



## Poor public consultation in the legislative process impacts negatively on business activity

- To reverse the scenario, civil society is drawing up a proposal which should ensure obligatory consultation of “relevant actors” before the approval of normative provisions.

In an action coordinated by the Association of Trade, Industry and Services (ACIS), an organisation that seeks to establish an ever better business environment in the country, the private sector is drawing up a proposal to oblige legislators to consult what could be called “relevant actors” before the approval of legal instruments.

The idea underlying the civil society proposal seeks essentially to ensure that “the relevant actors” participate effectively in national legislative production. The mandatory nature of the consultation should

thus be clearly stamped on the proposal under preparation, thus ensuring that the laws passed are in agreement with the interests of the majority (the people).

The objectives of civil society consist of contributing to an improved analysis of legal proposals and bills, leading to a more creative and sustainable development, supported in the concerns of the interested parties who are affected by such norms. It is also intended to define clearly the process of public participation, and allow anticipation of problems arising in the application of the norms, guarantee-

ing their proportionality and fairness. Civil society hopes that such measures will lead to greater transparency and participation and less waste in legislative production.

The document is currently at the stage of broader consultation within civil society, but a preliminary draft has already been submitted to the Mozambican government.

Representatives of the business sector and of civil society in general converge in the perception that the lack of prior public consultation in the creation of laws amounts to disrespecting and flagrantly

violating the Constitution of the Republic (CRM), since it is a constitutional right and duty. Furthermore, the absence of consultation, particularly of the business sector, turns the day-to-day life of business people into a real headache.

Businessmen and academics believe that this is a reality which should be altered urgently, if the country really does want to become a regional and world reference point in terms of a favourable, sustainable, attractive and competitive business environment.

# A national agenda to reverse the scenario

Chairperson of the ACIS management board, Carlos Henriques

The chairperson of the ACIS management board, Carlos Henriques, explains that, in general, what is intended with the proposal is that the public has a word to say whenever legislators think of pushing ahead with legislation which affects, for example, business activity.

Carlos Henriques has no doubt that legislative production without any consultation is an obstacle to business activity, since a significant part of the legislation currently in force goes in quite the opposite direction to creating conditions to improve the business environment.

Furthermore, rebukes Henriques, there are cases in which laws are deliberately passed with the sole purpose of protecting the State, without considering the kind of constraints that legislation protecting the state may create among business people.

"The Constitution envisages involvement of the public in the legislative process, but we don't have any law that deals with this matter in specifics. What has happened systematically is that the State, as regulator, decides that, for its comfort, or for its own reasons, this piece of legislation is what should be in effect" – says the ACIS official.

By way of example, Henriques pointed to the new decree on immigration which obliges foreigners to obtain an entry visa for Mozambique in their country of origin, barring any possibility of them obtaining the visa on their arrival at the Mozambican borders. This decree also obliges those in Mozambique in charge of the visitor's stay to fill out a "liability note". The immigration authorities have the prerogative of taking 30 days to process this liability note. Only later can the person concerned begin the normal process of obtaining a visa. This is greatly damaging to the private sector, which needs to operate with speed.

Carlos Henriques believes that such situations could be avoided if the bodies with legislative power were to consult some "relevant sectors" before adopting new legal provisions.

However, one of the main criticisms of the national public administration is that, although good legal provisions exist, their implementation leaves a great deal to be desired.

We asked Carlos Henriques about the possibility of the same thing happening to the document drawn up by civil society. He responds that the focus must be on a change in society as a whole. For a start, he suggests the adoption of what he calls a "national agenda".



“

legislative production without any consultation is an obstacle to business activity, since a significant part of the legislation currently in force goes in quite the opposite direction to creating conditions to improve the business environment.

”

"My phrase this year is that we need a national agenda. A national agenda could change the way we are creating, day after day, administrative barriers to business. It can change the way we are creating obstacles to investment in the country. And business people don't wait. They will invest somewhere else, in other countries where it is easy to invest. Where the rules are clear. What is happening is that day after day we say we are a country in favour of investment/business and development, but we have a situation where, inside the State bodies, we are creating more and more barriers. And we calmly accept all of this" – explains Henriques.

