

DEPARTMENT FOR INTERNATIONAL DEVELOPMENT
(DfID)
RURAL LIVELIHOODS DEPARTMENT
(LAND TENURE)

A REPORT ON AN FAO WORKSHOP -
COMMON PROPERTY TENURE REGIMES:
METHODOLOGICAL APPROACHES AND EXPERIENCES
FROM AFRICAN LUSOPHONE COUNTRIES.

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INTRODUCTION

Through its Land Tenure Service (Sustainable Development Division, SDAA) and the Investment Centre (TCI), FAO has been providing technical assistance to several land tenure and policy projects in Lusophone Africa since the early 1990s. The countries assisted include Mozambique, Angola and São Tomé Príncipe, with the major focus to date being upon Mozambique. This workshop was convened by the Land Tenure Service under the auspices of Project FAO GCP/MOZ/059/NET – Support to the Development of a National Land Programme in Mozambique – in order to draw lessons from the innovative approach that has been developed in Mozambique since 1995, and to discuss its wider applicability in other African Lusophone countries and beyond.

The Land Tenure Service is in fact already beginning a new programme on land tenure conflict resolution in Angola using core elements of the Mozambican approach. This workshop allowed FAO staff involved in Angola to present their findings as well. Presentations from Cabo Verde and Guinea Bissau completed the wider picture of current land issues in the five 'African Countries with Portuguese as Official Language' (PALOPS).

The Workshop was well attended by FAO staff and consultants involved in the projects referred to above, leading figures from the PALOPS who have been closely involved in land policy and land tenure developments, and others with an specific interest in land issues in their countries. A full list of participants is attached in Annex.

The author of this report has been centrally involved in the Mozambique 'land question' since the early 1990s, (firstly with the Land Tenure Centre of the University of Wisconsin-Madison and with FAO since 1995). He also lead the USAID-funded land policy and legislation support team in Guinea Bissau, and prepared a key-issues report and programme proposal for FAO in Angola in 1996. He is therefore well placed to report back on the meeting and assess its main findings in the wider PALOPS context. Terms of Reference are attached in annex.

WORKSHOP AGENDA

The Agenda for the Workshop is attached in Annex. The first day focused entirely on the Mozambican case, with presentations from the three main FAO consultants involved in the Land Commission support project that has been operational there since early 1998. This project follows two FAO Technical Cooperation Projects (TCPs) that began in January 1995 and supported the development of the National Land Policy and the 1997 Land Law that came into effect in early 1998.

The present Coordinator of the Land Commission Technical Secretariat (Dr Conceição Quadros) – the government technical agency responsible for implementing the land programme - also gave a presentation. The FAO National Project Coordinator, formerly the Director of the National Directorate for Cadastre and Geography (DINAGECA) and Coordinator of the Technical Secretariat before Dr Quadros, also gave a short presentation on DINAGECA and its role in the Land Programme. The first day presentations closed with an account of the institutional review and development process now underway in the context of the present Agricultural Programme (PROAGRI).

On the second day, attention turned to the other PALOPS, with presentations describing recent developments in São Tomé Príncipe, Angola, Guinea Bissau and Cabo Verde. The meeting closed with a discussion of common elements for a land tenure strategy in African lusophone countries.

SUMMARY OF PRESENTATIONS

The meeting was formally opened by the new Head of the FAO Land Tenure Service, Mr Paul Munro-Fauré. Mr Munro-Fauré stressed the involvement of *three* FAO divisions in the land programme processes of the countries covered by the meeting. As well as the Land Tenure Service of SDAA, the Development Law Division (LEGN) and the Natural Resources Management Division (AGLS) have been closely involved. He stressed the key contribution

made by the Government of the Netherlands in the Mozambican case especially, and expressed a hope that the lessons learned from FAO experience in Mozambique would prove to have wider applicability in other countries. Mr Munro-Fauré also made it clear that FAO is ready and able to work with Governments and donors to support new interventions in other countries that wish to incorporate the lessons learned in Mozambique.

Mr Paolo Groppo, Land Tenure Service Programme Officer, then outlined the agenda and broad objectives of the meeting: to facilitate discussion of recent developments and look for common ground and ways forward using the lessons learned to date.

First Presentation: Methodological approaches to the Land Question in Mozambique during the period 1994-2000. Christopher Tanner, Land Tenure and Policy Specialist and FAO Consultant with the Land Commission project (supporting papers presented and in Annex).

This presentation is based upon two papers annexed to this report, one of which has been presented to an earlier workshop in London organised by NRI/IIED. Dr Tanner set the present land programme within a longer term context beginning with the wave of new colonial settlement schemes (*colonatos*) that were established in the early 1950s. The modern roots of the present day rush for land were identified in the move towards private sector agriculture and the transition to a free market system, without accompanying changes in the way land resources are managed and owned. Especially after the end of the long civil war in late 1992, land has acquired value as a productive capital asset and has been available to national urban elite and other investors at virtually no real cost. Large areas of the best land have been occupied or claimed by these groups in recent years, in a process that continues to threaten local livelihoods in many areas of Mozambique.

Donor concerns over the land question and a growing awareness of the problem within the Government of Mozambique (GoM) prompted a new process of land policy and legislative reform that began in January 1995 with FAO technical support. The presentation outlined the central objectives of the new September 1995 Land Policy and new (1997) Land Law (see papers in Annex). These are intended on the one side to recognise and protect existing local land rights that are established through long term occupation following customary norms and practices, and on the other to promote the new investment that is so badly needed in the rural areas. Local communities are brought formally into land management processes, and a mechanism – the ‘open border model’ – has been developed to allow investors into areas identified as within community jurisdiction but which are not being used by local people. In this way both sides gain, the potential for conflict is reduced, and a participatory approach to development is promoted.

Dr Tanner affirmed that all the necessary legal instruments and policy documents are now in place for implementing a full-scale local level development programme built upon the progressive foundations of the new land policy and legislation. It is essential that an effective implementation programme be launched now as quickly as possible, in order to test the model in practice and answer the many practical questions that have been raised about its applicability on the ground. These questions were reflected in the comments from workshop participants. They included queries about community representation, the nature of the agreements negotiated between communities and private sector investors, the role of the State and donors, and what happens to land allocated to private sector interests, which is not subsequently used. Dr Tanner responded to several of these with technical replies where possible, but throughout stressed that most of these and other technical questions can now only really be answered by putting the package into practice.

Second Presentation: The Experience of the Inter-ministerial Land Commission in the Elaboration of the Legal Framework. Dr Conceição Quadros, Coordinator, Land Commission Technical Secretariat (no written paper presented).

