5 describe the processes that companies must go through to initiate operations. These processes are in theory similar for all investors. To incorporate a company, all investors must notarize articles of association, publish them in the Official Gazette, etc. However, due to differences in the manner in which regulations are applied from case to case, lead times vary significantly from one investor to another. The time and relative complication of each case depends on political connections, economic sector, geographical location, familiarity with the public administration system and local mores. This variability and uncertainty of outcome (time and costs needed) is an important source of transaction costs to businesses and raises the risks of investing.

Administrative Processes are Excessively Detailed

189. Besides uncertainty, administrative barriers have direct costs simply because of the sheer number of requirements. Overall 145 steps need to be fulfilled before setting up a new company in Mozambique. Another specific example of numerous steps are taxes and labor related requirements during the life of the company. Sales taxes are administratively

cumbersome. Companies in manufacturing and sale of foodstuffs are particularly penalized by this tax which requires all sales receipts to be stamped by the Ministry of Finance offices and detailed monitoring of inventory turnover. As in the case of the fiscal incentives offered by the Center for Promotion of Investment, the design of tax structures goes beyond the scope of this work, but tax structures have direct implications for the incidence of administrative barriers on investment. To the extent that government tries to compensate tax evasion by imposing additional taxes, companies will have to add personnel to their payroll in order to fulfill tax related obligations. Labor related regulations can be equally cumbersome. In the experience of the larger companies interviewed, one full administrative person is needed for every 50 to 70 employees. Other administrative barriers/costs less evident but nonetheless important are the delays created by government interference with bargaining processes between the company and its employees. Foreign companies that try to hire expatriate specialists have seen much of their time consumed in lengthy discussions with governmental officials from the Ministry of Finance and the Ministry of Planning. This close monitoring is also practiced in the case of fees to pay franchise businesses. The Ministry of Finance has been known to intervene in setting a limit to the percentages that can be remitted to a parent company by way of franchise fees.

Administrative Processes are Overlegislated

190. Some costs arise simply because of excessive legislation. The foremost example is industrial licensing. All industrial activities must be licensed by the Ministry of Industry, a process which entails an application to a public entity and long wait periods. The legal requirements to obtain an industrial license are described in chapter 5. Generally there is no reason why the government should be involved in approving or denying investors the right to operate in any economic sector or why a license should be needed. In another example of excessive legislation, private companies must become members of the local Chamber of Commerce by law. Membership to the Chamber of Commerce should be a voluntary affiliation which companies do if they find it useful. In these cases, even if government entities operate efficiently, administrative barriers are heightened just because the steps are legally necessary and there are many of them.

Monetary Costs Can be High

191. The direct monetary costs of administrative barriers can be significant. As indicated above, incorporating a company can cost 10% of initial investment plus US\$50,000 to obtain title to premises in the city of Maputo. Incorporation can take over a year to complete. In contrast, incorporating a company in Delaware costs about US\$140 and can be done in 24 hours (or less for an additional amount). The difference between the two situations is not necessarily that incorporation filing requirements in the USA are less numerous, but that the spirit in which the laws are applied is more liberal. The state institutions in Delaware are clear about the priority to support new investment. Their aim is not one of control but of promotion and the objective of the law is therefore supported by the institutions and their staff. Incorporation for foreign companies that apply to CPI

is even higher when CPI fees are factored in (about 0.5% of invested capital but companies still use it to get hold of exemptions to import duties). Obtaining title to residence, land or other real estate is expensive. Figures quoted for commercial sites in Maputo are about US\$50,000. Rural land can also be expensive to get title on, especially if the titling situation is unclear in which case payments to other entities and legal counsel become necessary.

Limitations of this Report

192. Traditions of governance and the education levels of the people who enforce regulations explain the difference in the efficiency of licensing processes between Mozambique and other countries. To the extent that rules for decision making within the government are influenced by considerations of tribal affiliations, political connections and personal loyalties, administrative barriers will remain a significant source of transaction costs. Written rules are overridden by invisible social and political cues. This is particularly problematic for foreign investors who cannot move in the alternative network and are not well connected in the country. So simplifying procedures is a first and very important step but not necessarily a complete solution for eliminating transaction costs of administrative barriers. A second layer of work should concentrate on making transparent those regulations that remain after simplification has been taken place. Decision making processes should be based on explicit rules, not personal preferences, family or political affiliations. To the extent that the institution's rules are clear and consistent they will be enforced more easily. Administrative barriers should be examined in the context where they operate. In some cases, the description of legal.
193. This work merely looks at the steps involved for each procedure and how their simplification can contribute to lower the bureaucratic barriers for businesses. This simplification is very worthwhile in a country where enforcement is done by staff who are not well trained and find it difficult to interpret complicated rules. The strategy should however be broader and simplifying procedures should not pre-empt a closer look at governmental organizations, at how decisions are made and at training needs for staff in government offices.⁴ The outcome of this review should be a new set of bureaucratic rules in which the needs for protecting the legal rights of private parties is balanced against the costs of legalizing transactions. In the process, the work would benefit from a view of best practices worldwide for specific transactions such as liquidating, incorporating businesses, labor related regulations, unique tax identification numbers, customs administration procedures, perfecting security on credit operations, notary and registry management and other.

⁴ The recommendation about decentralizing decision making within ministries and reviewing the legal basis for much of the documentation asked will force a reviewing of the rationale for the processes but a more integral approach should be taken.

Ambivalent Attitudes Towards a Market Economy and the Private Sector

194. Lowering administrative barriers to investment should also include an examination of attitudes within the government vis a vis the role of the private sector. It is the perception of the team that part of the burden of administrative requirements emanates from a desire to maintain the control typical of a centralized economy. The persistence of discussions about the Industrial Law demonstrates that the intellectual transition to a market economy has not been made by all areas of government. Another example is the ambivalent attitude towards foreign investment. The government of Mozambique is interested in attracting foreign investment, and the Foreign Investment Law of 1993 enacts the CPI, an organ which should facilitate investment. In practice however, the CPI not only does not assist but adds time and costs to investors by insisting additional requirements so they can study each investment project. The emphasis is on screening rather than facilitating the investment. The mentality that surfaces here is that of a patron state.

195. Administrative barriers to investment are rooted in institutional rigidities; while new policies can be adopted as soon as there is a consensus among the different areas of government, institutions in charge of implementing the new policies are often left to their own devices in the implementation of these policies. The persistence of these administrative barriers reflect the lag of institutions (people and systems) to adapt to new modes of operation. Interventions to lower transaction costs of administrative barriers should therefore include a broad look at issues, not limit itself to shortening lists of official requirements. After all, a number of steps currently required to obtain various licences are not legally obligatory and often of the reasons for delays are due to the insecurity of lower level employees who are reluctant to transgress unwritten rules.