"The way we are working, we won't get anywhere. So let's change what has been our principle: this idea that a businessman is a bandit, and so we must have total control over him (which is the attitude today of many state officials) is also reflected in citizens. The individual on the other side of the counter, attending to the citizen is the one who knows. He's the one who has power. He's the one who decides. And this isn't going to get us

anywhere. Thus more demands affect the way I do business, and this is reflected in citizens".

Henriques adds: "A short while ago, we talked of the costs of using Mozambican ports for merchandise, at the Mozefo conference on infrastructures. Compared with the South African ports, we are at a great disadvantage, because the costs in our ports are three times higher. It's this that we say must change. And somebody has the obligation to listen to these complaints, because they're real. They're not invented".

One of the immediate consequences is weak business competitiveness and also the high costs which, at the end of the day, damage the business sector.

In this context, the business sector expects the proposal for public participation in the legislative process to be received positively by the relevant bodies, so that all Mozambicans may see themselves reflected in the legislation that is passed.

# "Model of representation is problematic"

Political scientist - José Jaime Macuane

As the top legislative body in the country, the Assembly of the Republic (AR) is responsible for producing the majority of the legal provisions which comprise the national legal framework. However, the party representation of the Assembly is a problem.

In the opinion of the political scientist José Jaime Macuane, the model of party representation means that the deputies represent, de facto, party interests – despite the fact that they were elected by provincial electoral constituencies.

"Practice shows that the groups in the vanguard are those which manage to have their opinions accepted. For example, the law against domestic violence, the land law, or the law on violence against women were passed with a very strong level of pressure. They were institutions with some level of organisation which coordinated and had excellent results" – recalled Macuane who, in addition to his research activities, is a university lecturer.

In this situation, other, less well organised groups, but with legitimate interests, are unable to push their opinions through, and are excluded from the public debate around legislative proposals. Hence Macuane stresses

“

Practice shows that the groups in the vanguard are those which manage to have their opinions accepted.

”



the importance of finding a mechanism to ensure that parliamentary deputies feel "obliged" to take into account the interests of broader groups with a lower level of

organisation.

He adds that a further aspect which should merit attention in the civil society document on public participation is to ensure that, af-

ter sensibilities have been consulted, there is space for them to be duly and fully included in the legal provisions under discussion.

# The will of the legislator should not override the public interest

Luis Siteo, the executive director of the CTA

For his part, Luís Siteo, the executive director of the Confederation of Mozambican Business Associations (CTA), stressed the benefits, not only for civil society but also for the State, of the possible approval of a legal provision making public consultation mandatory.

"This document strengthens the idea that this consultation should be undertaken some time in advance. Often we receive a request for an opinion to be given in a period of less than 24 hours, and this does not allow us to involve all the interested parties, because we are only the spokesperson of a wider group. And it is not a question just of consulting Maputo, but the entire country. And we need time for this", he says, adding "this law will help in that the consultation is not just to comply with a constitutional obligation, but to guarantee effective participation by the public in the legislative process".

According to Siteo, one of the great problems resulting from the absence of prior consultation is the dispersal of resources, since there are cases where, after a piece of legislation has



been passed, the same legislators recognise that it is inopportune, and beat a retreat.

The public, and especially the business sector, also suffers financial and moral losses, since "there are laws which turn the business class into criminals who do not obey the law", stresses Siteo.

"This does not happen because the business class really disrespects the law, but because things are passed which are simply not applicable to our reality. And why? Because they did not listen to the other side. Either they cannot be implemented at all, or implementation is complicated, turning business people into criminals, transgressors, disobedient to the law".

These questions, Siteo believes, should be in the conscience of any and every legislator.

"We elect our representatives. Their will cannot be superior to ours. The need for consultation should be a plan. And so I believe it is in the interest – and if it is not, it should be – of those who legislate, to consult those who are the objects of the law", says the executive director of the CTA, who also believes that the current civil society proposals will merit a positive reception.

# A legislative guide would be more pertinent

The jurist and researcher of the Centre for Public Integrity (CIP), Baltazar Fael

**T**he jurist and researcher of the Centre for Public Integrity (CIP), Baltazar Fael, agrees with the pertinence of legislating on public consultation in the production of laws, but has some reservations about the application of the resulting legislation by those who have the power to legislate. For Fael, "our problem is not laws, but the awareness of people, since consulting the public before legislating is apparent in the Constitution, yet people are not consulted".