As there is no accompanying paper for this session, and given the central importance of the Land Commission in the Mozambican case, the presentation of Dr Quadros is discussed in some detail. She began with a short history of the present Inter-ministerial Land Commission and its Technical Secretariat (TS), composed of nine ministries each with a representative on

the TS working committee. She stressed the involvement of other sectors apart from agriculture, as well as that of the University and Land Tenure Centre programme, and civil society. Her account of the process leading to the approval of the new land law in July 1997 underlined the open and democratic nature of this particular legislative process, with strong technical support and a flexible inter-sectoral working group at its core. Provincial and interest group meetings leading to a National Conference in June 1996 resulted in a good Land Law Bill that suffered relatively few alterations before being approved by the National Assembly.

During this process the question of what is a 'community' had been a focus of debate. This question is still thrown up by those who doubt the efficacy of the new law, and it was interesting to see it coming up several times in the seminar. Dr Quadros outlined two common criticisms of the concept: 'communities' will become some kind of lowest level public administration body; and allowing 'traditional customs and laws' to prevail within communities will have a prejudicial impact on women. She stressed the flexible and practical approach adopted in Mozambique. Instead of trying to answer such difficult questions in an abstract and intellectual way, far better to begin with agreement over basic concepts such as 'what is management', 'what is occupation', and then move forward to clearer operational definitions on the basis of empirical testing of approaches and methodologies.

Dr Quadros then outlined the way in which the TS/FAO team did a training programme in a basic methodology – Participatory Rural Diagnosis – and then tested this methodology in 21 pilot communities. The result has been agreement over a specific *methodology* to use, legally endorsed in the Technical Annex to the Land Law Regulations, in order to produce a version of 'local community' in each specific cultural and geographical context that responds to the over-arching issue – land management (ie *not* public administration or political leadership).

She asserted that the end of the civil war produced many problems with land reoccupation, but that in fact the vast majority of cases were handled by local land management structures with little intervention from the State. The privatisation of the state farms and ex-colonial farms has also emerged as an ongoing problem. What has become clear is the continuing strength and resilience of customary land structures and the knowledge base upon which they are built, in spite of the disruption of war and dislocation. These are capable of resolving most land access and management problems. She gave the example of communities in Manica that still ask 'before or after the Zulus came' when asked who are 'the occupants' today. After massive disruption, deeply rooted oral traditions and customary practice are alive and well and, *more to the point*, effective in the modern context.

Dr Quadros then explained the placing of the TS programme within the PROAGRI 'land component', while stressing the need to include non-PROAGRI actors within the wider view of what is needed for effective implementation. Special attention was given to the Ministry of State Administration (responsible for District Administrators) and to the Supreme Court, which is about to launch a FAO/Netherlands programme of training and materials development with a focus on land and natural resource issues.

The success of subsequent procedures to develop new Regulations and a Technical Annex to the Regulations (for identifying and delimiting community land) was discussed. Dr Quadros affirmed that what is now necessary is:

- implementation in practice to test the package of laws and instruments
- institutional development and capacity building
- to maintain the open and participatory approach to the process that has marked the work of the last 4-5 years
- measures to disseminate the law and instruments to communities and to organs of local government

Dr Quadros pointed out that there are some in Mozambique today who worry that the new obligations to consult and work with local communities on land occupation and management issues will block or delay the development process. Countering these fears, she pointed to the longer-term advantages of reduced conflicts, a two-way development process between investor and local community, and the large web of contacts and good will that has been built

up over recent years. There is a 'great willingness to collaborate' she said, underlining the need to take the facilitating role of the TS down to provincial level now in order to assist full implementation of the policy and law in practice.

Her account prompted several questions amongst participants from other countries. From Guinea Bissau – where the new Land Law was prepared by a Special Committee of the National Assembly - came a question over which body oversaw the drafting of Regulations and the Technical Annex. This reflects the fact that although there is a new Land Law approved, it cannot be implemented as Regulations have not been prepared since the civil war erupted shortly after the new law was approved. Dr Quadros confirmed that the Land Commission TS has continued to take responsibility for all related legislation and legal documents to do with land under its overall 'land law revision' mandate. Unlike the law however (which obviously required parliamentary approval), the Regulations could be and were *approved* by the Council of Ministers.

A question from one of the Angolan participants focused on how the Commission dealt with the problem of inter-institutional conflicts (a particularly difficult issue in Angola). Dr Quadros used this question to stress how the institutional context is now one of the big questions to be addressed, and in this context decentralisation to the provinces and below is crucial. There are still inter-sectoral and inter-level (centre-province etc) conflicts, but the Land Commission/TS model has worked well, with colleagues from various sectors, as a 'a good starting point'. 'Everyone has a different agenda' she said, but 'we concentrate on the common point for all which is the need for development, and the need for transparent discussion'. With decentralisation, many of these problems will also lessen, as things are simpler at local level and there is less 'departmental egoism'.

Paul De Wit, an FAO consultant working on both the Mozambique and Angola programmes, pointed out that Mozambique has a single cadastre, whereas in Angola this function is split between at least 6 departments with widely different political power and objectives. This is a very strong point in favour of Mozambique. There is little support for the idea of a single cadastre in Angola, especially from the Ministry of Defence which talks constantly of maps etc holding 'military secrets'.

Other questions in this session concerned the role of NGOs in disseminating the law. The role of the Land Campaign (a group of NGOs working around land issues) is pre-eminent here, while another FAO consultant with the TS pointed out that national NGOs are already beginning their own training programmes in the new techniques that are prescribed in the Technical Annex. Strong donor support at this level is essential however (for example the case of ORAM/World Vision in Zambezia with DfID support).

In response to questions regarding the institutions responsible for land management at local level, the District Administrator and the Cadastral Services (central and provincial) have clear roles written into the law and instruments. Attention then turned to the 'Nucleos de Terra' in some provinces (groups of NGOs etc working on land issues). Dr Quadros explained that the TS has already worked with the different sectors and NGOs etc to prepare the legislation, and will continue to do so as it now tries to define a new institutional structure for land issues in Mozambique (this task is the last item in its present mandate). She asserted that there is no hurry – 'we will experiment and learn from other countries...we are talking of the longer term'.

The question of how to coordinate things at provincial and local level remains however, and in response to this the TS intends to create 'antennas' of the Land Commission in five pilot provinces. These will reproduce the methodology and working practices of the central level TS, forming technical 'brigades' from the staff of partner institutions and convening and promoting inter-sectoral and inter-interest group meetings. Each antenna will be different – 'each province has its own characteristics'. The time scale is indeed long term – 'with luck we shall already have the five operational by 2004'. Once these are all working well the Land Commission/TS will then review the experience and present a long-term institutional proposal to the government, thus bringing its present mandate to a close.

