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MOZAMBIQUE TRIP REPORT

NOVEMBER 4 - 21, 2006

WOMEN'S LEGAL RIGHTS INITIATIVE UNDER THE WOMEN IN DEVELOPMENT IQC

CONTRACT NO. GEW-I-00-02-00016-00



Left to right: Angela Abdula, Alybachir Macassar and Mary Theisen, luncheon; Mary Theisen and Angela Abdula at table; Carlos Manjate addressing working group, with Lazaro dos Santos in foreground. Maputo, November, 2006.

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SECTION I

Travel Dates, Destinations and Purposes

The Women's Legal Rights Initiative (WLR) Chief of Party Mary Theisen traveled to South Africa and Mozambique in November 2006, to monitor progress of WLR's project to draft anti-trafficking in persons (TIPs) legislation in Mozambique. Her objectives were to learn more about the nature of the delays that have plagued the development of the new law, gauge the commitment of the Minister of Justice and her staff, meet stakeholders, including USAID and U.S. Embassy personnel, and participate in a draft law working group session. Ms. Theisen had also hoped to participate in a technical drafting workshop in conjunction with an expert from the South African Law Reform Commission (SALRC). The workshop, however, was not held because, among other reasons, there was not yet a draft that could be used as the basis for the workshop.

Ms. Theisen also spent a brief time in Pretoria to meet with the SALRC, the International Organization for Migration's (IOM) southern Africa regional office, and the staff of WLR's former office in Pretoria, which had closed October 31, 2006, to collect some documents for closeout and to thank them for their dedication to WLR.

Lastly, Ms. Theisen met with the executive director of Muleidi, the NGO that had adapted the Namibian advocacy manual to the Mozambican context, to discuss remaining issues and to thank her as well for the excellent cooperation.

Travel Dates and Destinations

Pretoria, South Africa, November 4 – 7, 2006

Maputo, Mozambique, November 8 – 21, 2006

SECTION II

Trip Results

A. Background

On April 3, 2006 the Ministry of Justice (MOJ) of Mozambique entered into a Memorandum of Understanding (MOU) with WLR for the development of a draft law on TIPs. In the MOU, WLR committed to providing technical, logistical and financial assistance to an organized effort to develop anti-TIPs legislation, to be delivered largely through Rede Contra o Abusos de Menores (Rede Came), an umbrella group of NGOs interested in combating TIPs. Under the MOU, the ministry, in turn, agreed to contract with three government attorneys to draft the law. (The MOJ lacks the capacity to draft such legislation.) The MOJ also agreed to promote the free flow of information amongst the ministries, governmental offices, and civil society and the Parliament on matters concerning the draft TIPs legislation; to promote and participate in public hearings on the draft in Maputo, Beira and Nampula; and generally to advocate for adoption of TIPs legislation. The MOU was entered into between Ms. Theisen and, on behalf of the ministry, Dr. Paulo Assubuji, advisor to the Minister of Justice and director of the Department of Legislation.

Regrettably, since the signing of the MOU, the MOJ has not focused on this initiative, causing unnecessary delays in the development of a draft. For example, it took approximately three months for the MOJ to identify and contract with three individuals to write the drafts, and, once they signed their contracts, the ministry's oversight of their progress was excessively lax. The drafters took two months to write a first draft, which they submitted to the ministry in late September, and which the ministry in turn released to Rede Came. This first draft was incomplete and poorly written. Moreover, the ministry has not pressed the drafters to develop a second draft.

During these slow months, even in the absence of a draft, Rede Came, to its credit, conducted TIPs-related activities. For example, as the MOJ had originally promised a draft by June, Rede Came, under the contract with WLR, was to have held public hearings in July in Maputo, Beira, and Nampula on a draft law. When no draft materialized, Rede Came held the hearings anyway, turning them into forums for interested NGOs to discuss what they thought a final draft law should contain. Rede Came also recruited input from two Maputo-based legal experts, and spearheaded the drafting of an NGO "position paper" that was presented to the drafters and the ministry.

Originally, all parties had expected there to be regular sessions of a working group beginning in June. The working group was to have consisted of the three MOJ-contracted legislative drafters, representatives of Rede Came's network of interested NGOs, academics, and representatives of relevant governmental ministries. It was decided, however, that the group wouldn't meet until after the three drafters had developed their first draft, and discussions would be centered on a draft. This was a sensible decision. However, since the draft materialized in late September, the first meeting of the working group was not held until October 5, 2006.