For this reason, Fael argues that first a legislative guide should be produced, in which all the steps of public consultation are indicated and exhaustively explained. He goes further, adding that this provision should establish that no law will be passed if any of the steps defined is not complied with.

"It involves raising the awareness of deputies and others so that they know what a law is. We can produce something which makes consultation mandatory, but what will happen if they don't consult?" Fael asks. ■



## Association of Commerce, Industry and Services

### Fiscal Calendar–October 2015

Until the 10th	Delivery, in the Directorates of Tax Areas for Public Services, revenue collected by them in the previous month
Until the 20th	Payment of IRPS and IRPC, withholding for the previous month, paragraph 3 of article. 29 of the IRPS Code of Regulation, approved by Decree No. 8/2008 of 16 April and paragraph 5 of Article 67 of the IRPC Code, approved by Law No. 34/2007 of 31 December
Until the end of the month	VAT payment for the previous month by the taxpayers of ordinary law, paragraph 1 art.32 of the VAT Code, approved by Law 32/2007 of 31 December  ISPC payment for the previous quarter, paragraph 1 of article 15 of the ISPC Regulation, approved by Decree No. 14/2009 of 14th April  Payment of 3rd Provision for Special Payment on IRPC; number 1 of art.71, the CIRPC Regulation, approved by Law 34/2007 of 31st of December

## IMMIGRATION DEMANDS A LIABILITY NOTE FOR BUSINESS TRAVEL

# Businesses deplore increase in administrative barriers

**A**t a time when the country continues to record a considerable increase in private investment, both national and foreign, in business circles there is a prevailing feeling that the business environment remains "less than acceptable". Administrative barriers and red tape are at the top of the concerns of business people, since they are a reality which damages anyone seeking favourable conditions for investment.

The private sector argues that one indicator of this reality is the recent approval by the Council of Ministers of Decree 108/2014 (of 31 December), entitled "regulations that establish the legal regime applicable to the entrance, stay and departure from the country of foreign citizens", which abolished the previous norms.

Before this decree took effect, foreign citizens were able to obtain entry visas at Mozambican borders, if they met certain conditions. But the new provision imposes, in almost all cases, the need to present a "liability note" in favour of the visitor.

Meeting the requirements indicated in the new regulations is a slow and laborious bureaucratic process, which rules out the flexibility necessary for handling and closing business contracts.

Faced with this reality, the business sector believes that the Mozambican authorities are going in the opposite direction to the public discourse on promoting investment. The business class also believes that by pressing ahead with this legal provision, the government, through the National Immigration Directorate, did so without considering the type of constraints that it might impose on the private sector.

In order to understand the real implications of the decree for business activity, ACIS ordered a case study from the law firm Sal & Caldeira. Although accepting the underlying reasons and objectives, specifically the need for greater border control, the study finds that the decree is not opportune. It found that, one of the main problems with the decree concerns the fact that the mechanisms for its application are not clearly typified, which opens space for doubtful readings, interpretations and forms of application.

"However, it should be understood that the process of pre-approval, as described above, is becoming a condition for obtaining an entry visa. This process becomes enshrined in law when the law determines that the requirements for obtaining an entry visa, in addition to those listed in the law,



can be others deemed necessary" – notes Sal & Caldeira.

The study recommends that, at government level, there should be greater coordination and consultation to ensure a better definition, for example, of the processing deadlines.

"Bearing in mind that any change to the law is a slow process, in order for us to obtain an effective and speedy scheme in the short term, the ideal is to define the current system of pre-approval implemented by the Immigration Services in a consultation with the Ministry of the Interior so as clarify the processing times and the situations in which pre-approval should be dispensed with, especially when there is an agreement signed with the Government, under which the government is obliged to facilitate visas, and other exceptional situations mentioned in this report" – the document says.

Business sector was not consulted  
For the chairperson of the ACIS management board, Carlos Henriques, the new legal provision can be shown to be inapplicable because of the long waiting time required to obtain a reply from the authorities. And the response is not always positive.