The Angolan participants were very interested in the issue of land belonging to the State and how this was dealt with in Mozambique. Was there nationalisation of all land, have there been conflicts between old owners and the State? Dr Quadros answered by pointing to the existence of many different rights over land in Mozambique (agriculture, grazing, charcoal extraction, access to water, etc) each with different rules and norms governing them. It is difficult to look at these simply in the context of land 'ownership' or 'use'. For local people, the owners are 'the ancestors, the living, and those who are still to come'. In other words, she makes a distinction between the State as legal owner and local people as owners in another more practical context¹.

Regarding ex-colonial owners, the issue is clear: the new law gave previous owners or other claimants three years to reconfirm their rights. With this period now ended, the question is closed and land with unclaimed or unconfirmed use rights reverts entirely to State management in line with the principles of the 1997 Law.²

Third Presentation: The Technical Annex of the Land Law: Methodological Aspects of participatory delimitation of community territory. Mrs Sevy Madureira, Geographer and Training Specialist consultant with the Land Commission project (paper presented and in Annex).

Mrs Madureira explained that the Technical Annex to the Land Law Regulations is perhaps one of the most important and innovative new legal documents in practical terms, as it deals with the key issue of how to identify 'local communities' as defined in the Land Law, and subsequently 'delimit' their land borders. Once this is done, the community in question has its land use rights confirmed and recorded in the official cadastral atlas. This process gives them greater protection, but crucially it also provides an excellent reference point – a visual picture of where existing rights are – that can facilitate open and constructive dialogue between communities and investors who want to use their land.

A basic methodological framework was developed by the TS/FAO team, and agreed in a National Seminar on the topic in Beira, August 1998. The method adopted is *participatory rural diagnosis* (PRD), in which local communities in effect define themselves and indicate where their borders are through a thorough process of social research and detailed fieldwork. It is only at the last stage – transferring of community-supplied data onto topographic maps and the recording of this data in the Atlas – that surveyors and topographers are essential. Nine tenths of the work is community development and social science based.

Once the basic approach was agreed, a series of steps lead to the Technical Annex being approved in December 1999:

- research into existing processes and attempts to delimit community land and other collective land holding groups (such as Associations)
- analysis of these cases and their incorporation into training material for a training programme for government and NGO field staff
- the training programme (three courses across Mozambique, involving more than 120 technical staff from the cadastral service, other sectors, and NGOs)
- 21 pilot community delimitation exercises, carried out by course participants as part of their training and to test the methodology
- two national workshops where results were presented and discussed and recommendations made for preparing the Technical Annex
- a national seminar to discuss the pre-final version of the Annex
- finalisation of the Annex

¹ This type of argument underlines much of the thinking behind the new Land Law, which had to offer a framework for land management in a mainly capitalist economy, while dealing with the contradictory principle from earlier times that all land belongs to the State. Hence the use and benefit right (*direito de uso e aproveitamento*) is very close to a full private right, except that the State has a strong role in land transfers and land cannot be bought and sold or used as a real guarantee for credit and mortgages.

² The new legislation also implies that ex-colonial (non state-farm) land effectively reverts to community management, as do newly conceded areas from which the State removes a new use right due to lack of use or malpractice on the part of the new rights holder. These are legal points that will only be tested and clarified as the Law is applied in practice.

- approval (by the Minister of Agriculture and Fisheries who is also Vice-President of the Land Commission) in December 1999

The use of this methodology has important implications. Firstly, what has been adopted is not a single, universally applicable definition of a local community, but rather a single methodology that, if correctly applied by appropriately trained staff, will result in a formal picture of a 'local community' in any given cultural and geographical context. This responds to criticisms that it is impossible to apply the Land Law and recognise the validity of customary practices and procedures in the diverse cultural and geographical context of Mozambique.

Secondly, it brings the communities out of a position where they are marginalized by technical departments that treat them almost as obstacles to development, and involves them centrally in a process that has fundamental implications for their future well-being and opportunities to engage in the development process.

Thirdly, for the technicians involved it demands a fundamental change in attitude towards local people and the legitimacy and relevance of indigenous land management practices *viz á viz* the more 'modern' approaches that many educated national staff tend to see as superior and more technically correct for reasons that have little to do with the reality on the ground (prestige, status, urban-bias, etc).

Fourthly, throughout the process, the TS/FAO team stressed time and again the importance of inter-institutional and inter-sectoral partnership, notably between the public and NGO sectors. Having staff from diverse organisations in the same courses and working together afterwards in the field achieved a remarkable improvement in relationships between them.

The presentation underlined too how the delimitation process is not an end in itself, but is an important tool for development. Communities gain a wider understanding of their resources, their self-confidence is boosted by being taken seriously and participating in the process, and even longstanding land conflicts between neighbouring communities can be resolved. With existing rights identified and recorded, the basis for a constructive partnership between communities and investors is also established.

The Technical Annex now has the great strength that is tested in practice and is the result of a wide-ranging process that involved literally hundreds of Mozambicans of all levels, backgrounds, and technical ability. It has shown that it is possible through this kind of intervention to have a far wider participation than even that foreseen in the Law. It has also created the core of an effective national capacity to take the process forwards. Finally, it has also been a process of capacity building for the communities involved.

Mozambique and the Land Commission now have a strong tool for launching a local level development process, through capacity-building and working with communities and other interest groups to bring new resources into the rural areas and ensure that local people benefit not only as (cheap) wage labour, but as stakeholders whose existing rights also give them a right to benefit directly from new projects and economic activity that they themselves have participated in the approval of.

Mrs Madureira ended with some remarks on the current situation. The ideas in the Technical Annex are radical but basically reflect the innovative principles enshrined in the Law. They are very new however for *all involved* and not yet well tested. The training process must continue, the law and Annex must be tested in practice. It is clear that the volume of work is going to increase as this happens, and that delimitation will inevitably also reveal or even create land conflicts. This should not be a reason for halting them, indeed exactly the opposite.

In this context she affirmed that the new 'nucleos' or antennas of the Land Commission will have an important role, to see that delimitation work is finalised through to the Atlas stage and emission of a formal Certificate confirming the recording of the community map. The antennas will also have to advise on partnerships and how these should proceed, act as mediator between different sectors and interests, and ultimately is bound to be drawn into the conflict resolution structure. In this context the central level Land Commission will have an

increasingly important role is 'conductor' or leader of this process, while the real push for decentralised institutions moves ahead and takes root. Training and practical application of the underlying principles of the law and its instruments will be important inputs throughout the early stage of Land Law implementation, not only to create a sustainable implementation and land management capacity, but also to change attitudes and entrenched thinking at all levels.