In that first working group session, the NGO members voiced their concern about the quality of the draft. The UN Protocol against TIPs proscribes that states parties (1) criminalize trafficking

in persons such that this specific crime can be prosecuted, (2) provide protection to and rehabilitation of victims, and (3) undertake prevention programs — the “three Ps” of anti-trafficking. The draft, however, only criminalized the first “P” — trafficking in persons — and neglected to address protection and prevention programs. Also, the language criminalizing TIPs was somewhat confusing, and some sections appeared to have been cut and pasted from Mozambique’s draft penal code which is currently awaiting introduction to Parliament.

The three drafters and the MOJ staff said they would integrate these and any subsequent written comments into a second draft and present it to another session on October 23, 2006. Assuming the drafters respected this timeline, Rede Came tentatively planned the technical drafting workshop, with participation by the South African Law Reform Commission expert, Ms. Lowesa Stuurman, for the second or third week of November, and public hearings in Maputo, Beira, and Nampula in late November. All parties were hopeful; progress seemed imminent.

Regrettably, October 23rd came and went, with no second draft. The efforts of Rede Came and Ms. Angela Abdula, WLR’s representative in Maputo, to learn the status of the second draft were unsuccessful since the two staff members of the MOJ working on TIPs issues (Dr. Assubji and Dr. Alybachir Macassar, director of the Department for the Promotion and Development of Human Rights) resorted to the habit of not returning calls.

It was in this context that Ms. Theisen traveled to Mozambique to explore ways to revive and accelerate the WLR-sponsored initiative to develop TIPs legislation.

B. Results

The series of meetings conducted by Ms. Theisen and Ms. Abdula were productive. WLR is now cautiously hopeful that the MOJ will begin according this initiative the attention it deserves. The fundamental causes of the delays, it would appear, were lack of communication amongst those responsible for the draft within the ministry, the minister’s lack of knowledge about her staff’s activities, and a lack of appreciation by the three drafters that their efforts were part of a larger initiative. As of this writing (December 11, 2006), the Minister of Justice Ms. Esperanca Machavele appears to have renewed commitment to ensuring the prompt development of technically sound draft legislation to criminalize trafficking and provide for the protection of victims and prevention programs. All meetings are described in detail in Section IV, Key Contacts and Meetings.

Ms. Theisen and Ms. Abdula are now confident that the lead drafter, Mr. Antonio Balate, an advisor to the Minister of Interior, also understands his role and the importance of applying himself. Before Ms. Theisen’s visit, both Dr. Assubji and Dr. Macassar had shielded Mr. Balate and the other two drafters (Irene Alfonso, law lecturer and Bar Association member, and Fransisca Sales, deputy minister, Ministry of Women and Social Action) from contacting Rede Came or Ms. Abdula, but it was felt that the MOJ couldn’t object to Ms. Theisen’s meeting with him, since she represented the funder and had traveled far to meet with key people connected to this initiative.

It appeared, based on information gleaned in that meeting, that the ministry staff assigned to work on this initiative were not taking their responsibilities under the MOU seriously; they did not brief the drafters on the existence of the MOU or the availability of technical assistance.

Fortunately, a result of the meeting was that, although Dr. Balate's client, the MOJ, seems less than committed to receiving his drafts, Dr. Balate himself now understands that there are many others involved in this process, all of whom are keenly interested in his activities.

In summary, meetings with the MOJ, Dr. Balate, ministry staff, and others resulted in greater understanding of the reasons for the delays and renewed commitment by the MOJ. They also enabled Mr. Carlos Manjate, the executive director of Rede Came, Ms. Abdula, and Ms. Theisen, in consultation with USAID, to craft a new timeline for the development and vetting of future better drafts.

C. Rede Came's contract extension

Ms. Theisen, Ms. Abdula, and Mr. Manjate took a hard look at the calendar and developed a timetable that would be reasonable assuming the Ministry of Justice truly becomes engaged in this process. WLR now hopes to have a technically sound draft vetted and finalized by June or July of 2007. WLR had originally hoped to deliver a draft by May, but USAID cautioned against rushing what could continue to be a long process.