"Now there's what is called a liability note, which must be submitted to the immigration authorities for the visa request. Let's suppose that I am a company which exports fresh produce. If I have a complaint from a client abroad, this client must have access to my installations or my place of production tomorrow, to see what kind of situation exists there. But today the Immigration Services have devised a system which has nothing to do with the need to employ and to create more jobs, but simply to protect the Immigration Services as a body that



Immigration Services have devised a system which has nothing to do with the need to employ and to create more jobs, but simply to protect the Immigration Services as a body that regulates entry at the borders



regulates entry at the borders" – says Carlos Henriques, expressing his disagreement with the demands of the new immigration regulations.

Although he also recognises the pertinence of greater border control, Henriques believes that it is unthinkable to adopt a solution which puts at risk the normal functioning of other areas of activity.

"This situation in no way helps business life and activity. This system is null and void because it simply doesn't work. We, as the business sector, we weren't consulted. We were not taken into consideration. This can't go on. When a new piece of legislation is to be produced, we must have at least 30 days prior notice, and they must ask us what comments we have. This would create the space for us to draw attention to aspects which are not being safeguarded for business people", says Carlos Henriques. ■

ACIS

# Recently Released Legislation

## From July to 9<sup>th</sup> of September

### Decree No. 18/2015 of 28th August 2015

→ Approves the Regulation of Registration and Activation of Subscriber Identity Modules Mobile Service SIM Cards

### Decree No 19/2015 of 28th of August 2015

→ Revise the Decree No. 11/2014 of 26th March establishing the General Inspectorate of Labor-IGT

### Decree No 20/2015 of 4th of September 2015

→ Establishes the rules and criteria to be considered for the classification of districts and urban areas

### Decree No 21/2015 of 9th of September 2015

→ Approves the Organic Structure of the Provincial Government

### Resolution No. 29/2015 of 2nd September 2015

→ Ratifies the Protocol on Facilitation of Visa Business Grant between the Government of the Republic of Mozambique and the Government of the Federative Republic of Brazil

### Law No. 4/2015 of 19th June 2015

→ Authorizes the Government to establish the Irrigators Associations Legal Framework

### Law No. 5/2015 of 19th June 2015

→ Authorizes Government to review the Decree-Law No. 45968 and its regulations approved by Decree 45969, both of 15th October 1964, relating to the Maritime Registration, Registration and Ship Capacity Merchant Marine and Fisheries

### Resolution No. 14/2015 of 8th July 2015

→ Approves the Ministry of Mineral Resources and Energy Organic Statute

### Resolution No. 17/2015 of 10th July 2015

→ Approves the Ministry of Education and Human Development Organic Statute

### Resolution No. 18/2015 of 10th July 2015

→ Approves the Ministry of Gender, Child and Social Welfare Organic Statute

### Resolution No. 30/2015 of 2nd September 2015

→ Ratifies the Agreement between the Government of Mozambique and the Government of the Italian Republic for the implementation of the initiative called Decentralization and Development of Local Health Systems - Health Area Mavalane, Maputo City

### Decree No. 18/2015 of 28th August 2015

→ Approves the Regulation of Registration and Activation of Subscriber Identity Modules Mobile Service SIM Cards

### Decree No. 19/2015 of 28th August 2015

→ Revise the Decree No. 11/2014 of 26th March establishing the General Inspectorate of Labor-IGT

### Decree No. 20/2015 of 4th September 2015

→ Establishes the rules and criteria to be considered for the classification of districts and urban areas

### Decree No. 21/2015 of 9th September 2015

→ Approves the Organic Structure of the Provincial Government

### Resolution No. 29/2015 of 2nd September 2015

→ Ratifies the Protocol on Facilitation of Business Visa between the Government of the Republic of Mozambique and the Government of the Federative Republic of Brazil

### Resolution No. 30/2015 of 2nd September 2015

→ Ratifies the Agreement between the Government of Mozambique and the Government of the Italian Republic for the implementation of the initiative called Decentralization and Development of Local Health Systems - Health Area Mavalane, Maputo City

### Notice No. 4/GBM/2015 of 17th June 2015

→ Approves Guidelines on Prevention and Suppression of Money Laundering and Financing of Terrorism