Questions covered issues such as conflict resolution and the issue of partnerships with the private sector that wants to use land that has been delimited. Conflict resolution is not an immediate objective of the Technical Annex, although the process of delimitation can help resolve existing conflicts and provide a map to facilitate negotiations and more equitable land use in the future. Other comments pointed to the key role of the judiciary in this context, with news that FAO Development Law Division (LEGN) is supporting a new project to train judges and develop legal texts with a focus on land and related legislation. Dr Quadros called attention to the various local level mechanisms that already exist.

Other queries addressed the issue of population leaving land due to war. Did the methodology help to resolve resettlement and related issues? Mrs Madureira and other FAO consultants present stressed how it is not the methodology *per se* that resolves the conflicts, but the local people themselves – the methodology recognises their *existing systems and gives them validity*. In post-war Mozambique there was no need for resettlement programmes and the State had no capacity to implement them anyway. Customary land management structures survived the upheavals and looked after the vast majority of households returning to areas of origin, *at little or no cost to the State*.

Fourth Presentation: Land Commission/Technical Secretariat video, 'A Nossa Terra' (copy available from the Land Commission, Maputo, in either Portuguese or English versions, or from Mr Groppo, SDAA, FAO Rome³).

This video has been developed over the last year by the TS/FAO team as part of a training package for fieldworkers charged with carrying out community land delimitation in line with Technical Annex provisions. It was filmed during one of the pilot land delimitation exercises carried out as the field component of a Training of Trainers course implemented by the FAO team in early 2000. The video shows a small multidisciplinary team including NGO and public sector technicians, arriving in a community and working with local people to produce a map of their community as they see it. The video is explicitly a teaching tool – for example it is designed deliberately to expose some weaknesses in the approach of the technical team so that the trainers can use these to generate discussion in training sessions – and is an officially endorsed product together with the two training manuals it accompanies. It includes footage of the Vice-Minister of Agriculture and Rural Development reaffirming the importance of the legal changes and the transfer of management rights and responsibility for natural resource back to local people. This excellent package is available to government department and to interested organisations or individuals who want to run training courses in the future.

Fifth Presentation: The Role of DINAGECA and SPGC in the implementation of the Land Programme. Mr Jafar Mussá, FAO National Project Coordinator and previously Director of DINAGECA for many years until 1998 (no written paper presented).

Mr Mussá spoke generally about the structure and functions of the Cadastral Service. He stressed that there is still no cadastral service representation at district level in most instances, and that the whole service is at this moment in the process of restructuring following a series of reports and recommendations to Government. DINAGECA has been primarily responsible for demarcating new land areas requested by investors etc, and its involvement in community land issues is relatively new. It issues land titles to those individuals and groups (including communities in principle, but not done so far) who formally register their land rights and have their border formally staked out in the field with approved markers ('demarcation', as distinct from delimitation).

³ Contact Jafar Mussá at comterra@tropical.co.mz; or paolo.groppo@fao.org

Mr Mussá made the important point that the emission of titles does not reflect real occupation on the ground, as titles are only issued once the demarcation process is complete. Very few requests have reached this point, although those requesting land behave in many instances as if they already hold full use rights with just the basic outline map drawn up at the time the request is lodged (called the '*croquis*'). This behaviour is a major cause of conflict, and the uncertainties that result also block any alternative form of development and land use in the areas covered by the croquis.

The new law gives those requesting land *one year* to carry out and complete the demarcation. If this is not done, they lose their provisionally attributed land use right. Policing and supervising this is however far beyond the present capacity of the cadastral services.

Dr Quadros confirmed that DINAGECA is one of the oldest public services, and that it has traditionally served minority interests (colonial land users, and subsequently the state and more recently private sector interests seeking land). The challenge now is how to make it into a service that serves the interests of the majority. Part of this process has involved breaking the mindset (partly instilled by more conservative foreign technical assistance programmes) that only issuing individual title deeds to each farm plot would solve the land problem. This is unrealistic and does not match the reality of Mozambican land use⁴, and in the event these programmes managed to issue less than 30 titles over a 2-3 year, high cost period. She also stressed the need to change technical views of the need for high precision mapping, which is not needed for example in community land delimitation.

Other comments stressed how that cadastral services must operate in a transparent fashion (this has been a problem in the past and reflects the prevailing administrative culture of Mozambique as much as anything else); and that the training of many national staff in the past (in the Soviet Union for example), has not endowed them with any sensitivity to local African land management and land use systems and their relevance today. Mrs Madureira ended the session by underlining the major change effected by the training courses and field exercises supporting Technical Annex development. Many taboos have been broken regarding the monopoly of trained topographers, and the importance of painstaking social science based fieldwork ahead of the topographical process has been established (at least in the minds of those who have participated in the courses and pilot cases).

Sixth Presentation: From Regularisation to Land Management: Acquired Values and the Need for Consolidation. Mr Paul De Wit, Land Management specialist and FAO Consultant with the Land Commission Project (paper in annex).

Mr De Wit presented an overview of the land reform and legislative process to-date, summarised where thinking now stands, and commented on what should be done to consolidate what has so far been achieved. His presentation placed the current state of things within the context of the broad socio-economic parameters of the national agrarian policy (a focus on the private and household sector, while ensuring social equity), and the specific principles of the Land Policy (protect existing rights, promote new investment, ensure equitable and sustainable land use).

His presentation outlined many of the points already raised in the earlier presentations, drawing specific attention to the high importance of the adoption of the 'open border' model by many now leading the land debate in Mozambique. This is particularly important in the context of the still-persistent dualist view of agriculture that pervades the corridors of many institutions and private sector interests, who see the agrarian economy split into two, quite separate 'modern' and 'traditional' sectors. Mr De Wit asserts that there is now a 'relative consensus' in Mozambique regarding the need to see the two sides as complementary, and engaged in a dynamic interaction based on partnership and shared resource use in the future.

Principal characteristics of the current situation are therefore:

- recognised need to involve and integrate all sectors in land issues

⁴ See Tanner paper on Farm Systems, attached in Annex

- adoption of the 'open border' principle within the framework of the Land Policy and with the inherent protection of the new Land Law looking after acquired and existing rights
- recognition of different kinds of rights, *often overlapping physically on the ground*:
 - o land use rights (existing – communities – and new, private sector)
 - o land management (public sector and communities)
 - o licences for economic activity (forestry, hunting, mining etc)
 - o ownership (the State)

The notion of 'co-titling' has also been established in the new legislation and regulations, as a means of quickly and cost-effectively protecting local rights that are obtained through customary land systems, and that this approach is preferable to other collective solutions tried in the past (for example, giving title to land used by Associations or cooperatives which do not reflect the overall social organisation and land use systems of the local population). Within this context the focus on *land management systems* is important (as opposed to seeing the newly defined units as some kind of basic public administration unit (although they might well form the core of a new administrative structure in years to come). This approach is *quick, cost effective, and reflects the reality and practice of land occupation and use for the vast majority of Mozambicans*.