Ms. Abdula's consultancy and Rede Came's fixed price subcontract (FPSC) with WLR will need to be extended, as both of their contracts end March 31, 2007. Rede Came's contract will also be amended to allow the NGO to recruit the services of Carlos Serra, a professor at the law school and author of a recent book commissioned by Rede Came on trafficking in children in Mozambique, to give technical input. Rede Came will also recruit the services of Mr. Lazaro dos Santos, an attorney affiliated with a human rights organization in Maputo. Ms. Theisen met both experts during her stay in Maputo and discussed their future contribution.

SECTION III

Recommendations and Next Steps

A. Recommendations to the Mission

The drafting of a good law, while time-consuming, is only the beginning; in Mozambique it can take years for Parliament to actually enact legislation, if experience with the Family Code is indicative. Anti-TIPs legislation cannot be allowed to languish in a similar fashion. Ms. Theisen therefore recommends that the mission, to the extent possible under current budget constraints, continue to fund this initiative after WLR ceases its support. Once a technically sound draft is presented to the MOJ, care must be taken to ensure that it doesn't stall there, and that the MOJ presents the draft to the Council of Ministers and encourage that it be presented rapidly to the Parliament.

USAID may also wish to tailor future aid to ensure transparency in the progress of the anti-TIPs draft law as it makes its way through governmental and parliamentary procedures. At any stage a well-crafted law may be significantly weakened by uninformed or misguided amendments, and decisions can be taken without notifying interested stakeholders.

Overall, it would be helpful to sustain the pressure on the Ministry of Justice, Council and Ministers, and the Parliament to promptly take action after they are presented with the draft. It is still somewhat puzzling why the anti-TIPs legislation has been allowed to languish, since passage of this legislation has been part of the Government of Mozambique's action plan for the last three years.

Equally important, stakeholders need to ensure adequate funding and political commitment by the ministries and justice sector institutions, for full implementation of any future anti-TIPs law.

B. Next Steps

WLR's next steps are to enter into new contracts with Rede Came and Ms. Abdula to ensure continuity in implementation of this initiative, and plan for how and to what extent CEDPA and Chemonics will backstop this project administratively after the technical lead, Ms. Theisen, leaves WLR on January 31, 2007. Ms. Theisen will ensure these issues are resolved before her departure.

SECTION IV

Key Contacts and Meetings

Mac Pieczkowski, Senior Operations Assistant, Counter-Trafficking, International Office for Migration, Southern Africa regional office, Pretoria, November 6, 2006

The IOM has been tremendously helpful to WLR in the implementation of this project. Mr. Pieczkowski participated in two WLR-sponsored training programs in Maputo in June 2006 for the NGO working group, and one in September for a special seminar for Members of Parliament on TIPs and the draft legislation.

Ms. Theisen discussed with Mr. Pieczkowski his impressions of those events and the level of knowledge of participants. He observed that Rede Came tends to focus on trafficking in children in its WLR-sponsored TIPs-related activities. Protection of children has always been the Rede Came's primary objective as an advocacy organization. However, the WLR project is concerned with trafficking in *all* persons, not "just" children.

Ms. Theisen also discussed the condition of the first draft, and the need for outside assistance to improve it. Ms. Theisen informed Mr. Pieczkowski that WLR is still hoping that the SALRC will be able to lend its leading expert on TIPS, Ms. Lowesa Stuurman, to provide this assistance, but that Ms. Theisen wouldn't know more until her meeting with the commission, scheduled for the next day. In the event the commission does not allow Ms. Stuurman to spare her time to Mozambique (which is a possibility: see below), Ms. Theisen inquired whether IOM could lend its considerable expertise to improve future iterations of the draft or, if that is not possible, whether IOM could recommend specific legal consultants in southern Africa experienced in drafting anti-TIPS legislation, in the event there was a need and sufficient funds. As expected, there are precious few consultants with this set of skills. Mr. Pieczkowski recommended one such consultant, Jill Thompson, an American attorney who has worked with IOM in Pretoria and who is currently engaged in an assessment in Zambia — ironically, for Chemonics, under the USAID/WID Anti-Trafficking Task Order.

Ms. Lowesa Stuurman, Researcher, South African Law Reform Commission, Pretoria, November 7, 2006

Ms. Theisen first met Ms. Stuurman in March 2006, to inquire about the commission's progress in developing South Africa's anti-TIPs legislation and to find out whether Ms. Stuurman would be willing to lend her technical expertise to the Mozambican initiative. Ms. Stuurman had readily agreed. At the time, it was believed her services would be used sometime later in 2006. However, given the delays in developing the legislation in Mozambique, and hesitancy on the part of the ministry in involving the SALRC, there had been little contact between Ms. Stuurman and Mozambique. The purpose of the meeting, then, was to update her on activities in Mozambique, and gauge whether she and the commission were still interested in helping.

