# DOING BUSINESS AND MOZAMBIQUE:

## A BLUEPRINT FOR SUCCES

AN UPDATE OF THE 2010 REPORT

APRIL 2011

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# CONTENTS

CONTENTS ..... I

EXECUTIVE SUMMARY ..... II

1. INTRODUCTION ..... 1

2. GUIDING PRINCIPLES AND POTENTIAL RISKS OF REFORM DESIGN AND IMPLEMENTION ..... 2

2.1. GUIDING PRINCIPLES ..... 2

2.2. POTENTIAL RISKS ..... 4

3. IN-DEPTH ANALYSIS REFORM AREAS ..... 5

3.1. PAYING TAXES ..... 5

3.2. TRADING ACROSS BORDERS ..... 9

3.3. DEALING WITH CONSTRUCTION PERMITS ..... 15

3.4. ENFORCING CONTRACTS ..... 20

3.4. REGISTERING PROPERTY ..... 25

3.4. CLOSING A BUSINESS ..... 30

4. STARTING A BUSINESS AND GETTING CREDIT ..... 32

4.1. STARTING A BUSINESS ..... 32

4.2. GETTING CREDIT ..... 34

5. PROTECTING INVESTORS ..... 37

APPENDIX: LIST OF INTERVIEWEES FOR MARCH 2010 REPORT ..... 38

# EXECUTIVE SUMMARY

This report is an update of a paper commissioned at the request of the Ministry of Industry and Trade (MIC) and USAID/Mozambique in late 2009 and completed in March 2010 to assist Mozambique with the formidable task of moving up significantly in the Doing Business rankings. It identifies a suite of reforms that could be implemented by the Mozambican government, with the assistance of municipal authorities, the private sector and donors over the next five years.

The authors of the March 2010 report were initially tasked by USAID to provide in-depth analysis and reform recommendations relating to five out of the ten Doing Business indicators: Dealing with Construction Permits; Registering Property; Paying Taxes; Trading Across Borders; and Enforcing Contracts. Following consultation with the Office of Private Sector Support (DASP) at MIC, it was determined that Paying Taxes, Trading Across Borders and Dealing with Construction Permits were of particular importance to improving Mozambique's private sector enabling environment. The authors added the Closing a Business indicator to this list.

Table 1-1 summarizes our recommendations and provides estimates of the number of places that Mozambique will move up in the overall Doing Business ranking if each of the reforms is implemented. This amounts to 83. These estimates make the following three assumptions: no new countries are added to Doing Business, no new indicators are added to the rankings and no other countries' scores change. These of course are highly unlikely but an analysis that does not make these assumptions is beyond the scope of this paper. The changes were calculated using the Business Reform Simulator for Doing Business 2011.[1] It should be noted that streamlining and automating taxes and social security payments, amending the arbitration legislation, and passing and implementing the new bankruptcy law could move Mozambique up by more than 50 places in the overall Doing Business ranking and should be the focus points of reform efforts, if the main objective of the government is to improve Mozambique's Doing Business rankings.

[1] http://www.doingbusiness.org/reforms/reform-simulator, accessed March 14, 2011.

*Table 1-1. Recommendations Matrix*

| Recommendations | Tasks | Doing Business Impact |
|---|---|---|
| **PAYING TAXES** | | |
| Streamline and Automate Taxes and Social Security Payment | • Appoint high level MRA champion to development of e-Tributação<br>• Create new business friendly and simple to use systems and procedures<br>• Outline steps to link municipal tax system in Maputo to e-Tributação<br>• Work with MOF to ensure effective system developed in as short a period as possible | • Payments: - 29<br>• Time (hours): -69<br>• **Overall Ranking: +10** |
| Eliminate Stamp Duty | • Reduce or eliminate stamp duty<br>• Launch educational information campaign about new regulations<br>• Create monitoring program | • Payments: -1<br>• **Overall ranking: 0** |
| Consider Lowering Corporate Income Tax Rate | • Investigate the possibility of lowering the corporate income tax rate by conduct in-depth study to assess its feasibility, including the best tax rules for the case of Mozambique | • Total Tax Rate: N/A<br>• **Overall ranking: N/A** |
| **TOTAL IMPACT ON DOING BUSINESS RANKING: +10** | | |
| **TRADING ACROSS BORDERS** | | |
| Eliminate PSI | • Develop strategy with deadlines for eliminating PSI, in consultation with Customs Authority and Intertek<br>• Obtain support for its elimination with Customs Authority and establish a task force to aid with the process;<br>• Identify processes and capacity necessary for Customs Authority to undertake Intertek's PSI functions.<br>• Build inspection capabilities and capacity at Customs Authority;<br>• Facilitate communications between leadership of MRA and Customs Director General to ensure targets aremet<br>• Assist the Director General in developing new legislation<br>• Develop effective monitoring plan | • Import Documents: -3<br>• Import Time: -7<br>• **Overall Rank: 0** |
| Reduce Number of Scanned Goods | • Design and undertake independent review of costs to achieve a totally transparent fee system<br>• Work with Mozambique Customs to reduce fees<br>• Create Positive List for goods that must be scanned<br>• Implement risk assessment program | • Cost Import/Export (per container):- $100<br>• **Overall Rank: 0** |

| Recommendations | Tasks | Doing Business Impact |
|---|---|---|
| | • Levy fees only on containers actually scanned<br>• Implement firm controls to ensure effective and fair operations.<br>• Conduct comprehensive training and information campaign for staff and users<br>• Develop an effective monitoring plan | |
| Develop Electronic Customs Declaration and Single Administrative Document (Documento Único) | • Process all customs documents electronically<br>• Work with Customs Authority to phase in new system. | • Time Import/Export: -5<br>• **Overall Rank: + 0** |
| Improve Port Handling Efficiency | • MIPS reviews the situation and take the necessary steps to bring the cargo dwell time, and cargo handling times, down to acceptable levels<br>• Conduct World Class Manufacture (WCM) assessment to ascertain improvements that could be made by streamlining processes procedures and flowlines with existing equipment<br>• Creating phased plan to achieve international standards of cargo handling, including list of "quick hits" to achieve the maximum impact with minimum investment | • Cost Import/Export (per container):- $100<br>• Time Import/Export: -3<br>• **Overall Rank: + 1** |
| **TOTAL IMPACT ON DOING BUSINESS RANKING: +4** | | |
| **DEALING WITH CONSTRUCTION PERMITS** | | |
| Combine/Streamline Procedures | • Work with DCU and UPE office to approve revised procedures<br>• Modify relevant regulations at municipal level<br>• Develop comprehensive monitoring system<br>• Work with Doing Business team to resolve inconsistencies reported in time frame for obtaining final inspection and occupancy permit | • Procedures: -3<br>• Time (days): -48<br>• **Overall Rank: 0** |
| Complete Property Lot Mapping | • Work with DCU and UPE office to determine whether additional resources available to accelerate completion of lot mapping | • Time (days): -11<br>• **Overall Rank: +0** |
| Introduce Silence is Consent | • Work with Municipal Council to shift burden of responsibility to qualified professionals<br>• Introduce stricter reporting for employees responsible for processing building permits | • Time (days): -65<br>• **Overall Rank: 0** |

| Recommendations | Tasks | Doing Business Impact |
|---|---|---|
| Automate Permit Service Provision | • Work with DCU to increase public outreach and awareness<br>• Commission study to investigate if permit forms can be simplified or streamlined.<br>• Design and provide additional training to current and future staff in Maputo and provinces on construction permit legislation<br>• Launch automated system<br>• Create new procedures that are business friendly and simple to use<br>• Prepare information dissemination scheme and training and manuals for staff and users<br>• Develop rigorous monitoring system to ensure new systems implemented and work effectively<br>• Continually upgrade system to keep in line with international best practices and technological innovation | • Time (days): -44<br>• **Overall Rank: +6** |
| **TOTAL IMPACT ON DOING BUSINESS RANKING: +9** | | |
| **ENFORCING CONTRACTS** | | |
| Amend Arbitration Legislation | • Work with the Ministry of Justice (MOJ) and CACM to contract a short paper that outlines exactly where and how the legislation should be amended to make arbitration binding | • Time (days): -268<br>• Cost (% of claim): -128.2<br>• **Overall Rank: +14** |
| Enhance Capacity of Civil Courts | • Hire and train two more judges in Maputo<br>• Double number of staff supporting the judges from seven to fourteen<br>• Provide training on procedural issues, legal issues they will encounter, and customer service<br>• Improve supporting infrastructure: IT equipment, office space<br>• Develop monitoring system to make sure that cases are indeed dealt with in a more expedient manner | • Time (days): -365<br>• **Overall Rank: +4** |
| Reform Civil Process Code | • Commission paper outlining exact legal procedures required to resolve Doing Business case study.<br>• Contract law firm to provide list of procedures that should be eliminated<br>• Meet with Minister of Justice to convince him that the legislation should be amended<br>• Redraft legislation.<br>• If legislation is passed, design comprehensive training program for lawyers, judges and their staffs<br>• Develop monitoring system to ensure new legislation is being adhered to both in the Maputo and in provinces.<br>• Develop and regularly administer small survey of lawyers scoring their satisfaction with judges , in order to reduce judge | • Procedures (number): -3<br>• **Overall Rank: 0** |

| Recommendations | Tasks | Doing Business Impact |
|---|---|---|
| | absenteeism<br>• Distribute survey result to the public | |
| Changing Billing Practices | • Work with the Mozambican Bar Association (Ordem dos Advogados de Moçambique) to investigate whether its members would be open to changing generally accepted billing method from a rate based on size of case to hourly rate<br>• Study potential impact of reform on lawyers' revenue streams | • Cost (% of claim): -119.9<br>• **Overall Rank: 0** |
| Reform Code of Judicial Cost | • Work with MOJ to convince both Supreme Court and Council of Ministers that such a change is necessary<br>• Redraft code and include clause that provides for automatic compensation of court costs to victorious party<br>• Work with council of Minister pass code into law<br>• *If the code is overhauled,* develop comprehensive training program, detailing changes in laws, for courts<br>• Develop monitoring system ensure new code is being strictly adhered to. | • Cost (% of claim): -98.5<br>• **Overall Rank: 0** |
| **TOTAL IMPACT ON DOING BUSINESS RANKING: 14** | | |
| **REGISTERING PROPERTY** | | |
| Automate Property Registry | • Procure contractor to implement automated design<br>• Create new procedures at property registry that are business friendly and simple to use.<br>• Design and implement information dissemination scheme and provide ongoing training and manuals for staff and users<br>• Provide training to staff in customer service<br>• Consider developing small and regular survey of users to score customer service satisfaction<br>• Develop rigorous monitoring system to ensure that new systems are being implemented and work effectively<br>• Continually upgrade system to keep in line with international best practices and technological innovation | • Time (days): -9<br>• **Overall Rank: 0** |
| Convert SISA to a Flat Fee | • Work with MOF, MRA and authorities at municipal level to assess impact fee-based system would have on national and municipal revenues<br>• Government counterparts work together to ensure revised decree is passed by Council of Ministers<br>• *If passed,* Develop information campaign, both in Maputo and in the provinces to ensure that those who administer and those who pay SISA are informed of the new legislation.<br>• Develop monitoring system to ensure new regulations are adhered to. | • Procedure: -1<br>• Time (days): -3<br>• Cost (% of property value): 1-.86<br>• **Overall Rank: 0** |

| Recommendations | Tasks | Doing Business Impact |
|---|---|---|
| Combine Administration of Notary Public and Real Estate Registry | • Meet with real estate registry and notary public to discuss possibility of consolidating two offices<br>• *If determined feasible,* work directly with the Ministry of Justice to amend the relevant procedures and regulations<br>• Locate appropriate office space | • Procedure: -1<br>• Time (days): -11<br>• **Overall Rank: +0** |
| Streamline Submission of Notary Deed | • Work with Municipal tax office to immediately produce a brief outlining feasibility of streamlining submission of notary deed<br>• Determine steps required for implementation of reform | • Procedure: -1<br>• Time (days): -2<br>• **Overall Rank: +0** |
| **TOTAL IMPACT ON DOING BUSINESS RANKING: +10** | | |
| **CLOSING A BUSINESS** | | |
| Pass and Implement the new Bankruptcy Law | • If law passed, government, donors, lawyers and courts should work together to set up comprehensive training program to ensure its adoption and correct administration<br>• Undertake training in Maputo and in provinces<br>• Develop monitoring system to ensure that new law is administered correctly | • Recovery Rate (cents on the dollar): +42.6<br>• **Overall Rank: +14** |
| **OVERALL IMPACT: +65 RANKINGS** | | |