An important value shift in this context is seeing the law and the Technical Annex as instruments to identify and protect the land *of* the communities, not land *for* the communities. In this context, community land use rights equate to areas of jurisdiction, and combined with the 'open border', do not exclude new investors from occupying and using unused land over which communities have rights.

Mr De Wit echoes the important point made by many that in this context the communities are poorly equipped to enter into a more sophisticated engagement with private sector interests and carry out the land management functions foreseen in the Law. This does not mean that the law or the Technical Annex are unrealistic or inappropriate documents. What it does mean is that serious support (through NGO and other ground level programmes) must now be given to local communities to raise their capacity and help them make the most of the new opportunities now open to them.

What is important in this process however is to recognise and value the role of customary systems and those who manage them, without institutionalising them and removing their inherent flexibility and legitimacy in the eyes of local people.

As for consolidation, Mr De Wit points to the following:

- assure a stronger sense of ownership of the policy and law by its users
- more practical experience is urgently needed to test and refine the law and put new procedures and guidelines in place
- harmonise other new legislation with the Land Law (notably the new Forestry Law, but also Environmental, Water and other natural resource legislation)
- capacity building in all partner institutions (government and NGO)
- capacity building in communities for entering into new partnerships etc
- test community development initiatives that build on the principles and opportunities offered by the new Law and its instruments (notably the Technical Annex)
 - o sharing resources
 - o area-based planning (bringing together the Land Commission and Ministry of Planning and Finance initiatives for example)
 - o community-based natural resource management and land use planning

An active question and answer session included one question on the links between the Law/Commission and the Law of Foreign Investment. To date there is no formal link or any kind of working relationship with the Centre for Investment Promotion (CPI). Other participants commented on this, stressing the need to foster a stronger partnership with the CPI in future.

Seventh Presentation: Institutional Dimension. Mr Materne Maetz, Senior Agricultural Policy Support Officer, TCAS FAO; and Mr Vitorino Xavier, Coordinator of the Institutional Reform Process, MADER, Maputo (supporting papers in annex).

These presentations outlined the current status of the institutional reform programme underway within the Ministry of Agriculture and Rural Development in Maputo, as part of the PROAGRI programme. The issues raised do not touch directly on the technical focus of this report, but some points emerged from the discussion that merit attention in future.

The reform process is following a conventional path of *functional analysis, design of new structures, preparation of new legal framework and basic internal regulations, approval and staffing, and a human resources development strategy and plan.*

Underlying principles of the need to decentralise, have clearly defined benchmarks and accountability mechanisms, and the need for strategic thinking in MADER. The need to involve all staff and other stakeholders in the reform process is also stressed.

These principles apart, seen from the perspective of land issues in Mozambique, the presentations clearly give the impression that these are not being analysed in their own terms or context, but are still being set within the enveloping structure of PROAGRI and MADER. This process sends contradictory messages to those who on one hand are told that the TS has a clear institutional development strategy already in place (as outlined by Dr Quadros), and on the other are told that the question of land management is one of several areas included in the wider PROAGRI institutional reform programme. It is not necessarily a problem to have land looked at from both directions, but it seems clear that more dialogue and collaboration is needed between those working on each side of the fence.

The presentations also seemed to reveal a tendency within the more conventional thinking of PROAGRI towards a dualist view of 'family' sector (community) land use and new, private sector land needs. There was an implication that the 'all the gymnastics' of land delimitation, demarcation and negotiation with communities was a bit of a nuisance and would only hinder private investment. 'High value land' needs to be improved and made available to private interests, etc.

These sorts of comments point to the need to extend the training and attitude changing process of the TS/FAO training courses to higher level officials who are not necessarily involved directly with land questions, but who all have opinions on 'what is best' in land management and land use seen from the point of view of agricultural development options. They also underline the urgent need to *put the land law into practice now, and show that the various mechanisms developed in the Technical Annex and elsewhere are effective and do indeed promote investment on a secure and equitable footing.*

A telling comment from the MADER spokesperson was that it was notable how many complaints were coming in from the private sector re land access requests and their management and implementation. The prevailing view in certain places seems to be that community involvement and attention to delimitation etc will only make this worse. Prior experience and conversations with investors however point to the administrative culture and the extreme inefficiency of internal bureaucratic procedures as the real culprits⁵. Behind this is an extreme lack of capacity on the part of cadastral services at provincial levels that have to process and manage land requests (identified in a recent PROAGRI 'land component' review mission in which the author of this report participated). Pending the results of the reform process, simply ensuring that provincial services have at least one vehicle, a GPS set, and properly supported re-trained staff would go a long way to improving the through-flow of land processes.

⁵ 'They do not treat us like clients, but as almost as foes' was one comment I have heard in Mozambique. Cases of paperwork taking two to three years are not uncommon. Most serious investors *want* good relations with communities and see the sense in the delimitation and negotiation process. Pure land speculators of course would not agree.

Eighth Presentation: Recent Trends in Land Issues in São Tomé Príncipe. Christopher Tanner, Land Tenure and Policy Specialist and FAO Consultant with Investment Centre/World Bank STP Supervision Team (no written paper presented, although one is in preparation)

São Tomé Príncipe has been implementing an extensive programme of land reform since 1992, splitting up the old state farms (ex- colonial plantations) and handing land parcels of various sizes to a majority of smallholders (ex-plantation workers) and a smaller number of 'medium farmers'. Of the total of sixteen pre-project plantations, nine have been fully 'privatised', while the other six have been 'redimensioned' into smaller units set around their pre-existing processing facilities and social centres. Land split off has been included in the wider privatisation programme.