Ms. Stuurman remained very interested in helping; however, she noted two obstacles: first, her bosses at the commission will not be able to spare her until after the Ministry of Justice in South

Africa introduces own anti-TIPs legislation, expected in March 2007, the development of which is Ms. Stuurman's responsibility; and second, the commission cannot assist the Mozambican working group unless and until it receives a formal request from the MOJ of Mozambique. (WLR has been encouraging the Mozambican MOJ to send this formal request, but the minister herself has been reluctant.)

Ms. Theisen informed Ms. Stuurman that, given the slow pace of progress in developing the law in Mozambique, WLR may not be in a position to send her to Maputo until April 2007. At that time Ms. Stuurman would review and critique a semi-final draft law and give one-on-one assistance to the legislative drafters, and the larger working group, to develop a final draft. Ms. Stuurman agreed with this approach and is eager to help.

Assistance from Ms. Stuurman and the SALRC would be highly valuable since they are finishing an exhaustive, thorough process of developing South Africa's anti-TIPs legislation; it would also encourage regional cooperation in southern Africa. Also, promoting contacts between the South African and Mozambican legal establishments will facilitate harmonization and cross-border implementation of their respective anti-TIPs laws.

The SALRC has a very methodic, sound approach to developing legislation in which it ensures stakeholder input through public hearings, and has extended the time periods for interested parties to submit their comments. The anti-TIPS law is one of many of SALRC's law reform initiatives.

Ms. Stuurman and Ms. Theisen also discussed the poor state of the first draft, and agreed that much work needs to be done on the draft before we can begin seriously engaging Ms. Stuurman.

Ms. Theisen promised to keep Ms. Stuurman updated on developments.

Jessica Zaman, Democracy and Governance Team Leader, USAID/Mozambique; Euridia Acevedo, D&G Program Officer, USAID/Mozambique; John Wysham and Leonel Miranda, political officers, U.S. Embassy; Angela Abdula, WLR consultant, Maputo, November 9, 2006

Ms. Abdula and Ms. Theisen met with USAID and U.S. Embassy personnel to brief them on the status of the project and discuss strategies for engaging the Ministry of Justice. WLR learned that its own experiences with the mercurial MOJ are not unique, as other aid providers have expressed similar frustrations with other ministries. The Ministry of Justice, however, is known to be one of the more, if not the most, challenging of ministries to work with.

It is not clear why the two staff members assigned to work with WLR and Rede Came, Mr. Assubuji and Mr. Macassar, have been unresponsive — Do the difficulties stem from lack of political will? Organizational chaos within the ministry? Both? Have the staff consciously stalled (e.g., by making themselves unavailable to meet or speak with Ms. Abdula) because the minister herself does not want to push this legislation or simply doesn't view it as important? Alternatively, does the minister know what her staff is doing — are they briefing her on TIPs-

related activities or actively seeking her input or approval at those stages where it is needed? Whatever the motivations or reasons, the MOJ clearly has not upheld its side of the MOU.

It was agreed that WLR would meet with the group again before leaving Maputo to brief them on what was accomplished during Ms. Theisen's stay. Both USAID and the U.S. Embassy reiterated their offers of support should their political capital be needed.

Carlos Manjate, Executive Director, Rede Came; Sabina dos Santos, President, Rede Came, with Angela Abdula, Rede Came offices, Maputo, November 9, 10, and 15, 2006

Ms. Theisen and Ms. Abdula met a number of times with Mr. Manjate to discuss Rede Came's involvement in this project, review progress to date in implementing the FPSC and the deliverables schedule, and plan future activities needed to successfully complete the project. Some activities are already in the FPSC, and others will need to be added, requiring a contract amendment. Ms. Theisen also reviewed Rede Came's balance sheets and together the group calculated remaining funds, and additional funds needed to conduct extra activities anticipated.

The group discussed strategies for engaging the MOJ and improving the quality of future drafts, and for gaining access to the drafters.