# 1. INTRODUCTION

This report is an update of a paper commissioned at the request of the Ministry of Industry and Trade (MIC) and USAID/Mozambique in late 2009 and completed in March 2010 to assist Mozambique with the formidable task of moving up significantly in the Doing Business rankings. It identifies a suite of reforms that could be implemented by the Mozambican government, with the assistance of municipal authorities, the private sector and donors over the next five years.[2]

In the last few years, the Mozambican government has firmed up its commitment to improving the country's Doing Business rankings and the overall enabling environment for private sector growth. MIC has been leading the way of adopting and implementing reforms towards moving up in the Doing Business rankings. The Minister of MIC, Armando Inroga, has reaffirmed the GoM commitment to improve the DB ranking by 20 positions in a single year. Notwithstanding this, in *Doing Business* 2011, reflecting the business enabling environment in early 2010, Mozambique ranked just 126 out of 183 countries. Though an improvement of four rankings over *Doing Business* 2010, Mozambique remains well below SADC's top performers, Mauritius and South Africa (ranked 20 and 34, respectively) and is ranked 8 out of 15 countries in the Southern Africa Development Community (SADC).

The authors of the March 2010 report[3] were initially tasked by USAID to provide in-depth analysis and reform recommendations relating to five out of the ten Doing Business indicators: Dealing with Construction Permits; Registering Property; Paying Taxes; Trading Across Borders; and Enforcing Contracts. Following consultation with the Office of Private Sector Support (DASP) at MIC, it was determined that Paying Taxes, Trading Across Borders and Dealing with Construction Permits were of particular importance to improving Mozambique's private sector enabling environment. The authors added the Closing a Business indicator to this list.

In chapter 2 we outline guiding principles that should be taken into account in when designing and implementing reforms so that they are effective in increasing Mozambique's Doing Business rankings and more importantly improving the enabling environment for private sector growth.

In chapter three we detail the steps necessary to improve the Doing Business scores for Paying Taxes, Trading Across Borders, Dealing with Construction Permits, Enforcing Contracts, Registering Property and Closing a Business. In chapter four, we summarize previous analysis that outlines the reforms necessary to improve Mozambique's scores for the Starting a Business

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[2] Most of the recommendations in this report are based on interviews with persons in Mozambique's public and private sectors and Mozambican legal experts. A full list of those interviewed in the production of this report are contained in Appendix A.

[3] The March 2010 report was authored by Alexander Greenbaum, Molly James and Jose Goncalves of Nathan Associates Inc. with assistance from Gerry Marketos of Cimpogest. This update was conducted by Alexander Greenbaum and Rosário Marapusse, also from Nathan Associates.

and Getting Credit Doing Business indicators. For each of the indicators in chapters three and four, we summarize the Doing Business methodology, the proposed reforms (in both the near term and longer term), their rationale and the likely impact of the reforms on the Doing Business rankings. For the last Doing Business indicator, Protecting Investors, we provide a simple description of the two indicators and their methodologies in chapter five.

It should be noted that the Doing Business indicators are measured using very specific methodology and case studies, usually small to medium-sized limited liability companies based in the country's largest city. Data used in calculating the scores and ranking are collected from surveys which are completed by local partners. For each Doing Business indicator, the methodology and case study are defined in chapters three, four and five.

# 2. GUIDING PRINCIPLES AND POTENTIAL RISKS OF REFORM DESIGN AND IMPLEMENTION

There is no doubt that developing countries have entered a "race to the top" prompted by the Doing Business metrics. Doing Business has shown that even post-conflict countries like Rwanda in last year's Doing Business report can excel and become a milestone reference for other least developed countries (LDCs). Shortly after the release of the 2010 Doing Business report, one would be hard pressed to find a developing or emerging economy country in which the Doing Business topic is not a major item on the government reform agenda. Governments are looking to compete with their neighbors often setting lofty goals of how many places they want to climb by the time the 2012 Doing Business report is released. In this chapter, we outline the several guiding principal and risk to be mitigated when attempting to implement reforms.

## 2.1. GUIDING PRINCIPLES

For these reforms to be effective in raising Doing Business rankings and improving the business enabling environment we outline six guiding principles that should be taken into account in when designing and implementing reforms.

First, reforms should be designed so that they improve the business environment across the country. Doing Business indicators measure changes at the nation's largest city and do not measure the ease of doing business nationwide. More often than not, conditions are worse in a country's hinterland than in its large cities and thus improvements in Doing Business scores do not necessarily indicate that the business environment has improved in those areas. The true measure of an improved business environment is when entrepreneurs see changes in both the major cities and in the provinces that enable them to operate efficiently by producing goods and services and increase the value added in the economy. Any program designed to bring reforms into the provinces should take the following into account:

— Assessments of the major obstacles to private sector growth should be undertaken in each province, even if the assessments are "quick and dirty"

- As any effort would be large in scope the most major obstacles should be tackled first in the most populous provinces and municipalities
- Though the organization of seminars/trainings in the capital city is necessary, it is essential that most of the training and implementation of the reforms is carried out at the provincial and municipal levels
- Training should be undertaken by local experts
- Monitoring systems should closely follow those in the larger cities (see below)

Second, plans should be developed to effectively monitor the implementation of reforms. The goals set in the plans should be ambitious but realistic and baselines should be set before reforms are implemented. The goals should also be directly linked to the Doing Business sub-indicators the reforms are aimed at improving. The plans should monitor such things as achievement of milestones towards the implementation of new legislation, procurement and automation of systems, the development of manuals, the adoption of new protocols and procedures, and the training of government employees and those groups of people affected by the reforms. Moreover, they should be designed with built-in feedback mechanisms that easily enable the diagnosis of problems and allow for the changing of milestones in the cases where goals are not being reached.

Third, many of the reforms recommended in this paper deal with system automation and computerization. These reforms only go so far in improving the environment for private sector growth. Mozambique must think beyond them if it wishes to attract increased levels of investment. Issues such as corruption reduction, procedural reforms and enhanced customer service must also be addressed; often automation and computerization have little impact on these issues without further changes. We therefore recommend that these issues should be seriously examined and included in the design and the monitoring of any new systems that are adopted.

Fourth, a clear training strategy for all new reforms must be developed. It is imperative that the strategy encompasses training for both providers and users of the new regulations and services and should also include, where necessary, the development of manuals, seminars and marketing campaigns. In addition, training should not be viewed as a onetime event; the reforms will only work effectively if training is ongoing and reviewed regularly to ensure that it is having the greatest possible impact.

Fifth, if Mozambique is truly committed to improving its enabling environment for private sector growth, it cannot simply implement reforms. It will constantly have to strive to make further innovative improvements as technology advances and international best practices change. Moreover, remaining stagnant in the world of Doing Business is simply not an option; other countries are continually improving and stagnation means almost certain demotion in the Doing Business rankings.

Finally, though generally beyond the scope of this paper, infrastructure issues must also be addressed if Mozambique is intent on vying for the number one spot in SADC in the Doing Business rankings. Large scale infrastructure such as access to roads, electricity must clean water must be improved and smaller scale infrastructure at some of the government agencies, such as that at the property registry must be upgraded significantly.

## 2.2. POTENTIAL RISKS

There is no question that there are serious risks to the reforms execution and the government will have to work in tandem with the private sector and donors to mitigate them. In this section we outline five potential risks to successful implementation of reforms.

First and foremost is the potential lack of political will for reform. Political will at national and municipal levels will be critical for success as will cooperation from the Supreme Court for improving the Enforcing Contracts indicator. Political will take time to engender and we believe that the arguments contained in this report will provide good ammunition for DASP to convince other public sector entities that the reforms are indeed needed.

Second, it is unclear whether an effective, flexible monitoring system has been established at DASP and at the other government agencies affected by reforms that clearly links reform success to the relevant Doing Business sub-indicators being targeted. The lack of such a system would seriously jeopardize the potential effectiveness and sustainability of any reform as there would be no way of knowing if the reforms are being implemented correctly and if they are having their intended effects on improving the enabling environment for private sector growth.

Third, to this point, it appears that there has been insufficient focus on the development and dissemination of educational programs for employees and the members of the public who are affected by new reforms. It will be essential for DASP to work with the public sector entities implementing the reforms on establishing such programs, particularly when new software and procedural system have been put in place.

Fourth, for some of the reforms outlined below, it is unclear whether the government has the capacity or the funds to effectively implement reforms. To mitigate this risk, we suggest that DASP works with the other relevant public sector entities and donors to define needs before and during the implementation of reforms in order to obtain their buy-in.

Finally, a lack of follow-up and could mean that new systems and procedures break down or are out of date even if they are implemented effectively. To address this, Mozambique will have to strive to ensure that systems and procedures are continually maintained and upgraded to keep in line with international best practices.

# 3. IN-DEPTH ANALYSIS REFORM AREAS

In this chapter, we identify reforms that can be undertaken by the Mozambican government to improve the Doing Business rankings and business enabling environment for the Doing Business indicators of Paying Taxes, Trading Across Borders, Dealing with Construction Permits, Registering Property, Enforcing Contracts, Registering Property and Closing a Business. The first three were identified as priority areas by DASP. For each of the reform areas, we present where the issue currently stands, the rationale for change, the reforms that should be implemented and the underlying risks that might thwart their implementation. We also present the potential impact on the overall Doing Business ranking. As stated in the introduction, these estimates take into account the improvement in Mozambique's Doing Business assuming that no new countries are added for Doing Business 2011, no other countries' scores change and that no new indicators are added.

## 3.1. PAYING TAXES

The Paying Taxes indicator measures the effect of taxes on medium size business' income statements. It is made up of three subindicators: number of payments,[4] hours spent in preparation and payment of taxes, and the total tax rate as a percentage of profits.[5] Currently, in Mozambique 37 tax payments and contributions are made each year. The time required to prepare and file taxes is 230 hours and the total amount of taxes and mandatory contributions required is equivalent to 34.3 percent of commercial profit during the business' second year of operation. By comparison, the time to comply with taxes in Mozambique is close to the average in SADC while the number of payments and is considerable above the SADC average. The average number of payments required each year among SADC countries is 27, while the time required is 186 hours and the total tax rate as a share of profits equals 32.4 percent. For this indicator Mozambique is ranked 101 out of 183 countries in the 2011 Doing Business report and 8 out the 15 in SADC (see Table 3-1).

[4] The number of payments takes into account method of payment. Where full electronic filing is utilized by the majority of medium-sized businesses, Doing Business counts the tax as paid once a year even if payments are more frequent.

[5] The total tax rate is the sum of the all taxes including— profit tax, social contributions and labor taxes and other taxes — payable after accounting for various deductions and exemptions. Total taxes are defined as commercial profits before tax.