This process has in effect created a continental type peasantry and agrarian structure, where before there was simply a predominant plantation based system. Unlike Mozambique and other continental countries, the issue of pre-existing land rights does not emerge, as none of those receiving land have historical roots in STP before the ancestors were imported as slaves. The transformation effected by the land reform programme therefore has a very mixed bag of implications:

- it is radical and profound in its impact, totally changing the agrarian structure of the country
- it has move STP from a system of large cocoa plantations managed as whole units, to hundreds of often very small parcels of land, still with cocoa planted and with tropical forest cover, but now managed on an individual basis governed by the underlying logic of a poor household economy and not a large-scale plantation enterprise
- with the ending of the plantation system (even as state farms) the state has no interlocutors in the rural areas to carry out administrative and policing functions, and is practically unrepresented in real terms outside the capital and some towns
- social services looked after by the plantations/state farms have collapsed
- supporting public departments responsible for land registration etc have not been reformed and strengthened, resulting in a huge gap between what has happened on the ground, and the need to legally validate and consolidate the new land rights attributed by the State to thousands of households
- the process has triggered a huge demand for land by non-beneficiaries of the project, who are also suffering from unemployment etc, and is already fomenting social unrest and violent confrontation with (project) land management staff

The World Bank supported project has in fact achieved many of its key land reform objectives, and the management team has performed impressively in the face of very difficult technical and political challenges. It has achieved the project goal of ensuring that 75 percent of land allocated goes to small farmers. The process that has been unleashed however is now beyond its capacity to administer, and there is an urgent need for a wide-ranging follow-up programme to consolidate the reform and fend off its worst potential impacts. These include:

- a real and already ongoing danger of deforestation as households 'mine' their new land resources, cut down trees to sell or build houses, fail to invest in pest control and new agricultural techniques etc
- a severe fragmentation of land into small, unviable parcels in order to satisfy the huge demand for land by those who have not yet benefited
- the absolute administrative vacuum in rural areas and no effective systems in place to restore and assume responsibility for social services

Underlying the land reform are also some important legal issues. In first place, the State retains ownership over the land and is only allocating use rights over a fixed term (much like the use right allocated in Mozambique). If this is not used properly, the right can be removed. Land rights cannot be used to secure bank credit, not can land legally be bought and sold (although this is occurring in practice). What this means in practice is that it is *agriculture* that

has been privatised, not land, and without adequate support mechanisms – good roads, credit, extension, new markets – to make it work. Hence the mining response on the part of most beneficiaries.

Secondly, the State is not in fact legally able to allocate the use rights and register them, as formal ownership of all land was never legally transferred to the State and registered in the Land Registry after Independence and nationalisation. This is not as serious as it seems and can be resolved by straightforward legal procedures, but it does require a political consensus and the will to address the issue. Until this happens, some legal specialists argue that the entire process to date is in fact illegal.

Although the situation is very different compared with continental countries, there are many parallels that can be developed and where lesson learned in Mozambique for example can be applied. If local people were given stronger rights over their land, and if they were given some kind of land management role in the wider context, it is possible that the same kind of partnership experience foreseen in Mozambique could work well and begin to address some of the problems of land fragmentation, lack of employment etc. STP has a huge tourist potential amongst other things, and with their new land rights local people could actively participate in and gain from such investment as stakeholders.

Alongside this is the major opportunity for administrative reform that is now facing STP. A decentralised approach drawing on the lessons that *will* come from the Mozambican (and now Angolan) experiences is clearly the way to proceed, and this has in fact been built into recommendations now before the STP government and major donors. Once again, the need to look at land in a *multi-sectoral* way is underlined, as well as the need to place land policy and land management into the wider context of a coherent, overall national development strategy that builds in and strengthens inter-sectoral linkages and addresses critical internal and external market questions.

Ninth Presentation: Recent Historical Trends in the Land Question – The Proposed Negotiated Land Conflict Resolution (NLCR) Approach (Angola). Presented by Paolo Groppo, Land Tenure Systems Analysis Officer, SDAA, FAO Rome (copy of slide presentation attached in annex)

This presentation was accompanied by an extensive set of slides that are attached in annex, and thus will only be summarily reviewed here. The new FAO initiative in Angola follows an earlier identification mission in 1996, as part of a broader review of the agriculture sector and options for development⁶. Nothing came of this for political and war-related reasons, but in late 1999 the Government announced that it was re-opening the land issue for discussion (largely in response to donor pressures apparently). UN/FAO support was requested, and the present intervention by SDAA drew principally from the Mozambican experience, which was seen as having much to offer in the Angolan context.

Since November 1999, the discussion of land issues has been re-kindled by FAO, supported by key donors and NGOs, and a methodological framework has been put in place for the 'Negotiated Land Conflict Resolution (NCLR) approach. Capacity building work has begun in a small way, with an approved programme now ready to launch in 2001 for a much wider programme of training and testing NCLR in various parts of the country.

The NCLR approach builds heavily on the underlying principles of the Mozambican approach, whereby existing and future rights holders are brought together by trained staff with a view to reaching a consensual agreement over how to share land resources. Acute conflict areas have been selected for trial exercises, and these have apparently proceeded well. The disruption of land occupation in Angola has been very severe, even compared with Mozambique, and there are many aspects of the current situation that are quite distinct. Elite interests and political factors feature prominently in areas where there are acute land conflicts between private and community interests; and many 'communities' are not historically linked

⁶ The land issues annex was researched and written by the author this report. Contact Andrew Macmillan, Investment Centre, FAO Rome for copies.

to the land in question but have occupied it after being dislocated from other parts of the country. The role of 'traditional authorities' has been formally recognised since the early 1980s however. There is also already an established experience of working with customary or local level structures in a *de facto* decentralised fashion as provincial governments and their cadastral teams have initiated activities independently of central government in Luanda. The dynamic – often tense and certainly poorly defined – between provincial and central level institutions is an important contextual feature of the land question, and one that will need to be properly addressed as a 'land programme' develops.

The land question and assuring security of access and use is seen (as in Mozambique) as a central pre-condition for equitable and sustainable development. At the present moment, a view of how to proceed in the medium term is built around three strategic principles:

- prioritise what can be done now and pay attention to procedures:
 - o institution building and human capital capacity building
 - o think in terms of a 10-year horizon (at least) for slowly developing and implementing a comprehensive land programme for Angola
 - o strive to open the debate
 - o address the lack of confidence between Government and NGOs (FAO with an important mediator/facilitator role, as was the case in Mozambique in 1995/96)

- maintain a 'systemic vision' where 'land' is addressed at many different points:
 - o land management (cadastral services etc)
 - o public administration
 - o legislative reform
 - o capacity building
 - o decentralisation and community level work
 - o etc

- feedback: to date there has been little coming back from the Angolan government and others, but FAO sees itself with a strong role as facilitator and promoter of the land process in Angola. Its focus throughout (again as in Mozambique) must be to stimulate and support a *national dynamic and ownership* of the land process.

Mr Groppo finished his presentation by stressing that the process itself is what is important at this stage. Discussion of land has only recently been back on the agenda, and keeping this going at any level is essential. The more discussion there is, and the more FAO can support field exercises that provide empirical fuel for the debate, the better chance there is of long term success. His final slide shows clearly the wide range of human resource needs in 2001 to support such a process.

Tenth Presentation: From Emergency Toward Development: NCLR Application in the Framework of FAO Special Programme for Food Security. Mr Paul De Wit, Land Management specialist and FAO Consultant; and Mr Paolo Groppo. (2 papers in annex).