At the time of this meeting, there had been no progress since the Rede Came-sponsored working group meeting of October 5, 2006, at which the drafters presented the first draft. Working group members gave input at the session and e-mailed additional comments afterwards. The drafters were to have integrated these comments and develop a second draft by October 23rd, but they missed this deadline, and neither Mr. Assubuji nor Mr. Macassar would indicate when a second draft will actually materialize.

It was decided at this meeting that, notwithstanding the Ministry of Justice's strong reservations about WLR or Rede Came interacting directly with Dr. Balate, a meeting would be arranged with him at which the MOJ staff would not be present. This was necessary to gauge Dr. Balate's commitment to his assignment to draft legislation. Of course, it would also be critical to meet the Minister of Justice herself.

During the meeting Ms. Theisen managed to get through to Mr. Macassar using her cell phone. (Mr. Macassar had not answered Ms. Abdula's calls all day.) It was confirmed then that there was no second draft and that Mr. Macassar had not been in contact with Mr. Balate. To meet with the Minister of Justice, Mr. Macassar advised that Ms. Theisen submit a written request to the minister. However, the minister was out of the office until November 17th.

(Note: After this phone call, WLR consulted with Ms. Zaman of USAID, who in turn consulted the embassy about fixing a meeting with the minister. It was decided the U.S. Embassy would submit a formal request to meet with the minister after she returns to the office and before Ms. Theisen's departure. The embassy sent the formal request on November 13, 2006.)

Ms. Theisen, Ms. Abdula, and Mr. Manjate then discussed the poor state of the first draft, and means of channeling needed technical assistance to Dr. Balate. The group considered using the

services of Carlos Serra, a law professor and lecturer at the magistrates school, and Lazaro dos Santos (no relation to Rede Came's vice president), an attorney for a human rights group, to assess future drafts and give comments and proposed draft language. Both had already performed this service ad hoc with respect to the first draft. A meeting was then scheduled for Ms. Theisen to meet Mr. Serra and Ms. Dos Santos to explore their interest in providing this service and their potential future scope of work.

At the last meeting, held November 15th, the group discussed various timetables for completing the project depending on the MOJ's actions, how to bring in the expertise of Mr. Serra and Mr. dos Santos, and the contract amendment, and reviewed a draft budget for future activities.

Carlos Manjate, Carlos Serra and Lazaro Dos Santos, Avenida Hotel, Maputo, November 10, 2006

Ms. Theisen had a very productive meeting with Mr. Serra and Mr. Dos Santos, two legal experts brought in by Mr. Manjate, on the quality of the draft, Dr. Balate's credentials, possible reasons for the ministry's recalcitrance, and current trends in legal reform in Mozambique.

Mozambique still operates under criminal codes of 1852. An executive-level level interagency commission on legal reform, and its technical office, Unidade Tecnica de Revisao Legal (UTREL), has drafted a new criminal law and procedure code without the public's input. This office is separate from the MOJ. Once NGOs learned of its existence, they pressured UTREL to hold hearings, which UTREL did. However, it is not known to what extent drafters integrated comments from those hearings, nor when the code will be presented to Parliament. It may not even be presented to Parliament, and instead be introduced as an Executive Order, as is done in Portugal.

The progress of the new criminal code may influence the path of TIPs legislation. All agreed that, since it is not known when or how UTREL's new criminal law and procedure code will come into effect, it would behoove drafters to include provisions in their draft that normally would appear in a criminal procedure code, such as witness protection measures and asset forfeiture (seizure of assets acquired through criminal activities).

After discussing these and other technical issues, Ms. Theisen discussed Mr. Serra's and Mr. dos Santos' interest and availability in assisting the drafters and the working group. The group also discussed strategies for advancing the legislation should the MOJ continue to stall.

Rafa Machava, Executive Director, Muleidi, Maputo, November 13, 2006

Ms. Theisen took the opportunity of her visit to Maputo to meet with Ms. Machava to discuss the outcome of the project to adapt the Namibian Advocacy in Action Manual for Mozambican NGOs. Ms. Machava explained that the 700 copies Muleidi ordered have still not arrived, as the printers were having difficulties printing the cover. However, she anticipated they would arrive within a week or two.