Table 3-1
*Paying Taxes*

| | Rank (1-183) | Tax Payments (number per year) | Time (hours per year) | Total Tax Rate (% profits) |
|---|---|---|---|---|
| Mozambique | 101 | 37 | 230 | 34.3 |
| South Africa | 24 | 9 | 200 | 30.5 |
| Botswana | 21 | 19 | 152 | 19.5 |
| Mauritius | 12 | 7 | 161 | 24.2 |
| SADC Average | 58 | 27 | 186 | 32.4 |

*Source: World Bank Doing Business,* 2011

***Illustrative Doing Business Case Study: Paying Taxes***

To make the data comparable across countries, several assumptions about the business are made. TaxpayerCo is a medium-size business that started operations last year. Doing Business asks tax practitioners in 183 economies to review TaxpayerCo's financial statements and a standard list of transactions that the company completed during the year. Respondents are asked how much the business must pay in taxes and mandatory contributions and what the process is for doing so.

The business starts from the same financial position in each economy. All the taxes and mandatory contributions paid during the second year of operation are recorded.

Taxes and mandatory contributions are measured at all levels of government and include corporate income tax, turnover tax, all labor taxes and contributions paid by the company (including mandatory contributions paid to private pension or insurance funds), property tax, property transfer tax, dividend tax, capital gains tax, financial transactions tax, vehicle tax, sales tax and other small taxes (such as fuel tax, stamp duty and local taxes). A range of standard deductions and exemptions are also recorded.

MIC has formed a working group to deal with tax issues that relate to improvements in the business enabling environment. For Paying Taxes, this study identifies two areas of reform: streamlining and automating submission and payments of company income taxes (CIT), value added tax (VAT), social security contributions and municipal taxes and elimination of the stamp duty. The first having a greater impact on improving Mozambique's Doing Business rankings. In addition, it is also recommended investing the possibility of broadening the tax base so that the company tax rate can be lowered.

### 3.1.1. STREAMLINE AND AUTOMATE TAXES AND SOCIAL SECURITY PAYMENTS

Sponsored by the Common Fund, there is a program underway in the Ministry of Finance (MOF) at the Mozambique Revenue Authority (MRA) and at the Administration and Financial Reform Technical Unit (UTRAF) to streamline and automate income tax and VAT payments. Once complete, the new system, e-Tributação, will allow users to complete paperwork and pay taxes online and will provide a consolidated balance of taxes owed and returns due by taxpayer identification number. At present, MOF is working to automate CIT. When complete MOF will move onto personal income taxes (PIT) and will conclude by automating the VAT system. The pilot CIT system is currently in progress. Other completion dates have yet to be fixed.

At the same time, but not in coordination with e-Tributação, the National Social Security Institute of Mozambique (INSS) is rolling out a new electronic social security system in Mozambique. Though for the first time the system will create a comprehensive database of social security payments and will allow users to complete paperwork online, it will not provide users with the ability to make payments online. Users will be required to print a copy of the paperwork, take it to the bank to make a payment, receive a stamp from the bank acknowledging the payment and cue at INSS to

receive verification; a very cumbersome process and one that impedes private sector growth. Unfortunately, the new system will have no effect on the Doing Business rankings and will likely mean continued aggravation in terms of the length of time it takes to deal with social security payments.

### Recommendations

In terms of tax streamlining and automation, we make four recommendations. First, it is important to realize that as with the development of any e-system, procedure automation must be accompanied by a change in attitudes and culture at the MRA to create a system and new procedures that are business friendly and simple to use. To do this will require

- The design and implementation of an information dissemination scheme and ongoing training and manuals for staff and users firstly in Maputo and then in the provinces
- The development of a rigorous monitoring system to ensure that the new systems work effectively
- The continual upgrading of the system to keep in line with international best practices and technological innovation

Second, e-Tributação will have the ability to link to other national and local government institutions. We therefore recommend that DASP begins working with MOF and municipality of Maputo to outline the necessary steps to link the municipal tax system in Maputo into e-Tributação and thus to allow all municipal payments and paperwork to be completed online.

Finally, though e-Tributação is well underway, it will take years to complete and should not be rushed. Nonetheless, we recommend that DASP works with MOF to try and ensure that an effective system is developed in as short a period of time as possible.

In terms of social security payments, we recommend that DASP works with INSS to encourage them to consider amending the new system in the future to include an electronic payments capability. If INSS is onboard, it will be important to decipher whether the new system can be linked with e-Tributação in a similar way to that which we have recommended for the municipal tax payment.

### Impact on Overall Doing Business Ranking

Effective streamlining and automation of CIT and VAT payments would reduce the number of payments counted by Doing Business to 20. Streamlining and automating social security payments and municipal tax payments would further reduce the number of payments to 8. If 161 hours were spent in Mozambique, along with the reductions in payments, Mozambique's overall Doing Business ranking would increase by 10 places.

## 3.1.2. ELIMINATE STAMP DUTY

Stamp duty is a form of tax levied on documents. In the case of Mozambique, it is levied on all documents, contracts, books, and papers contained in Decree 6/2004 of April 1, corrected by Decree 38/2005 of December 29. For the case assumed in the paying taxes component of Doing Business, a rate of 0.4 percent is levied on shares, stocks, and bonds transferred by simple

delivery or by endorsement. The stamp duty also affects Doing Business's Registering Property indicator, where a 0.2% fee is paid on the value of the property when the notorial deed of purchase is issued (see Registering Property below).

In a previous report[6], it was noted that stamp duty represents a significant, but small, portion of government revenue and it was recommended that the government commission a revenue impact study investigate the implications of its removal. The Ministry of Justice in conjunction with the Mozambique Revenue Authority (MRA) has undertaken such a study.

### Recommendations

Contingent on the results of the study, we recommend either eliminating the stamp duty altogether, or further reducing the number of items on which stamp duty is levied to include only those for which there would be a significant loss in government revenue if the stamp duty were eliminated altogether. This is an intervention that can be completed in the shorter term. According to those private sector firms interviewed for this report, implementing the recommendation would reduce bureaucracy and remove a significant barrier to doing business in Mozambique. If a decree is passed, an information campaign, both in Maputo and in the provinces, should also be designed to ensure that that both those who administer and those who pay the stamp duty understand that the rules have changed. A monitoring program should also be developed to make certain that the new rules continue to be adhered to.

### Impact on Overall Doing Business Ranking

Elimination of the stamp duty would affect both Paying Taxes and Registering Property. Its elimination would reduce the number of Paying Taxes payments by 1 and the cost of registering property by 0.2% of the property value. Though by itself, it would not change the overall Doing Business ranking, in conjunction with other reforms, it would likely have an impact.

## 3.1.3. LOWERING THE COMPANY INCOME TAX RATE

Mozambique charges 9 different taxes on companies from which 80.1% are spent on corporate income tax. The corporate income tax rate is 32%, which is above several SADC countries (Botswana 15%, Mauritius 15%, Malawi 30%, and Tanzania 30%).

### Recommendation

Mozambique may want to consider lowering the corporate tax rate and broadening the tax base, making sure that revenue streams are not impacted adversely. Several countries have done so successfully. Egypt is one of the latest examples where the number of taxpayers increased by 1 million following the reform. A more in depth study will be needed to assess the feasibility, including the best tax rules for the case of Mozambique.

### Impact on Overall Doing Business Ranking

The impact of the suggested reform on the paying taxes indicator will certainly be positive. However, at this point we do not have enough information to quantify the impact in the DB ranking.

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[6] See Greenbaum, Alexander. Doing Business and Mozambique: Quick Wins for 2009. USAID. Page 6.

## 3.2. TRADING ACROSS BORDERS

The trading across borders indicator aims to measure the effect of procedural requirements including documents, time and cost of importing and exporting goods by medium sized firms. This indicator is one of the most complex and is comprised of three main subindicators: number of documents needed per shipment to export and import goods; days needed to export and import of goods; and cost (US$ per container) to export and import goods. For this indicator, Mozambique received an overall ranking of 133 out of the 183 countries included in the 2011 publication and was ranked 5th among the 15 SADC countries. The number of documents needed to export goods from Mozambique (7 documents) and import goods into Mozambique (10 documents) is on par with the SADC average of 7 documents and 9 documents, respectively (see Table 3-2).

***Illustrative Doing Business Case Study: Trading Across Borders***

To make the data comparable across countries, several assumptions about the business and the traded goods are

The business is of medium size.

The business employs 60 people.

The business is located in the peri-urban area of the economy's largest business city. The business is a private, limited liability company, domestically owned, formally registered and operating under commercial laws and regulations of the economy. The traded goods are ordinary, legally manufactured products transported in a dry-cargo, 20-foot FCL (full container load) container.

Doing Business reports that a medium-sized business in Mozambique generally requires 23 days to export goods and 30 days to import them. While the SADC average time for export and import is 29 and 33 days respectively. The export and import cost per container in Mozambique, $1,100 and $1,475 respectively, also compares favorably with the average cost among the 15 SADC countries. Notwithstanding this, the SADC averages are poor and Mozambique should use Mauritius's performance as a point against which to benchmark itself.

Table 3-2
*Trade Across Borders*

| | Rank (1-183) | Documents (number) | | Time (days) | | Cost (US$ per container) | |
|---|---|---|---|---|---|---|---|
| | | Export | Import | Export | Import | Export | Import |
| Mozambique | 133 | 7 | 10 | 23 | 30 | 1,100 | 1,475 |
| South Africa | 149 | 8 | 9 | 30 | 35 | 1,,531 | 1,807 |
| Botswana | 151 | 6 | 9 | 28 | 41 | 3,010 | 3,390 |
| Mauritius | 22 | 5 | 6 | 13 | 13 | 737 | 689 |
| SADC Average | 148 | 7 | 9 | 29 | 33 | 1,683 | 1,810 |

The Mozambique Customs authority is making changes. To assist them with the changes, they have created three teams. One to deal with procedural changes, the second to work with traders and brokers on their needs and the third to work with other government entities who might need to be involved or might be impacted by various reforms.

Reforms should have a real impact on GDP and employment. For instance, the USAID-funded TCBoost project developed a tool, the Trade Facilitation Impact Calculator, using a general equilibrium model and econometric models to estimate the impacts improved trade facilitation could have on more than 130 countries worldwide. According to the model, for each day saved in importing and exporting in Mozambique, GDP could increase by between $10 million and $60 million and formal sector unskilled employment could rise by between 0.25% and 0.66%.[7]

For Trading Across Borders, we identified four areas of reform, eliminating pre-shipment inspections (PSI), reducing the number of goods that are scanned, developing an electronic customs declaration and single administrative document and improving the efficiency of internal port handling in Mozambique.

### 3.2.1. ELIMINATE PSI

Much has already written about PSI. PSI is mandated by law for specific commodities on the Positive List.[8] The list includes pharmaceuticals, used clothes and shoes, cooking oils, frozen poultry etc. These goods may be subject to inspection in the country of export before they are allowed into Mozambique. The PSI program was established following the civil war and when Mozambique's customs capacity was too weak to ensure that correct import duties were paid, to assists with identification of illicit cargo and to help protect Mozambique`s citizens from sub standard imported goods.

PSI is carried out by a private company, Intertek Group PLC and the costs of running PSI are borne by the state. When importing goods included on the Positive List to Mozambique, the following Intertek processes must be followed: the importer supplies Intertek with the relevant data and requests inspection of the goods at the port of origin; Intertek instructs its nearest foreign office undertake the inspection and "Moz No" is issued; the inspection is carried out and if all is in order, the Clean Report of Findings (CRF) is issued by Intertek. Only then can the importer instruct the supplier to ship the container.

There are a number of reasons why PSI is particularly problematic. First, it is an outdated process used by few countries, and by no other country in the region. Second, there are significant delays in the process. The Moz No is supposed to be issued within 48 hours, but in reality it often takes up to 10 days. Third, in carrying out PSI it is reported by some importers that Intertek regularly increases invoice prices. Fourth, despite its cumbersome nature, the issuance of a CRF confers no benefits on the importer; they still have to follow the normal customs procedures once the goods arrive in Mozambique. Accordingly it is an extra process that confers no benefits, neither on the importer, nor on the Customs Authority as it apparently follows the same procedures with or without a PSI.