This presentation details specific casework undertaken by FAO under the field leadership of Mr Paul De Wit and drawing heavily on the lessons learned in Mozambique. Mr De Wit has presented characteristically thorough papers detailing this experience, and this account is therefore limited to some key comments.

The cases involved show clearly the hugely complex land occupation situation that any land management programme must deal with. At institutional level there are at least six departments with cadastres and some role in land survey and records (dominated by Defence which retains huge power and influence over how any cadastral reform might proceed). On the ground, there is a complex juxtaposition of long term historical residents, internally displaced people, old colonial farms now occupied by urban elite interests or claimed by descendents of former 'owners'.

In this context the case study undertaken by Mr De Wit had a specific objective: *show that collaboration and partnership is possible*, resulting in consensus and agreement over land occupation and use. The case study also set out to show that such a thing as a 'local community' does indeed exist, in spite of the disruptions and traumas of the long civil war. It also sought to show that collaboration is also possible between institutional players that to date have had difficult relations (notably public sector and NGOs, and the Churches).

The case study also tried to test the existing legal framework, to see if it was adequate (at least in the short term) for supporting a NLCR process and providing the grounds for a longer-term land programme.

The reader is urged to go through the papers in annex for the details and implications of this important casework. At this point, it is important to see it in terms of its extension of lesson learned in Mozambique, into very complex and distinct circumstances in another country where the land question is at the heart of the rural development and natural resources sustainability challenge.

What the study shows very clearly is that, at least in the area of the case study itself, the ideas and methods developed in Mozambique are of great utility in other contexts, provided they are applied with sensitivity to the specific circumstances and take differences adequately into account. The case shows that the 'local community' is a relevant and useful concept in the Angolan context; that collaboration and partnership is possible; and the consensual agreements can be reached over shared resource use if the appropriate guiding framework and adequately trained facilitators are in place. On the legal front, current legislation is adequate for going forward, although a full-scale review and legal reform would have to be undertaken within a more comprehensive land programme in the medium term.

Presentations 11 and 12: Guinea Bissau (presented by Mr Soares Sambu, Deputy Speaker of the National Assembly of the People), and Cabo Verde (presented by Mr Fernando Jorge Andrade, Director of the Studies and Planning Office, Ministry of Agriculture, Food and Environment) (no paper for Guinea Bissau; 2 papers in annex for Cabo Verde).

These presentations gave a summary of the position in these two countries, both of which have been through significant land reform or land policy changes in their recent history.

In the case of Guinea Bissau, Mr Soares Sambu painted picture of the rural economy that reflected earlier dualist views of rural society, split between 'small producers' in the villages (*tabancas*) and private sector producers (*ponteiros*). The former are the vast majority of rural inhabitants and are responsible for 90 percent of total production on plots averaging 2-3 hectares, while the latter number 2200 approximately on farms averaging some 136 hectares in area (the range is from 20 to some 3000 hectares).

Guinea Bissau passed through a transition to a market system very similar to that in Mozambique, beginning in earnest with structural adjustment measures in 1986. Between then and the recent civil war, land suddenly acquired new value as a productive asset, while again as in Mozambique, land ownership was held in the hands of the State and formal land management mechanisms were biased in favour of urban, private sector interests.

Work on a new land law began in June 1995, and ended with approval of the new (current) law in January 1997. A couple of months later the country entered a savage civil war from which it is only just emerging. Regulations to implement the law were never prepared, and the major issue now facing the government is to deal with this as soon as possible in order that the new law can be put into effect in practice.

One difference between Guinea Bissau and the Mozambique case is that the legal reform process was overseen by a *parliamentary* committee, and not a government commission. The process was supported in its final year by a USAID-funded technical assistance programme

implemented by the University of Wisconsin Land Tenure Centre⁷. As in Mozambique, the Technical Committee created a sub-group, the 'Legal Group', to actually draft the new legislation in line with comments and technical recommendations coming in from a wide range of sources. The Committee went to extraordinary lengths to ensure that the new law and policy ideas were discussed outside the capital, and its members worked hard to implement and collect data from a wide-ranging survey of land use, land practices and problems from distinct groups (women being one, but including traditional leaders, *ponteiros*, and administrators).

Guinea Bissau clearly confirms the importance of having an inter-sectoral forum of some kind, officially endorsed at the highest level, which can cut through competing interests and facilitate open and constructive dialogue between different technical staff and bringing in a range of other interests and skills.

With the country now emerging from its catastrophic civil war, attention is now turning to the implementation of the Law, with drafting Regulations as a first step. It is evident that the workshop has provided important material for the government and others to consider when thinking about the next steps to take.

In the case of Cabo Verde, a situation rather like São Tomé Príncipe prevails, in the sense that there is no historical indigenous population. Portuguese occupation resulted in huge landholdings (*capitões*) and fazendas, producing an agrarian structure similar in certain respects to that found in Northeastern Brazil. The large units began to sub-divide through contracts with administrators and other elite groups through three types of land exploitation: ownership, rental agreements, and sharecropping. Extreme fragmentation of land holdings has resulted from the subdivisions that take place at inheritance, and in 1969 there were 11,700 sharecroppers and 13,000 rented farms in a sector that has only 41,000 hectares of agricultural land available.

With Independence land was nationalised, but sharecropping and rental arrangements continued. In 1983 a new land policy prohibited these contracts, the State assumed ownership of these lands, compensated the owners, and then re-transferred the land (as a private property right) to the former renters and sharecroppers. Larger lands were expropriated with compensation and land allocated to former workers.

This reform process came to a halt in 1991/2 when the Land Reform Law and its Commissions were abolished. At this point, everything passed into the hands of the courts when it came to resolving conflicts and legal issues over land occupation and use, and the existing Civil Code formed the basis for judicial decision-making. This use of the judicial system to supervise and ensure implementation of the law is distinct in the context of the other countries represented at the seminar.

Cabo Verde has also moved further with cadastral reform, taking the cadastral service out of the Ministry of Agriculture three years and turning it into the Institute of Cadastre and Geodesics. In this way it can more effectively serve the wide range of land users that do not always include just farmers, develop a coherent land management programme, and maintain a single national cadastre.

Current government policy is to continue along these lines while leaving practically everything in terms of land management decisions in the hands of the private sector, backed up by legal sanctions administered and imposed by the courts.