Muleidi is seeking funding to conduct the second phase of activities, i.e., training on the advocacy manuals. She stated that Oxfam Australia's Joint Advocacy Programme in Mozambique (JOAP) has expressed interest in funding phase two capacity-building activities. JOAP's mission is to increase local communities' ability to influence policy in the areas of social and economic justice. Muleidi has worked with JOAP in the past. Ms. Machava has also approached USAID for funds to supplement any that JOAP might provide. Although funding for capacity-building programs tends to be sparse, Ms. Machava remains optimistic, given the strength of her proposed Phase 2 training program. Ms. Machava also plans to hold a fundraiser for manual-based training, once the 700 manuals arrive.

Dr. Antonio Balate, Advisor, Ministry of Interior, November 14, 2006

This was perhaps the most important meeting of the trip, as Mr. Balate is the lead drafter. The meeting was "illicit" to the extent that the Ministry of Justice had resisted allowing Angela Abdula and Carlos Manjate from meeting the government-appointed legislative drafters. However, Ms. Theisen's visit created a different dynamic, allowing for this meeting.

It became clear during the meeting that Dr. Balate was operating in a vacuum. He was aware of neither the MOU entered into between WLR and the ministry, nor the role of the NGO network, Rede Came, in implementing the MOU. Moreover, he originally seemed to think Ms. Abdula and Ms. Theisen were simply staff of one of the interested NGOs. That the ministry never briefed him is telling. Also, he was unaware of the many technical resources "ready and waiting" to be lent to the initiative, once a more workable draft had materialized. For example, he had no knowledge that WLR was working to bring an expert from the South African Law Reform Commission to Maputo to work one-on-one to harmonize the Mozambican draft with the South African one. Also, he was unaware of USAID's involvement or that of the U.S. Embassy.

Once Ms. Theisen and Ms. Abdula fully briefed him, including the reasons for U.S. Government interest in this issue, Mr. Balate immediately became more forthcoming, and appeared to have a renewed commitment to his assignment. He invited Ms. Abdula to contact him directly henceforth, and said he would also welcome technical input into his next draft. (Note: As the meeting progressed, Mr. Balate increasingly distanced himself from the first draft, readily acknowledging its drawbacks.) Ms. Abdula then informed him he can expect technical assistance in the future from two experts already poised to assist: Carlos Serra of the law school and magistrates school, and Lazaro dos Santos, of the human rights organization. Ms. Theisen indicated that she, too, would submit technical comments to his next draft.

At the conclusion of the long meeting, Mr. Balate said he would have a much better draft to WLR by Monday, November 20.

Ms. Nely Chimadza, Program Officer, IOM Mozambique, Maputo, November 14, 2006

Ms. Theisen and Ms. Abdula paid IOM a courtesy visit, thanking Ms. Chimadza for IOM's support for this initiative. The Maputo IOM office was instrumental in securing the attendance of Mr. Pieczkowski at the Rede Came-sponsored training sessions in May and September of 2006, and have been available as a resource for Ms. Abdula. The group discussed problems with the

Ministry of Justice, and agreed that there is no way to bypass them, since the only other legal reform office within the executive branch, UTREL, did not have the mandate. (It had been decided in late 2005 that the Ministry of Justice, not UTREL, would manage the development of new legislation on trafficking in persons. This is unfortunate, not only because the Ministry of Justice is so slow, but because UTREL has responsibility for developing a new criminal code and criminal procedure code, and trafficking in persons and witness protection provisions should find their way into both.)

Working Group session (NGOs only), Hotel Mozambicano, Maputo, November 16, 2006

Rede Came convened a meeting of the Working Group to discuss status of the draft TIPs law. Representatives of six NGOs attended, along with one representative of the Ministry of Interior. The following NGOs participated: the Fórum de Educação Cívica (FECIV), ForumMulher, the Southern Africa Network Against Trafficking and Abuse of Children/Foundation for Community Development (SANTAC/FDC), the Mozambican Human Rights League (LDH), Terres des Hommes, and Rede da Crianca, a youth organization. Rede Came had tried to invite Mr. Assubuji and Mr. Macassar, but could not reach them.

After Mr. Manjate summarized the comments made to the first draft, and noted the difficulties in engaging the Ministry of Justice, the group brainstormed on how they could push the process forward. They discussed whether the NGOs should simply develop their own draft and present it to the MOJ as an alternative, which risked alienating the ministry. The group decided to request a meeting with Minister Machavele herself, and to send the written request for the meeting the following Monday, November 20th. The group agreed on the contents of the letter: thank the ministry for “taking the initiative” on this process, applaud the first draft, suggest substantive changes to the first draft, and request a meeting between the minister herself and the NGOs. The NGOs that would sign the letter would be: LDH, FECIV, SANTAC/FDC, Rede Came, FormMulher, and Rede da Crianca.