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[7] http://www.tcboostproject.com/resources/tools/impactcalculator.php?country_id=139#input. Accessed December 23, 2009.

[8] The list is contained in Decree 46 2004 of October 27. The decree requires that the list be updated every six months; however, this requirement has not been adhered to.

Finally and most importantly, mandatory pre-shipment inspections were established for reasons of public health and environmental protection and are targeted at medicines, food products, tobacco and imports constituting a major risk to revenue collection. However, the Mozambican Government has vigorously invested for the last twelve years in reforming the Customs Authority. As a result, the Customs Authority has managed to a great extent to obtain the technical knowledge and human resource capacity required to carry out reliable verification and control of imported goods. More specifically, it has developed risk management systems enabling specialized treatment of importers and exporters on the basis of the risk they pose to loss of revenue or lack of compliance with regulatory requirements.

Hence, it seems that there is no point in maintaining pre-shipment inspections and at the very least there is need to drastically reduce them by replacing them with the local post-shipment inspection procedures such as intelligence led risk management and the use of scanning facilities.

## Recommendations

We recommend that PSI to be phased out in the medium term. It would also be advantageous because it would act as an investment incentive due to imports being less costly and more predictable and because it would generate considerable financial savings for government. We further recommended that the funds saved should be channelled into to removing/ reducing the costs of scanning (see Reducing Number of Scanned Goods, below).

To phase out PSI in the shorter term, we recommend undertaking seven concrete steps:

1. In consultation with the Customs Authority and Intertek, develop strategies with clear deadlines for eliminating PSI;
2. Meet with the director of the MRA and use the arguments outlined above to obtain his support for its elimination. Work with him to designate a manager and establish a task force to aid with the process;
3. Work with the Customs Authority and Intertek to identify processes and capacity necessary for the Customs Authority to undertake Intertek's PSI functions. Build inspection capabilities and capacity at the Customs Authority;
4. With the phasing out of PSI some funds may be required for specialized training for Customs in such areas as Risk Management, Valuation (and valuation data bases), tariffs, rules of origin, the creation of risk management and post clearance verification units
5. Facilitate communications between the leadership of MRA and the Customs Director General to ensure that targets are met;
6. Assist the Director General in developing the new legislation;
7. Develop and design an effective monitoring plan to ensure that the reforms are being implemented effectively and a mechanism for making changes if they are not.

## Impact on Overall Doing Business Ranking

Eliminating PSI would reduce the number of documents needed to import by 3 to seven and reduce the time to import from 30 days to 23 days. Mozambique's overall Doing Business

ranking would not increase with this reform alone, but in conjunction with others would likely have a significant.

### 3.2.2. REDUCE NUMBER OF SCANNED GOODS

In April 2006 the Mozambican government authorized non-intrusive customs inspections using modern scanning technology. The scanning facility was installed to help the Government of Mozambique comply with the changes in International Maritime regulations and the introduction of the International Ships and Ports Facilities Security (ISPS) Code and to combat duty and tax evasions and the interception of illicit cargo.

The introduction of scanning was strongly protested. There are a number of reasons why the way in which the scanning system currently operates is problematic.

First, although recommended by the World Customs Organization (WCO) scanning is not mandatory and does not usually make economic sense in low volume ports in low income countries where the economic benefits of significantly increased revenue collection due to scanning are low.

Second, in Maputo the scanning fee is $100 per TEU, irrespective of whether the TEU is scanned. This is extremely high compared to other countries. In addition, many importers now use 40 foot containers; the cost is simply doubled to $200 per container. Furthermore the empty containers are also scanned on the way out, at an additional cost of US$20, making the total cost per container US$120 (or US$240 for a 40ft container).

Third, assuming that the number of containers were to increase to 320 per day, the cost of scanning each container would be $16.[9] In 2006, 30 containers per day were scanned and charged. This implies that the total cost of scanning is $960 per day. Thus total cost per container currently is $171. If Maputo port invoices all containers a total of $120 per TEU, the port does not need a throughput of much more than 30 TEU per day to make above normal profits on the scanning operation. Accordingly the listed fees in Maputo are exceedingly high as the US$120 is levied on all containers (and not just the 30 containers per day selected for inspection).

Fourth, in Maputo scanning is carried out by a private company, and costs are charged to the importers. In many other countries, scanning is undertaken by Customs, and costs are not levied on the shipper. Moreover, a majority of countries use risk assessments for scanning where only 20 percent of containers are selected for scanning (and only those are invoiced). In Durban only 7 percent of containers are scanned (and only those are invoiced). In Maputo no risk assessment occurs and 100 percent of containers are invoiced, although only a proportion is actually scanned.

Finally, previous studies have estimated that the costs of scanning could reduce the level of trade by 10 percent, and decrease profitability of importers by approx 20 percent. [10]

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[9] Ibid.

[10] Ibid.

### Recommendations

In light of the above we make the following six recommendations:

1. Design and undertake an independent review of costs to achieve a totally transparent fee system that has fair but controlled returns.
2. Work with Mozambique Customs to reduce fees based on this review.
3. Create a Positive List of goods that must be scanned. Scan shipments containing those goods, and a small sample of other containers.
4. Implement a risk assessment program, whereby a maximum of 20 percent of containers are scanned.
5. Only levy fees only on those containers actually scanned.
6. Implement firm controls to ensure effective and fair operations.

As always, any system must be carefully monitored and comprehensive training and information (for Customs Authority staff and users) about the new procedures would have to be designed and disseminated.

### Impact on Overall Doing Business Ranking

Implementing the above recommendations would reduce the cost to import and cost to export by an estimated $100 per container to $1,000 and $1,375, respectively. Mozambique's overall Doing Business ranking would not increase with this reform alone, but in conjunction with others would likely have a significant.

## 3.2.3. DEVELOP ELECTRONIC CUSTOMS DECLARATION AND SINGLE ADMINISTRATIVE DOCUMENT (DOCUMENTO ÚNICO)

TIMS (Trade Information Management System) is a system developed by Crown Agents to support all aspects of commercial processing of goods by customs authorities and is currently used by the Mozambique Customs Authority. Its introduction enabled the automation of entry processing at all major entry points to Mozambique and the introduction of the Single Administrative Document. Major TIMS modules include manifest entry (both manual and electronic), customs declaration entry using the Documento Unico (DU) model (again both manual and electronic), workflows for definitive importation, inward processing relief, export, outward processing relief, transit, transshipment, warehousing, free zones and passenger handling. All of these workflows include duty, tax and payment calculations in accordance with national tariff, payment receipting and handling, intelligence led risk management, goods examination, valuation and classification, duty uplifts goods release, seizures and offences.

Notwithstanding the above, importers and exporters are still required to present their documents to the Customs Authority in hard copy. Data from the forms are then entered manually into the computer to produce the DU. The data are often voluminous, and the manual entry is extremely

slow and prone to errors, leading to subsequent problems and excessive times for document preparation (13 days for exports and 20 for imports).

### Recommendations

We therefore recommend that most customs formalities be dealt with and processed electronically. Either using TIMS or through a new electronic customs system programming and procedures for a fully electronic DU should be developed. The implementation of the Single Electronic Window (SEW) and the implementation of the revised "Regulamento de Desembaraço de Mercadorias (Diploma 262/2004)" should streamline trading across borders providing a centralized electronic platform for trade, eliminating inefficient manual processes and reducing clearance times at port and airports. We also recommend that DASP works with the Customs Authority to ensure a quick implementation of -the SEW. . This should yield significant savings in the time it takes to prepare documentation; currently, these processes account for the majority of time in both exports (56.5%), and imports (66.7%). If the TIMS system is modified or a new system is put in its place, the changes must be carefully monitored and comprehensive training and information (for Customs Authority staff and users) about the new systems would have to be designed and disseminated.

### Impact on Overall Doing Business Ranking

Developing electronic customs declaration and a single administrative document would reduce the time to import and to export a container by an estimated 5 days to 25 days and 30 days, respectively. Mozambique's overall Doing Business ranking would not increase by itself.

## 3.2.4. IMPROVE PORT HANDLING EFFICIENCY

The port of Maputo is operated by MIPS (Mozambique International Port Services). Port and terminal handling takes 4 days for exports and 5 days for imports. It is reported that handling is slow and turnaround times lengthy, and that this situation is deteriorating. These lengthy delays also lead to additional storage costs. The key issue is lack of adequate handling facilities. This is not surprising given that the throughput of containers (TEUs) per annum has grown over tenfold in the period 1996-2008. Ship calls have more than doubled in the same period. Moreover the MIPS statistics show that the average dwell time for cargo in the port is 11 days.

Reduction of port congestion is vital in the face of increasing traffic. Many ports regionally and internationally have made large investments in modern and sophisticated equipment to cope with rapidly increasing volumes. These include Dar es Salaam, Durban; internationally Brazil, China and Columbia, inter alia, have also all made large investments in port infrastructure to reduce congestion which causes delays and increased costs.

### Recommendations

It is recommended that MIPS review the situation and take the necessary steps to bring the cargo dwell time, and cargo handling times, down to acceptable levels. While it appears clear that large capital investment is essential for this to happen, as a first step it is suggested that a World Class Manufacture (WCM) assessment be carried out to ascertain what improvements could be made by streamlining processes procedures and flowlines with existing equipment, perhaps with minor investment. As a second step MIPS should consider drawing up a phased plan to achieve

international standards of cargo handling. This should include a list of "quick hits" to achieve the maximum impact with minimum/feasible levels of investment.

### Impact on Overall Doing Business Ranking

According to experts with whom we consulted improving Maputo Port's handling efficiency could reduce both export and import costs by $100 per container and time to export and import by three days each. As with the other recommendations above, by itself, this reform would not increase Mozambique's overall Doing Business ranking. Taken together however, Mozambique's overall ranking would increase by 4 places.

## 3.3. DEALING WITH CONSTRUCTION PERMITS

The Dealing with Construction Permits indicator measures the time, number of procedures, and costs required to build a warehouse in Maputo. This includes: (i) obtaining necessary clearances, licenses, permits and certificates, (ii) completing required notifications and receiving inspections, (iii) obtaining utility connections, and (iv) registering the warehouse after its completion.

For this indicator Mozambique is ranked 155th by Doing Business and 9 out of 15 in SADC. In Mozambique, the number of procedures and costs are in line with the SADC average but the costs in particular are higher than good performers like South Africa and Botswana (see Table 3-3). The time required to obtain the necessary permits, inspections and utility connections (381 days) is the major constraint to businesses; 5 of the procedures alone take 268 days to complete, meaning that 30 percent of the procedures take around 70 percent of the total time needed to build a warehouse. The total time required is more than 6 months longer than the SADC average of 178 days and more than twice the time required in South Africa (174 days). Only Lesotho and Zimbabwe take longer for the same process in the region. Table 3-3

*Dealing with Construction Permits*

| | Rank (1-183) | Procedures (number) | Time (days) | Cost (% of income per capita) |
|---|---|---|---|---|
| Mozambique | 155 | 17 | 381 | 530.34 |
| South Africa | 52 | 17 | 174 | 23.09 |
| Botswana | 127 | 24 | 167 | 264.50 |
| Mauritius | 39 | 18 | 107 | 32.33 |
| SADC Average | 119 | 17 | 176 | 593 |

In 2008, MIC formed a multisector working group comprising the DASP at MIC and representatives from the Ministry of Justice, the Ministry of Public Works and the Municipal Council of Maputo. The aim was to deal with construction permit issues as they relate to improvements in the business enabling environment. Although the creation of the working group was a step forward, there has been little in terms of reforms to show for it. SPEED in currently supporting directly DASP and the Municipality in moving forward with this work.