A very interesting of the Cabo Verde case is the current status of the land fragmentation problem. While still acute, with the economy advancing in other there is less pressure on all heirs to assume their small areas, and many are handing their land over to one or two siblings with an interest in agriculture to cultivate within a larger unit. Now everything is private and people are free to rationalise their own land holdings through the market or in line with their

⁷ The author of this report lead the in-country USAID/LTC team through to the National Conference that approved the draft bill to go to the Assembly.

own preferences, again provided that is within the law and does not contravene other (for example environmental legislation). Another key issue in this context is population growth, which has begun to fall and produce lower average household sizes. In the longer term it is possible to see that the fragmentation problem will diminish, as people assume a greater deal of control over their resources and are presented with alternatives to agriculture for generating incomes.

SUMMARY OF SEMINAR OUTCOMES

The seminar shows conclusively that the land processes now going in the various PALOPS countries are in fact opening important new ground and providing models for other countries. The Mozambican experience in particular has established basic new principles such as the treatment of 'local communities' and the incorporation of customary land management practices into a new formal land law. The model developed here is directly relevant for other countries grappling with the difficult issue of how to reconcile 'traditional' land laws and the demands for a modern legislative framework.

The Mozambican and Guinea Bissau examples illustrate the importance of an inter-sectoral approach, conducted and mediated by a high level forum (Commission, committee, etc) that is endorsed at the highest level and given authority to bring together different interest groups and public departments. The mechanism of the Land Commission, with a small core Technical Secretariat that then marshals and manages resources made available by other partner ministries and NGOs, is a useful one to follow. In Mozambique it has been effective, low cost, and sustainable with a minimal level of investment. What is important is the political will to give it a clear mandate and the political authority to develop its mediating and facilitating role.

New FAO experience in Angola is also showing the practical approach being developed in Mozambique, fostering negotiated partnerships between competing land users, can also be usefully applied in quite different and perhaps even more complex contexts. The 'open border' model adopted in Mozambique, through which an integrated and participatory model of rural development can be achieved, is an important initiative that needs to be monitored as it now moves into a wider implementation phase at local level.

Mozambique also shows that many of the more subtle questions – for example, how will partnerships work, how will traditional leaders develop and respond to their new land roles etc – can only be answered now in practice. It is impossible to legislate for everything. This same observation underlines the importance of having an effective judiciary operating alongside the formal and informal land management structures. Cabo Verde appears to have already gone a long way down this path; the new judiciary project in Mozambique is an important new initiative that in fact could either consolidate or undermine the achievements to date. To ensure that it consolidates the progress made, it is essential that the judiciary be brought more fully into the inter-sectoral forum of the Land Commission, and has a clear understanding of the underlying *sociological* principles of the new Law. This observation is especially important in the context of community land rights, delimitations, partnerships etc, and the interface with customary conflict resolution mechanisms.

Finally, all the cases studied, from Mozambique to São Tomé Príncipe, underline the importance of giving people real rights that they can then use as stakeholders to engage more fully in development. Doing this will involve significant capacity-building programmes at local community level, alongside similar exercises with government and NGO staff, but the long term results will be positive if applied openly and with good will on the part of policy makers. Mozambique shows however that success depends on achieving an historic compromise between competing interest groups, and that doing this requires conceptual shifts not only amongst 'the poor and uneducated', but also amongst technicians, politicians, investors, administrators and even NGOs.

DfID AND FAO COLLABORATION

In his opening remarks, Mr Munro-Fauré stressed that FAO is now ready to work with new donors and anyone else to build upon the experiences of Mozambique and Angola especially. It is evident that a great deal of material has been prepared by the TS/FAO team in Mozambique, and that collectively the various consultants and national counterparts have amassed a wealth of knowledge and experience of use in other countries.

With the current project coming to an end in Mozambique, the training package of video and manuals is an important product that must be made the maximum use of in future. The video is available in an English language version. An English translation and adaptation of the training manuals might also be useful, and this is one very practical area in which DfID and FAO may collaborate, obviously with Mozambican Land Commission approval.

The seminar ended in discussions over a proposal to convene a far larger workshop in mid-2001, probably in Lisbon and funded within the PALOPS/CPLP context by the Portuguese Government. The author of this report made the point that this PALOPS focus, while understandable in the relatively marginalized world in which Portuguese speaking specialists and government staff find themselves, might also block the cross-fertilisation of ideas between these countries and others in the Anglo or Francophone African context (not to mention countries in other regions).

It is certainly the case that a larger workshop is important to consolidate many of the innovative ideas coming forth, and more importantly provide important leverage to persuade wavering political leaders and policy makers not to undermine or back off from the reforms now underway. DfID may wish to explore ways of either supporting a second major workshop with an explicit PALOPS-other countries cross-fertilisation objective, or look at ways to ensure that English and French speakers can participate fully in the proposed Lisbon workshop (for example by supporting attendance costs by non-Lusophone specialists, and supporting simultaneous translation and related secretarial costs, as well as the costs of English language versions of workshop proceedings).

Beyond these immediate measures, the different FAO divisions involved in the land question in Mozambique, Angola, Guinea Bissau and São Tomé have all expressed their willingness to collaborate with governments and donors to take the lessons forward and apply them to the maximum positive effect in other countries. This would appear to be an ideal moment for DfID to expand its discussions with FAO and pursue ways in which the two institutions can work together in new programmes.

TRANSFERABILITY TO ANGLOPHONE COUNTRIES

Based upon the recent experience in Angola, it would seem that the model being developed in Mozambique is of great relevance in many non-Lusophone African countries. Most are grappling with the issue of how to integrate the reality of customary land management systems into formal national legislative and administrative frameworks, and foster a more participatory and less polarising form of national development. The integrationist, 'open border' systems approach that underlies much of the Mozambique case is of great interest in this context, and indeed has relevance in many countries in the Southern African region. Current problems between Kruger Park authorities and communities expelled decades ago from the western side of the park are one case in point: recognition of rights, leading to a recognition of the communities as stakeholders leading to a negotiated settlement whereby they receive a share of Park profits is one possible solution for example, that is made possible by this innovative approach.

In this context it would seem perfectly feasible for DfID to explore the use of the Mozambican model in Malawi. Indeed in the Anglophone countries it may even be easier to move the package forward, given their legal inheritance from Britain - common law, case law and jurisprudence – which is distinct from the Napoleonic Code approach that underlies the Portuguese legal inheritance of Mozambique.

In using the Mozambican model, attention should be paid to the underlying principles discussed above however, that go beyond the technical side of land policy and legal discussion: the need for an inter-sectoral forum backed by high-level political mandate; the need to induce real changes in attitudes amongst a wide range of people, institutions, politicians etc; the focus on participatory techniques that bring local people fully into *any* process, and along the way boost their confidence and begin raising their capacity from Day One.

ANNEXES

Terms of Reference
Papers and Material available at the Seminar
List of Participants *(not yet available from FAO)*