Ms. Theisen informed the group that she and Ms. Abdula, USAID, and the U.S. Embassy already have a request in to the ministry for a meeting, with various proposed meeting times, the last one for Tuesday, November 21st. The group discussed the merits of Carlos Manjate attending Ms. Theisen’s meeting, should it materialize, but all decided the NGOs should not be closely identified with USAID-funded WLR, which was a wise decision.

Jessica Zaman, Leonel Miranda, Angela Abdula, Maputo, November 20, 2006

Ms. Theisen met with Ms. Zaman, Ms. Abdula, and Mr. Miranda the afternoon of November 20 to learn if the U.S. Embassy had been successful in securing a meeting with the Minister of Justice for November 21st, the last day Ms. Theisen was to be available. Unfortunately, despite daily calls from the embassy’s protocol office to the minister’s office, the embassy still had not received a commitment to meet. Again, this Ministry of Justice was proving to be particularly difficult to work with.

At that meeting, Ms. Theisen used her cell phone to call Mr. Macassar, who fortunately answered. Ms. Theisen inquired about the U.S. Embassy’s request to meet with the minister

about the draft law, delivered to the ministry on November 13th. Although Mr. Macassar is the focal point for TIPs issues, he claimed he was unaware of this request. Ms. Theisen asked what needed to be done in order to get a meeting with the minister, and indicated that she had postponed her return trip to the U.S. by one day specifically to keep one more day open to hopefully meet the minister. After a long discussion, in which Mr. Macassar claimed there was nothing he could do, Ms. Theisen eventually got a commitment from Mr. Macassar that he would check with the minister's secretary to see if the office had in fact received the U.S. Embassy's request for a meeting, whether the minister saw this request, and whether the minister intended to honor the request. (Baby steps.) Ms. Theisen also requested that, if at all a possible, the meeting occur on November 21st, as she was returning to the U.S. that evening.

It was after this phone call that Ms. Theisen and Ms. Abdula agreed with Ms. Zaman to a new timetable for the development of a TIPs draft. Whereas Ms. Theisen was originally aiming for a draft by the end of April, given difficulties with the ministry, as illustrated once again during Ms. Theisen's phone call to Mr. Macassar, it was clear more time would be needed. Ms. Zaman recommended aiming for completion by June or July of 2007.

Dr. Alybachir Macassar, Advisor, Ministry of Justice, and Angela Abdula, Maputo, November 21, 2006

The day of Ms. Theisen's departure, she received good and bad news: the good news was that the Ministry of Justice responded to the U.S. Embassy's request for a meeting and agreed to meet, finally. The bad news was that the meeting would occur on November 22nd, after Ms. Theisen's departure.

WLR nevertheless sought to meet with Mr. Macassar, who agreed, and joined Ms. Theisen and Ms. Abdula for lunch. During that working meeting, Mr. Macassar spoke in vague terms about his frustration with the slow process, and said he was looking forward to the meeting on the next day. Mr. Macassar implied that Minister Machavele was the source of delays.

UPDATE

As of this writing, December 11, 2006, the following has occurred:

The meeting with the MOJ occurred on November 22, 2006. Ms. Abdula reported to Ms. Theisen that the minister expressed strong support for the draft law, and surprise and disappointment at the delays. She indicated she wanted the delays to stop, and asked that the drafters produce a second, much improved draft law by the end of November. She also discouraged her staff from shielding the drafters from Ms. Abdula and Rede Came.

The drafters produced a second, and much improved, draft on November 29. The working group assessed this draft on December 1st, and all have until December 15th to submit written comments.

Rede Came has contracted with two experts to provide technical input. Ms. Theisen, who received the English version on December 7th, is writing her comments and will submit them the week of December 11th.

Also during the week of December 11th, Ms. Theisen, Ms Abdula and Mr. Manjate will negotiate the contract amendment.

It is universally understood that Maputo and the rest of Mozambique “shuts down” for the holidays, and is not open again for business until February. The goal, then, is to refine the drafts between now and the end of February, hold public hearings on a draft in March, hold the technical drafting workshop with SALRC in April, and produce a draft by May. Given the slow pace of this project, however, all anticipate this process could take until June or July.