The revitalization of this working group could provide a new dynamic in the implementation of necessary reforms in this DB area, namely: (i) combining/streamlining procedures, (ii) completing property lot mapping, and (iii) and automating permit service provision.

***Illustrative Doing Business Case Study: Dealing with Construction Permits***

To make the data comparable across countries, several assumptions about the business are made. It

- is a small to medium-size limited liability company
-is located in the largest business city
-is domestically owned and operated, in
-the construction business
-has 20 qualified employees

The warehouse to be built:

-is a new construction (there was no previous construction on the land)
-has complete architectural and technical plans prepared by a licensed architect
-will be connected to electricity, water, sewerage (sewage system, septic tank or their equivalent) and one land phone line. The connection to each utility network will be 32 feet, 10 inches (10 meters) long.
-will be used for general storage, such as of books or stationery. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals or pharmaceuticals.
-will take 30 weeks to construct (excluding all delays due to administrative and regulatory requirements).

### 3.3.1. COMBINE PROCEDURES

The 2011 Doing Business report lists seventeen separate procedures required for an entrepreneur in the construction industry to build a warehouse. At present, companies must, among other procedures, (1) request and obtain the right to the use and enjoyment of the land (commonly referred to as the DUAT) and (2) request and obtain a topographic map. These two procedures that take almost 12% of the total time required to deal with licenses. Both documents are requested from the Urban Planning and Environment (UPE) office within the Department of Construction and Urbanization (DCU) at the Municipality and are required in order to apply for the building permit. Although these procedures are conducted simultaneously they are currently separate procedures. Combining them into one single procedure could even impact on the time to build a warehouse in Maputo.

Additionally, once the warehouse has been built, Doing Business reports that companies must (1) request final inspection and (2) receive final inspection and (3) request and obtain the occupancy permit. Interviewees indicated that obtaining the occupancy permit in fact requires far less than the 95 days reported by Doing Business. National legislation under Decree nº 2/2004, mandates a maximum of 50 days for this procedure.

Every additional procedure creates an extra level of red tape for those trying to construct warehouses and increases avenues for corruption. Our recommendations focus on reducing the number of times private sector entities interact with public sector officials.

#### Recommendations

It is our understanding that there has already been some progress at the Maputo municipality toward the design of streamlined and simplified procedures for dealing with construction permits; however, over time political will for these has waned. We therefore recommend that DASP work with the DCU and the UPE office through Mayor Simango's office to push for simplified procedures, explaining the reasons why these reforms are important. The simplified procedures should include both:

1. Combining the DUAT and topographic plan requests: This reform is underway at the Municipality and is being spearheaded using assistance from the World Banks's 'Pro-Maputo' project.

2. Combining the procedures for requesting and obtaining the final inspection and occupancy permit, issuing the occupancy certificate on spot (or on site) by respective agencies involved. In 2009, Rwanda introduced reforms to help accelerate the process for obtaining an occupancy permit from 30 to 21 days. Mozambique should follow their lead.

Once the streamlined procedures have been approved, the regulations at the municipal level will need to be modified. This is a short-term reform which DASP should start working on immediately. An educational plan outlining the new procedures should be developed for staff and users. A comprehensive monitoring system should then be designed to track the changes and ensure that even if new regulations have been approved, the new regulations are being implemented satisfactorily.

We further recommend that DASP work with the Doing Business team at the World Bank to resolve the inconsistencies reported in the time frame for obtaining the final inspection and occupancy permit.

#### Impact on Overall Doing Business Ranking

Combining the procedures to request and obtain the right to the use and enjoyment of the land and to request and obtain a topographic map will reduce the number of procedures by 1 and the number of days needed to complete the procedures by 1. Combining the procedures for requesting and obtaining the final inspection and obtaining the occupancy permit, and validating that obtaining the occupancy permit only takes 50 days to complete will reduce the number of procedures by a further 2 to 14 and the number of days by 47 to 333. Mozambique's overall Doing Business ranking would not increase with this reform alone due to clustering, but would be most likely to significant significantly in conjunction with other reforms.

### 3.3.2. COMPLETE PROPERTY LOT MAPPING

Between 2004 and 2007, the Municipality Urban Planning and Environment (UPE) office began the process of designating lot numbers throughout Maputo. However, due to staffing constraints the initiative led to a backlog of requests for topographic plans, which companies are required to submit with their building permit applications. In areas where the UPE has already designated plot numbers and plans, requests for topographic plans can be completed in less than 30 days. However, for construction on the other 50 percent of plots, mapping is not complete and UPE does not have the capacity to provide the topographic plan within the 60 day limit required under

Decree nº 2/2004. According to Doing Business 2010 it currently takes 120 days to obtain a topographic plan.

### Recommendations

In light of the above, we recommend that DASP work with the DCU and the UPE office to determine whether additional resources are available or can be allocated to accelerate the completion of the lot mapping; DASP might consider working with donors to help secure funding. A complete lot mapping should produce immediate concrete results and can be completed in the medium term. As the mapping is completed, it will significantly reduce the time required to obtain the topographic plan and will provide the UPE office with data which was not previously centralized for all of Maputo.

### Impact on Overall Doing Business Ranking

When mapping is complete, the time needed to obtain a topographic plan should be reduced by at least 90 days to less than 30 days. This should reduce the number of days to obtain needed to deal with construction permits by 61days (as it is implemented in conjunction with "Request and obtain the right to the use and enjoyment of the land"). Though it would not improve the overall Doing Business ranking by itself, in conjunction with other reforms, it would likely have a larger impact.

### Introduce silence-is-consent rules.

Besides the need to undertake reforms to reduce the time for the realization of certain procedures, there is also a need to ensure the deadlines stipulated by law are met. Currently, many of these deadlines are not observed which further exacerbates the overall time for obtaining a building permit. A concrete example is the 95 days reported by the Doing Business for requesting and obtaining an occupancy permit. In general, the reasons range from lack of officials accountability with deadlines, lack of human capacity for high demand for services, among others.

### Recommendations

The recommendation for overcoming this scenario is the adoption of the principle the silence-is-consent. First, the Municipal council could shift the burden of responsibility from government to 'qualified professionals' – licensed architects employed by construction companies who are held accountable for any mistakes and strictly supervised through Architects' Unions etc. Second, the Municipal council could introduce stricter reporting rules for employees responsible for processing building permits.

### Impact on Overall Doing Business Ranking

The introduction of silent-is-consent in the Municipality of Maputo, if effectively implemented, would help to add incentives for municipal employees to stick to the 30-day time limit. This would reduce the time it takes to deal with construction permits by 65 days. By itself, this reform would not affect Mozambique's overall Doing Business ranking.

## 3.3.3. AUTOMATION OF PERMIT SERVICE PROVISION

The World Bank is currently working with the Municipality of Maputo to implement a municipal management system which will improve communication between to municipal departments and

create a "one-stop-shop" fully automated permitting process. The full implementation of the municipal management system will drastically reduced the time required to (1) request and obtain the right to the use and enjoyment of the land, (2) request and obtain topographic plan (see recommendation above), and (3) request and obtain building permit from the Department of Construction and Urbanization.

According to a construction expert we interviewed, the first procedure: obtaining the right to the use and enjoyment of the land is extremely time consuming and a major constraint for new businesses. However, as stated above, Maputo has not yet to complete property lot mapping and property and land records are not available in a centralized database.

### Recommendations

An automated municipal management system will increase efficiency and decrease both the time and the potential for corruption in obtaining a building permit. However the full implementation of the system should be seen as a medium term activity. In the short term we recommend DASP work with the DCU to increase the department's public outreach and awareness, making all requirements and forms available at the office and online. Moreover, we recommend that DASP work with the DCU to commission an analysis of permitting workflows.

The DCU should also design and provide additional training to current and future staff in Maputo and the provinces on construction permit legislation such as Decree nº 2/2004 and Decree nº 132/2009; interviewees report that in certain provinces, legislation approved in 2004 is still not being implemented.

Once the automated system is launched, it must be accompanied by a change in attitudes and culture at the DCU. To do this will require:

- Creating new procedures that are business friendly and simple to use.
- The design and implementation of an information dissemination scheme and ongoing training and manuals for staff and users
- The development of a rigorous monitoring system to ensure that the new systems and being implemented work effectively
- The continual upgrading of the system to keep in line with international best practices and technological innovation.

Improving the Mozambique business environment and promoting the construction of new businesses in particular will also require significant additional investment in basic infrastructure including roads, electricity and water. Although calculating the impact of such investments is beyond the scope of this study, the cost of connecting basic services to new construction is significantly higher in Mozambique (630.7 percent of income per capita) than neighboring country such as South Africa (24.5 percent) and Botswana (246.7 percent).

## Impact on Overall Doing Business Ranking

A computerized municipal management system should reduce the number of the number of days needed to deal with construction permits by 44 days. As with the other recommendations, by itself this reform would not impact Mozambique's overall Doing Business ranking. However, if all the above recommendations were implemented together, Mozambique would climb 9 places.

## 3.4. ENFORCING CONTRACTS

The enforcing contracts indicator measures the procedures, time and cost to enforce a contract dispute between two Maputo businesses. The claim in the case is assumed to be equivalent to 200% of income per capita.

A total of 30 procedures and 730 days are required to enforce the contract dispute used in Doing Business' case study, compared to the SADC average of 38 procedures and 687 days. However, in Mozambique the cost of enforcing such a contract are comparatively high at 142.5 percent of the claim. Zimbabwe and DRC also have contract enforcement costs which exceed 100 percent of the claim. Among the 15 SADC countries, however, the average cost to enforce a contract is just 33.7 percent of the claim. The usage of a claim equivalent to 200 percent of income per capita is questionable for many low income countries such as Mozambique but is the standardized methodological approach used for all 183 countries in the Doing Business survey (see Table 3-4).

***Illustrative Doing Business Case Study: Enforcing Contracts***

The dispute concerns a contract for the sale of goods between two businesses (the Seller and the Buyer). To make the data comparable across countries, several assumptions about the businesses. Both are located in the economy's largest business city.

The Seller sells and delivers goods, worth 200% of the economy's income per capita, to the Buyer. The Buyer refuses to pay on the grounds that the goods are not of adequate quality.

The Seller sues the Buyer to recover the amount under the sales agreement (200% of the economy's income per capita).

The claim is filed before a court in the economy's largest business city with jurisdiction over commercial cases worth 200% of the income per capita and is disputed on the merits.

Judgment is 100% in favor of the Seller and is not appealed.

The Seller enforces the judgment and the money is successfully collected through a public sale of Buyer's assets.

For the Enforcing Contracts indicator, the experts we interviewed identified five areas of reform that are critical to tackle in order to assist medium and large size businesses: amending arbitration legislation; enhancing the capacity of the civil courts; continued reforms to the civil process code; working with the Mozambique Bar Association to change billing practices; and reforming the Code of Judicial Cost. Of all the proposed reforms, amending the arbitration legislation is clearly the most cost effective. It should also be noted that though these reforms should improve Mozambique's Doing Business rankings, given the small monetary size of the claim in question and the high fixed costs of formal courts, DASP might wish to work with MOJ to investigate the possibility of establishing small claims courts that are cheap, as they do not require the lawyers and judges and are quick to adjudicate.

Table 3-4
*Enforcing Contracts*

| | Rank (1-183) | Procedures (number) | Time (days) | Cost (% of claim) |
|---|---|---|---|---|
| Mozambique | 129 | 30 | 730 | 142.5 |
| South Africa | 85 | 30 | 600 | 33.2 |
| Botswana | 79 | 29 | 625 | 28.1 |
| Mauritius | 66 | 36 | 645 | 17.4 |
| SADC Average | 98 | 38 | 625 | 37.3 |

### 3.4.1. AMEND ARBITRATION LEGISLATION

As we outlined above, perhaps the most effective way of reducing the time, cost and procedures for enforcing contracts in Mozambique is to amend the arbitration legislation. Arbitration, "[i]ntervention in an industrial dispute at the request of the parties to the dispute by an independent and impartial third party who makes a recommendation for resolving the dispute which is then binding on other parties."[11], was legalized in Mozambique through passage of the Arbitration, Conciliation and Mediation Law (Law 11/99) on July 8, 1999.

Though the law should have provided for a simple, quick and cheap resolution mechanism to many legal disputes, in practice it is almost never used. This is because arbitration judgments are usually contested in the regular courts system and thus arbitration judgments are almost never binding. The Central Arbitration Conciliação e Mediação (CACM), established in 2006, has also had little success in helping to resolve these issues.

#### Recommendations

To develop a more effective arbitration mechanism, we recommend that DASP should work with the Ministry of Justice (MOJ) and CACM to contract a short paper that outlines exactly where and how the legislation should be amended to make the possibility of arbitration judgments legally binding. The new legislation should then be drafted. As parliamentary approval will likely be required, this process could be lengthy. We therefore recommend that DASP starts working on it immediately.

#### Impact on Overall Doing Business Ranking

The overall impact on Doing Business is unclear, but if we assume that the costs and time are in line with the SADC best performer, Namibia for Enforcing Contracts (35.8% and 270 days respectively) and that the number of procedures remain the same, Mozambique's overall Doing Business ranking would increase by 14 places.

[11] Pearce, David W. The MIT Dictionary of Modern Economics, Fourth Edition. MIT Press 1996, page 17.

### 3.4.2. ENHANCE CAPACITY OF CIVIL COURTS

The case presented in Doing Business is one that would be solved in the civil courts, rather than the commercial courts, owing to the relatively small size of the settlement (less than 270,000 MT). Currently, there are just two judges in Maputo and one in each of the provinces dealing with such cases. This lack of capacity leads to long delays in resolving cases. There are two possible ways of resolving this issue. The first is enhancing the capacity of the civil courts (dealt with here) and the second is improving the arbitration system (see Amending Arbitration Legislation below).

Enacting these kinds of reforms will be especially crucial for attracting foreign investment, where investors are often focused on issues surrounding rule of law and the ability resolve potential disagreements in a cheap and timely fashion.

#### Recommendations

To increase the capacity of the civil courts we firstly recommend hiring and training two more judges in Maputo. Simply hiring and training new judges however will not solve the lack of capacity. It will probably be necessary to double the number of staff supporting the judges from seven to fourteen. The new staff should be trained in three different areas:

1. Procedural issues;
2. Legal issues pertaining to the types of cases they will be assisting with; and perhaps most importantly
3. Customer service.

The latter is particularly important to the private sector and is often neglected when a system is overhauled. Customer service training should also be provided to existing staff. DASP should consider working with MOJ to develop a small and regular survey of lawyers and litigants to score customer service satisfaction. The results should then be made available to the public.

For the time it takes to resolve cases to be reduced, the supporting infrastructure must also be improved. This includes purchasing new computers and providing sufficient office space and supplies for the new employees. Finally, an effective monitoring system should be designed to make sure that cases are indeed dealt with in a more expedient manner and that staff (old hires, new hires and future hires) receive sufficient training and a supportive infrastructure.

All the above will take money and a fairly long time to implement. Addressing corruption will also be essential. We therefore recommend that DASP immediately meets with the Ministry of Justice and donors to discuss the possibility of implementing these reforms. They should also develop a concrete timetable for the reforms, including milestones and a monitoring plan that are linked to the relevant Doing Business sub-indicators.

#### Impact on Overall Doing Business Ranking

According to legal experts we met with, effectively implementing these reforms could cut the time it takes to enforce a contract in Mozambique in half to 365 days. This would push Mozambique up by 4 overall Doing Business rankings.

### 3.4.3. REFORM CIVIL PROCESS CODE

The laws that govern civil legal issues are contained in the Civil Process Code. These include procedures for cases that are resolved in the civil courts. At present, procedures for solving these cases are cumbersome and often waste the time of lawyers and litigants. For instance, physical delivery of court summonses are done on foot and the procedures for calling witnesses are draconian and often create delays of 1-2 weeks in the hearings. Moreover, judges often neglect to adhere to the legislated time limits for resolving cases contained in the civil code. Often, this is caused by judge absenteeism. Both these issues are significant barriers to investment in Mozambique and tackling them is imperative. Progress has been made in both areas in recent years. On the former, the Civil Process Code has been amended and the number of procedures has been reduced from 32 in 2005 to 30 in 2008. On the latter, cases are being resolved more quickly. According to Doing Business, the time it takes to resolve a contract dispute has fallen from 1,010 days to 730 days. More must be done.

#### Recommendations

DASP should work with MoJ to engender changes to the Civil Process Code. To do so, we recommend that DASP in conjunction with a counterpart at MoJ takes the following steps:

1. Commissions a brief that outlines the exact legal procedures that are required to resolve the Doing Business case study. In speaking with legal experts in Mozambique it appears that there are a significant number of mistakes in the procedures listed in the Doing Business report. If there are indeed mistakes these should immediately be reported to Doing Business;
2. Contract a law firm to provide a list of procedures that should be eliminated;
3. Contact the Minister of Justice to convince him that the legislation should be amended;
4. Work with donors to contract a law firm to redraft the legislation, if there is insufficient capacity at MOJ to undertake the work;
5. If the new legislation is passed, design a comprehensive training program lawyers judges and their staffs about the new legislation;
6. Design and help engineer new processes that should be implemented at MOJ as a result of the new legislation.
7. Develop a monitoring system to ensure that the new legislation and processes are being adhered to both in the Maputo and in the provinces.

In order to reduce judge absenteeism, we recommend that a small and regular survey of lawyers is developed to score their satisfaction with the judges and to rank the absenteeism rates. A summary of the results should then be made available to the public.

#### Impact on Overall Doing Business Ranking

Reforming the civil process code will be an ongoing process, but eliminating three of the processes would not improve Mozambique's overall Doing Business ranking; however, in conjunction with other reforms, it could have a significant impact.

### 3.4.4. CHANGE BILLING PRACTICES

According to Doing Business, attorney costs currently account for 98.5 percent of a claim (or approximately to two thirds of total costs) in Mozambique. These costs are extremely high. In fact, they are more than triple the costs in the Doing Business' worst performing country, Central African Republic, and approximately four times higher than those in South Africa.

One reason for the high costs is that Mozambican lawyers tend to charge a flat rate based on the size of the claim, rather than charging for their time, even though hourly charging is a generally accepted international best practice.

#### Recommendations

In light of the above, we recommend that DASP work with the Mozambican Bar Association (Ordem dos Advogados de Moçambique) to investigate whether its members would be open to changing the generally accepted billing method in Mozambique. As this is outside the hands of government, we further recommend that DASP consults with influential law firms prior to these discussions. Also, a study that assesses the potential impact of such a change on lawyers' revenue streams should also be undertaken.

#### Impact on Overall Doing Business Ranking

Assuming that costs would be reduced to that of South Africa, attorneys' costs would account for just 22.6 percent of the percent of the claim. As with the previous reform, its implementation would not improve Mozambique's overall Doing Business ranking; however, in conjunction with other reforms, it would likely have a significant impact.

### 3.4.5. REFORM CODE OF JUDICIAL COST

The Code of Judicial Court Costs (*Código das Custas Judiciais* or CCJ) was passed in 1961. CJJ regulates court costs and taxes and in general is perceived to be confusing and convoluted in nature, even by lawyers. Several modifications have been made to the code over the years, but those using it still complain of its lack of transparency. Moreover, as regulated by CCJ, the party whom the judgment favors does not automatically receive their court costs from the loser. This pushes up the Doing Business costs by 48 percent of the claim.

#### Recommendations

Given the convoluted nature of CCJ we recommend entirely redrafting the code, which would include a clause that provides for automatic compensation of court costs to the victorious party. In order for this to happen, MOJ would have to take leadership and convince both the Supreme Court and the Council of Ministers that such a change is necessary; this will be tough. Redrafting of the code could be done in as little as a year though the drafting itself would need to be contracted to a law firm as MOJ currently does not have the capacity to undertake such work. Once complete, the Council of Ministers would have to pass the code into law.

If the code is overhauled a comprehensive training program, detailing the changes in the laws, for courts and lawyers would have to be developed. A monitoring system should also be developed to ensure the new code is being strictly adhered to.

### Impact on Overall Doing Business Ranking

Reforming the Code of Judicial Cost could reduce the cost of the claim to 98.5 percent of the claim. Again, this would not result in an increase in Mozambique's Doing Business ranking alone.

### POTENTIAL RISKS

The two major risks to improving the way in which contracts are dealt with in Mozambique are:

- Lack of political and institutional will to undertake the reforms
- Insufficient funding for the reform

## 3.5. REGISTERING PROPERTY

The registering property indicator comprises three subindicators: procedures to register property, days to register property, and cost as a percentage of property value - $18,639 in Doing Business 2011. For this indicator Mozambique ranks 144 out of the 183 countries surveyed and just 13 out of 15 within SADC; only Madagascar and Angola fair more poorly. To register property in Mozambique requires 8 procedures, 42 days and costs approximately 11.3 percent of the property value. The SADC average is 6 procedures, 42 days and 8 percent of property value. However, it only requires 24 days to register property in South Africa and just 16 days in Botswana (Table 3-5).

Table 3-5
*Registering Property*

| | Rank (1-183) | Procedures (number) | Time (days) | Cost (% of property value) |
|---|---|---|---|---|
| Mozambique | 144 | 8 | 42 | 9.9 |
| South Africa | 91 | 6 | 24 | 8.8 |
| Botswana | 44 | 5 | 16 | 5 |
| Mauritius | 69 | 4 | 26 | 10.7 |
| SADC Average | 105 | 6 | 41 | 7.6 |

For the Registering Property indicator we identified four areas of reform: automation of the property registry; conversion of SISA to an administrative fee; combining the administration of notary public and real estate registry; and streamlining the submission of notarial deed.

### 3.5.1. AUTOMATE PROPERTY REGISTRY

An international consulting firm, Austral-COWI, sponsored by the African Development Bank, prepared in 2010 the design and specifications for a new computerized property registry system that aims to improve the operations of the property registry in Mozambique. The proposed system has a simple design and will not be linked to the cadastre or computer systems at other

ministries.[12] However, the registry system should decrease the time to obtain a real estate certificate and to register a building to one day. The new system is expected to be made available in August 2011..

### Recommendations

The implementation of an automated system will increase efficiency and decrease both the time and the potential for corruption during the property registration process. However the full implementation of the system should be seen as a medium or longer term activity.

Once the automated system is launched, it must be accompanied by a change in attitudes and culture at the Real Estate Registry. To do this will require:

- Creating new procedures that are business friendly and simple to use.
- The design and implementation of an information dissemination scheme and ongoing training and manuals for staff and users.
- Providing training to staff in customer service. In addition, the property registry should consider developing a small and regular survey of users to score customer service satisfaction. The results should then be made available to the public
- The development of a rigorous monitoring system to ensure that the new systems are being implemented and work effectively
- The continual upgrading of the system to keep in line with international best practices and technological innovation

***Illustrative Doing Business Case Study: Registering Property***

To make the data comparable across countries, several assumptions about the buyer, seller:

-are limited liability companies

-are private nationals (no foreign ownership)

-are located in periurban area of the largest business city

-conduct general commercial activities

The property:

-consists of land and a 2 -story building (warehouse)

-is located in the periurban commercial zone of the largest business city

-The land area is 557.4 $m^2$ (6,000 square feet).

-The warehouse has a total area of 929 $m^2$ (10,000 square feet).

-has a value equal to 50 times income per capita

-The seller company owned the property for the last 10 years.

-is registered in the land registry and/or cadastre and is free of all disputes.

### *Impact on Overall* Doing Business Ranking

Automating the property registry would reduce the number of days required for property registration from 42 to 33. Effective implementation would not increase Mozambique's overall Doing Business ranking by itself; however, in conjunction with other reforms, it is likely to have a significant impact..

## 3.5.2. CONVERT SISA TO AN ADMINISTRATE FEE

SISA is Mozambique's national property transfer tax. SISA is governed by Decree 24/2006 and is levied at 2 percent of the property value, with an additional 0.4 percent paid to the municipality. The tax has led to large-scale property undervaluation or the bypassing of legal

[12] The system is largely seen as a starting point, a system linked to the cadastre and other ministries could replace this system at some point in the future.

channels altogether, owing to its being levied as a percentage of the property value, rather than at a flat rate.

In a previous report,[13] it was noted that converting the SISA into an administrative or service fee would reduce the time and cost of transferring property and it was recommended that the government commission a comprehensive study to investigate the impact a fee-based system would have on both national and municipal revenues. At present, such a study has not been commissioned.

## Recommendations

We recommend that DASP work with MOF, MRA and authorities at the municipal level to assess the impact a fee-based system would have on both national and municipal revenues. This assessment should examine both a flat fee system, recently implemented in Rwanda and a fee based on property square meterage used in Egypt. In January 2008, the Rwanda Revenue Authority abolished the 6 percent property registration fee and replaced it with a flat rate fee of RWF20,000 (almost $33) paid for all transactions regardless of the price of the property. Employing a flat fee-system contributed to the reduction in the time required to register property in Rwanda from 315 days to 60 days. Under the Egyptian system, property registration fees are based on the property square-meterage (rather than value) and the fee is capped at a certain property size. This system has the advantage of reducing undervaluation while helping to ensure that those selling smaller properties are able to afford the tax.14

Yet, if the assessment recommends the adoption of a fee-based system, much broader buy-in will be required. Donors (yet to be determined) would need to work with other government bodies such as the Ministry of Agriculture, MPD, MOJ, MIC, and the Prime Minister's to ensure that the revised decree is passed by the Council of Ministers. If passed, an information campaign, both in Maputo and in the provinces, should be designed to ensure that both those who administer and those who pay the SISA are informed and adhere to the new legislation. Accordingly, a monitoring program should be developed to make certain that the new regulations continue to be adhered to.

A flat fee tax would also likely lead to an elimination of the procedure "obtain a certificate from the Tax Authority regarding the value of the property", which is only undertaken if the title of the property is in doubt or if there is good reason to believe that the property has been undervalued. Due to the large number of steps and the number of ministries that would need to buy-in to this reform in order for it to work, we view its achievement as a medium term objective.

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[13] See Greenbaum, Alexander. Quick Wins for 2009.

[14] Jamal Ibrahim Haidar, "How Efficiently is Capital Created? Evidence from Property Registration Reform in Egypt," *Smart Lessons in Advisory Services*, IFC, November 2007.

### Impact on Overall Doing Business Ranking

Converting SISA into a flat fee would eliminate the need to obtain a certificate from the Tax Authority verifying the value of the property and would thus reduce the number of procedures by one from 8 to 7. It would also reduce the number of days required to register property by 3 from 42 to 39. We also assume that it would reduce the transfer tax to 0.34% of the property value.[15] Implementing such changes would not directly increase Mozambique overall Doing Business ranking but will likely do so in conjunction with other reforms.

## 3.5.3. COMBINE ADMINISTRATION OF NOTARY PUBLIC AND REAL ESTATE REGISTRY

As Doing Business points out, eliminating unnecessary obstacles to registering and transferring property promotes the transfer of land and encourages investment. Although both the notary public and the real estate registry are under purview the Ministry of Justice, current procedures require clients to (1) submit the draft sale and purchase agreement to the notary public to verify and issue the notarial deed of purchase and (2) apply for registration of the building at the Real Estate Registry Office. Visiting two separate offices increases both the time and burden of registering property and the opportunities for corruption. There are two possible ways to address this constraint. First, combining the administration of the notary public and the real estate registry (dealt with here) and second, completely eliminating the public notary. Given that the latter would require extreme legislative changes we recommend the former.

### Recommendations

We recommend that DASP meet with the real estate registry and notary public to discuss the possibility of consolidating the two offices. It is our understanding that there has been some preliminary discussion of possible procedural changes within the real estate registry and the notary public based on internal analysis and the proposed automation of the property registry system. If it is determined that this is a feasible solution, DASP will need to work directly with the Ministry of Justice to amend the relevant procedures and regulations that are currently in place.

One potential constraint will be physical infrastructure. The Ministry of Justice will need to find a suitable location for the joint real estate registry and notary public as the current location of the real estate registry we feel would be insufficient.

Although this intervention is a medium term reform, it would simplify procedures for clients and enhance service delivery of both offices.

### Impact on Overall Doing Business Ranking

Undertaking the recommended reforms would reduce the number of procedures by 1 to 7 and the number of days required to register property by 11 to 31. The overall Doing Business ranking for Mozambique would not increase by itself.

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[15] It is unclear by how much the transfer tax would be reduced; however, in our calculations we assumed that it would be reduced to the level of SADC best performer in this area, Botswana.

### 3.5.4. STREAMLINE SUBMISSION OF NOTARY DEED

Current procedures require those purchasing property to (1) Submit the notary deed at the Municipal tax office and (2) Submit the notary deed to the Cadastre Service Registry. These procedures again, present unnecessary obstacles to registering and transferring property. Each procedure increases the cost and time required to register property and present increased avenues for corruption.

#### Recommendations

One recommendation would be to streamline the submission of the notary deed. A streamlined system would require submission only at the municipal tax office. Thereafter the municipal tax office would transmit the information to the cadastre service registry. Unfortunately we were unable to meet with a representative of the municipal tax office. We therefore recommend that DASP work with the Municipal tax office to immediately produce a brief that outlines the feasibility of streamlining the submission of the notary deed and the steps required for its implementation.

#### Impact on Overall Doing Business Ranking

Implementing the recommendations would reduce the number of procedures by 1 to 7 and the time needed to register property by 2 days to 40. Implemented by itself, this reform would not directly affect Mozambique's overall Doing Business ranking; however, if the above reforms were implemented together, Mozambique would jump 10 places.

## 3.6. CLOSING A BUSINESS

The closing a business indicator is comprised of three subindicators: the recovery rate, cents on the dollar recouped by creditors through bankruptcy, insolvency or debt enforcement proceedings; the time or number of years it takes for a business to go through the insolvency process and the costs, as a percentage of the total estate, to complete insolvency proceedings. However, Doing Business only elects to include the recovery rate in calculating the rankings.

To calculate the recovery rate Doing Business first takes into account whether the business remains open throughout the proceedings. If the business remains open, no value is lost on the initial claim, set at 100 cents on the dollar. However, if the business closes, the initial 100 cents on the dollar is reduced to 70 cents on the dollar. Then the official costs of the insolvency procedure are deducted (1 cent for each percentage of the initial value) and the loss in value as a result of the time the money remained tied up in insolvency proceedings is taken into account, including the depreciation of physical assets. The recovery rate is the present value of the remaining proceeds based on end-2007 IMF International Financial Statistics lending rates.[16]

In the 2011 Doing Business report, Mozambique ranked 129 out of 183 and 10th within SADC. Mozambique's recovery was 17.3 cents on the dollar compared to the SADC average of 21.3 cents on the dollar and South Africa's 34.4 cents on the dollar (see Table 3-6).

***Illustrative Doing Business Case Study: Closing a Business***

The data on closing a business are developed using a standard set of case assumptions to track a company going through the step –by–step procedures of the bankruptcy process.

To make the data comparable across countries, it is assumed that the company:

- is domestically owned
- is a limited liability corporation operating a hotel
-is in the country's largest business city
- has 201 employees, 1 main secured creditor and 50 unsecured creditors

Assumptions are also made about the future cash flows.

The case is designed so that the company has a higher value as a going concern, that is, the efficient outcome is either reorganization or sale as a going concern, not piecemeal liquidation.

The data are derived from questionnaires answered by attorneys at private law firms.

Table 3-6
*Closing a Business*

| | Rank (1-183) | Recovery rate (cents on the dollar) | Time (years) | Cost (% of estate) |
|---|---|---|---|---|
| Mozambique | 129 | 17.7 | 5 | 9 |
| South Africa | 74 | 34.4 | 2 | 18 |
| Botswana | 27 | 63.7 | 1.7 | 15 |
| Mauritius | 73 | 35.1 | 1.7 | 15 |
| SADC Average | 105 | 14.5 | 2.6 | 20 |

[16] Doing Business 2010 uses to end-2007 lending rate to avoid affects of the global financial crisis.

### 3.6.1. PASS AND IMPLEMENT NEW BANKRUPTCY LAW

In 2007, the Council of Ministers approved the proposed new Insolvency and Recuperation law (*Lei de Insolvência e Recuperação dos Agentes Económicos*). The proposed law is based on the Brazilian insolvency law (Law no. 11.101 of February 9, 2005), improving upon it where necessary. The legislation is well designed, making provision for company receivership and extended credit where it is believed that the company can be turned around to make a profit. In the case that liquidation is necessary the legislation provides for a process and expects that more than 50 percent of asset value of the liquidated company will be recovered. According to Sal and Caldeira, the Mozambican law firm that helped draft the legislation, if implemented correctly, the insolvency cases should be resolved within a year of filing.

#### Recommendations

For the proposed new Insolvency and Recuperation law to be passed and effective, it must be approved by parliament and training must be undertaken to ensure that the new law is adopted and administered correctly. Though a couple of years have elapsed since the proposed law was approved by the Council of Ministers, it now seems likely that the law will pass in the new session of parliament in early 2011 and that no changes will be made to the legislation. We recommend that the government work with donors, lawyers and the courts to set up a comprehensive training program to ensure its adoption and correct administration. Training should start as soon as the law is passed, both in Maputo and in the provinces, and timely monitoring of the new law over the next several years is necessary to ensure that the law continues to be administered correctly.

#### Impact on Overall Doing Business Ranking

It is unclear by exactly how much the proposed new law will affect the Doing Business rankings as there appear to be serious ambiguities and inconsistencies in the Doing Business methodology for calculating this indicator, at least that which is available to the public. Moreover, Mozambique's score partially depends on how long it takes for the law to be adopted and administered correctly, how long it takes for the case to be finalized and the nominal interest rate in Mozambique. If we assume a recovery rate of 63.7 percent, the same as in the SADC best performer, Botswana, Mozambique's overall Doing Business ranking would increase by 14 places.

# 4. STARTING A BUSINESS AND GETTING CREDIT

In this chapter, we summarize reform recommendations already contained in other reports that relate to the two Doing Business indicators Starting a Business and Getting Credit.[17]

## 4.1. STARTING A BUSINESS

The starting a business indicator is comprised of four subindicators: procedures to open a business, number of days required to open a business, cost as a percentage of income per capita, and minimum capital required to be paid in to a bank account, as a percentage of income per capita.

The 2011 DB report has registered that Mozambique has implemented one reform in the area of 'to start a business': Mozambique eased business start-up by introducing a simplified licensing process'. The reduction of one procedure and of the number of days to start a business from 26 to 13, enabled Mozambique to rise from 96 (DB 2010) to 65 (DB 2009) and to rise XXX to place within SADC.

In 2009, Mozambique also rose from 143 (2009) to 96 in the 2010 Doing Business report and rose to 7th place within SADC. This gain was largely due to the removal of the minimum capital and bank deposit requirements, which have also been removed by almost all SADC countries (See Table 4-1).

***Illustrative Doing Business Case Study: Starting a Business***

To make the data comparable across countries, it is assumed that the business:

-is a limited liability company conducting general commercial activities

-is located in the largest business city

-is 100% domestically owned

-has start-up capital of 10 times income per capita

-has a turnover of at least 100 times income per capita

-has between 10 and 50 employees

-does not qualify for any special benefits

-does not own real estate

Table 4-1
*Starting a Business*

| | Rank (1-183) | Procedures (number) | Time (days) | Cost (% of income per capita) | Min. Capital (% of income per capita) |
|---|---|---|---|---|---|
| Mozambique | 65 | 9 | 13 | 19.3 | 0 |
| South Africa | 75 | 6 | 22 | 5.9 | 0 |
| Botswana | 90 | 10 | 61 | 2.2 | 0 |
| Mauritius | 12 | 5 | 6 | 3.8 | 0 |
| Malawi | 132 | 10 | 39 | 108.4 | 0 |

[17] See Greenbaum, A. Doing Business and Mozambique: Quick fixes for 2009. USAID, 2008. and the IFC/FIAS memo entitled “Mozambique Reform Advisory Memo”, November 2007.

| | | | | | |
|---|---|---|---|---|---|
| Namibia | 124 | 10 | 66 | 18.5 | 0 |
| Congo, DR | 146 | 10 | 84 | 735.1 | 0 |
| Seychelles | 109 | 10 | 39 | 17.5 | 0 |
| Tanzania | 122 | 12 | 29 | 31.0 | 0 |
| Zambia | 57 | 6 | 18 | 27.9 | 0 |
| Zimbabwe | 143 | 9 | 90 | 142.0 | 0 |
| SADC Average | 116 | 9 | 39 | 22.3 | 0 |

In investigating other work that analyzed the Starting a Business indicator and Mozambique, we identified three possible reforms. These include: adopting silence is consent for starting a businesses; combining various procedures; and continued improvements to one-stop shops.

### 4.1.1. ADOPT SILENCE IS CONSENT FOR STARTING A BUSINESS

Several burdens to starting a business could be reduced significantly if a "silence is consent" approach were to be adopted. Such an approach would allow newly formed businesses to start their activities before registration with public-sector entities is complete, an operational license from the President of Municipal Council is received, and inspection from the Ministry of Health, the fire department, and the Ministry of Industry and Commerce (MIC) is undertaken.

Assuming that the number of days to start a business was reduced to 12 from 26, Mozambique's overall Doing Business ranking would increase by 3 places.

### 4.1.2. COMBINE PROCEDURES

An IFC/FIAS memo entitled "Mozambique Reform Advisory Memo" (March 2008), recommends combing the following three procedures: declaring the beginning of activity at the tax department, registering for VAT, and registering workers with the social security system. Though the purpose of all three procedures is to inform the government that a new company exists that is required to pay taxes and other contributions, in the shorter run, combining the first two (for example in the BAU's, under the development of the one-stop-shop concept) are more feasible as they both concern the Ministry of Finance, whereas the latter concerns INSS. Ideally, in the longer run, registration should take place through e-Tributação and MRA would disseminate the information to INSS. Also, one other procedure, declaring the beginning of activity and registering job candidates at the provincial Employment Center, could be cut if INSS would provide the relevant information to the local employment centers.

Passing these reforms would reduce the number of procedures needed to start a business from 17 to 14 and elevate Mozambique by three places in the overall Doing Business rankings.

### 4.1.3. SIMPLIFY LICENSING REGULATIONS

In the past few years, Mozambique has taken big strides by passing important legislation to simplify licensing and improve one-stop-shops. On one hand, it was approved a decree to reduce

the number of licenses that require a review. Thus, since the investor submits all the necessary documents at the one-stop-shop, the license can be granted on the spot. This measure covers a range of almost 200 licenses. The process could be even faster if the Director of the BAU delegates his authority to sign the simplified licenses. On the other hand, the GoM approved a decree that gives more licensing power to the one-stop-shop and tries to coordinate the different ministries to actually make the one stop shop function. Nevertheless, it is essential that DASP DASP continues to push for further improvements in one-stop-shop and ensures that new legislation is implemented effectively and monitored to ensure that it continues to do so in the future. The impact of continued reforms on the Doing Business rankings is unclear, but should be significant.

### 4.1.4. ELIMINATE PROCEDURE

In 2009 Mozambique eliminated the minimum capital and bank deposit requirements. This reform was expected to have an impact on two subindicators simultaneously: (i) minimum capital required to be paid in to a bank account, as a percentage of income per capita – which was eliminated, (ii) and reduction of the number of procedures required to start a business – elimination of the bank deposit requirement. However, the impact of the elimination of the bank deposit requirement in the number of procedures has not been considered as the DB 2011 still counts nine procedures to open a business including the bank deposit requirement.

## 4.2. GETTING CREDIT

The Getting Credit indicator measures how well credit markets function by assessing the strength of legal rights and the depth of credit information. The strength of legal rights index (0-10) analyzes 10 factors to measure the degree to which collateral and bankruptcy laws protect the rights of borrowers and lenders. While the depth credit information index (0-6) analyzes the scope, quality and accessibility of credit information available through public and private credit registries.

Mozambique ranked 127 out of 183 on this indicator in the 2010 Doing Business report and 12$^{th}$ within SADC. Mozambique's legal rights score of 2 was significantly below the SADC average of 7 but Mozambique's credit information score of 4 was on par with the SADC average score of 3 (see Table 4-2).

***Illustrative Doing Business Case Study: Getting Credit***

To make the data comparable across countries, several assumptions about the debtor and creditor:

-Debtor is a Private Limited Liability Company

-Debtor has its headquarters and only base of operations in the largest business city

- Debtor btains a loan from a local bank (the Creditor) for an amount up to 10 times income (GNI) per capita

-Both debtor and creditor are 100% domestically owned.

Table 4-2
*Getting Credit*

| | Rank (1-183) | Strength of legal rights index (0-10) | Depth of credit information index (0-6) | Property registry coverage (% of adults) | Private bureau coverage (% of adults) |
|---|---|---|---|---|---|
| Mozambique | 128 | 2 | 4 | 2.2 | 0.0 |
| South Africa | 2 | 9 | 6 | 0 | 54.9 |
| Botswana | 46 | 7 | 4 | 0 | 57.6 |
| Mauritius | 89 | 5 | 3 | 49.8 | 0 |
| SADC Average | 103 | 6 | 2 | 0 | 0 |

The aforementioned IFC/FIAS memo identified three areas of reform to improve Mozambique's Getting Credit scores: expanding the range of credit information at the credit rating registry; expanding the list of assets that can be used as collateral and permitting out-of-court enforcement of collateral.

### 4.2.1. EXPAND RANGE OF CREDIT INFORMATION AT CREDIT RATING REGISTRY

The IFC/FIAS recommended establishing a new private credit bureau in Mozambique that would use information from utility companies, and retailers. They recommended that the new credit bureau include all loans; even smaller ones valued at below 1% of income per capita and that two years of historical credit information should be made available. The IMF and CTA are currently working to build a new registry. It is imperative that DASP monitors its design and implementation to ensure that the new bureau is designed to include all of the above information and once active works effectively.

As a result of these reforms, Mozambique's credit information index would increase to 6 from 4 and its overall Doing Business ranking would increase by 3 places.

### 4.2.2. EXPAND LIST OF ASSETS THAT CAN BE USED AS COLLATERAL

It is recommended that DASP investigates whether all types of assets, including changing pools of assets, can be used in Mozambique. If there the Commercial Code prohibits their use, we recommend working with the Ministry of Justice to amend the code to allow it.

### 4.2.3. LEGISLATE FOR OUT-OF-COURT ENFORCEMENT OF COLLATERAL

Currently, for collateral to be seized due to non-repayment of loans in Mozambique, the courts must be involved. The IFC/FIAS recommend permitting out-of–court enforcement of collateral, which is much less cumbersome for creditors and weighs less on an already over-burdened court system.

Permitting out-of-court enforcement of collateral and expanding the list of assets that can be used as collateral would push Mozambique's strength of legal rights index score from 2 to 5, resulting in an 8 point increase in Mozambique's overall Doing Business ranking.

# 5. PROTECTING INVESTORS

The protecting investors indicator is comprised of three subindicators: extent of disclosure index (0-10), extent of director liability index (0-10), and ease of shareholder suits index (0-10). The three subindicator indices are then averaged to create the strength of investor protection index (0-10). For this indicator Mozambique received an investor protection score of 6 and ranks 41 out of 183, compared to the SADC average investor protection score of 5.2 and median rank of 73 (Table 5-1).

Table 5-1

| | Rank (1-183) | Extent of disclosure index (0-10) | Extent of director liability index (0-10) | Ease of shareholder suits index (0-10) | Strength of investor protection index (0-10) |
|---|---|---|---|---|---|
| Mozambique | 44 | 5 | 4 | 9 | 6 |
| South Africa | 20 | 8 | 8 | 8 | 8 |
| Botswana | 44 | 7 | 8 | 3 | 6 |
| Mauritius | 12 | 6 | 8 | 9 | 7.7 |
| SADC Average | 67 | 5 | 6 | 6 | 5.3 |

*Protecting Investors*

***Illustrative Doing Business Case Study: Protecting Investors***

Mr. James, a director and the majority shareholder of a public company, proposes that the company purchase used trucks from another company he owns. The price is higher than the going price for used trucks. The transaction goes forward. All required approvals are obtained, and all required disclosures made, though the transaction is prejudicial to the purchasing company. Shareholders sue the interested parties and the members of the board of directors.

Several questions arise:

Who approves the transaction?

What information must be disclosed?

What company documents can investors access?

What do minority shareholders have to prove to get the transaction stopped or to receive compensation from Mr. James?

# APPENDIX: LIST OF INTERVIEWEES FOR MARCH 2010 REPORT

| Name | Title | Organization |
|---|---|---|
| Emmy Bosten | Technical Assistance Coordinator | International Monetary Fund |
| Roque Gonçalves | Legal Advisory, Lawyer | Sal & Caldeira |
| Nelson E. Guilze | Senior Policy Analyst | USAID/Mozambique |
| Kenneth Gunn | Senior Consultant | Cimpogest |
| Nelson Jeque | Gestor dos Mecanismos Consultivos | Confederation of Economic Association of Mozambique (CTA) |
| Sean Johnson | Consultant | Austral-Cowi |
| Ivan Carlos Macôo | Legal Advisory, Lawyer | Sal & Caldeira |
| Mário Salomão Madime | Head of Department of Information Systems Management | Ministry of Labour |
| Guilherme Mambo | Manager IT Modernization Project Team | Mozambique Revenue Authority |
| Rosário Marapusse | Economist, Programa Apoio Orçamental | Italian Cooperation |
| Gerry S. Marketos | Managing Partner | Cimpogest |
| Fernando Eugénio Mubai | Director Nomenclature, Tariff Code and Clasification | Generale Directorate of Customs, Mozambique Revenue Authority |
| Julieta Domingas Muchine, | Director Private Sector Unit | Ministry of Industry and Trade |
| Catarina Nehemia, | Customs Regimes and Procedures Compliance, General Directorate of Customs | Mozambique Revenue Authority |
| Zacarias André Nhantumbo | Director, Architect and Urban Planner | Maputo County, Municipal Urban Planning and Environment |
| Kekobad Patel | Assessor do Conselho Directivo | Confederation of Economic Association of Mozambique (CTA) |
| Dave Pournara | Project Manager New Business Development | Sociedade de Engenharia Desenvolvimento Lda. (SEED) |
| Svenja Paulino Rodriguez | Program Coordinator, Ambiente Propício para o Sector Privado | German Technical Cooperation |
| Shaida Seni | Senior Advisor, Ambiente Propício para o Sector Privado | German Technical Cooperation |
| General Directorate of Internal Taxes, Mozambique Revenue Authority | | |
| | | |
| Fidel Jacob José Valia | Registry office and Notary, Maputo | Ministry of Justice |