### Law No. 3/2015 of 12th June 2015

→ Authorizes the Government to establish the Legal Regime of the Public Limited Sports Companies designated SAD's

### Ministerial Decree No. 78/2015 of 29th May 2015

→ Regards the process for the licensing of electrical installations of the 7th category, requiring processing station

### Ministerial Decree No. 79/2015 of 5th June 2015

→ Approves the applicable fees table for procedures performed by the Regulatory Competition Authority

### Ministerial Decree No. 80/2015 of 5th June 2015

→ Approves the Regulation of Proof of Life of officials and state agents

### Ministerial Decree No. 81/2015 of 12nd June 2015

→ Regards the revenues from the recovery of the Navigation Helps Rates (TANAV)

### Decree No. 11/2015 of 10th June 2015

→ Assigned to the holders of the organs and government institutions the competence to make the changes (transfers and realloca-

tions) of budget appropriations in each level

### Decree No. 12/2015 of 10th June 2015

→ Establishes standards and General Criteria of Organization of the Ministries

### Deliberation No. 1/CC/2015 28th May 2015

→ Regards the processing of the special seniority granting process Board of Judges of the Constitutional Council

### Resolution No. 2/CSMJA/2015 of 5th June 2015

→ Approves Training Policy of Judges of the Administrative Jurisdiction

### Order of 15th May 2015

→ Concernente à criação, entrada em funcionamento e especialização de algumas secções de Tribunais Judiciais de Províncias e distritos

### Resolution No. 10/2015 of 12th May 2015

→ Ratifies the Credit Agreement No. 5546-MA and Grant No. H994-MZ and GEFTF019022 between the Government of the Republic of Mozambique and the International Development Association, on 21st of April 2015, in Maputo, amounting to USD 11,700,000 (eleven million seven hundred thousand US dollars), USD 18,300,000 (eighteen million, three hundred thousand US Dollars) and USD 7,000,000 (seven million US Dollars) to finance the project to support governance and Shared Growth of Fisheries in Southeast Indian Ocean respectively.

### Resolution No. 11/2015 of 12th May 2015

→ Ratifies the Agreement of Grant TF017403 between the Government of the Republic of Mozambique and the International Development Association, on 21st of April 2015, in Maputo, amounting to EUR 2,975,000 (two million, nine hundred and seventy-five thousand Euros) for financing the Project of Artisanal Fisheries and Climate Change

### Resolution No. 12/2015 of 12th May 2015

→ Ratifies the Credit Agreement No. 5602-MZ, between the Government of the Republic of Mozambique and the International Development Association, on 22nd of April 2015, in Maputo, in the amount of USD 73,600,000 (seventy-three million and six hundred thousand dollars) for the financing of Phase III of the draft Roads and Bridges Maintenance and Management

### Resolution No. 13/2015 of 12th May 2015

→ Ratifies the Credit Agreement No. 5581-MZ, between the Government of the Republic of Mozambique and the International Development Association, on 22nd of April 2015, in Maputo, in the amount of USD 50,000,000 (fifty million Dollars) for the financing of the 2nd agricultural Development Policy (Agd-PO-2

ASSOCIATION OF COMMERCE, INDUSTRY AND SERVICES

# New Members – Up to September

LOGO	NAME	COMPANY DESCRIPTION	CONTACT DETAILS	REPRESENTATIVE
	CONFORLAR, Lda.	The Conforlar Lda. is a Mozambican firm, specializing in the manufacture and marketing of foam mattresses, foam, spring mattresses, beds, bases, headboards, ottomans, chairs, armchairs and sofas.	+258 21720585 gf@conforlar.co.mz	Guilherme Folhadela
	ControlRisks, SA	Control Risks is an independent, global risk consultancy specializing in political, security and integrity risk.  We help our clients to understand and manage the risks of operating in complex or hostile environments.	+ 27 11 463 5960 henk.dubruyn@controlrisks.com	Henk Du Bruyn
	FLSMIDTH Mozambique, Lda.	FLSMIDTH offers a broad range of equipment and processes, including: metallurgical testing, characterization, design, engineering, crushing, grinding, classifying, flotation, thickening and clarifying, vacuum and pressure filtration, pyro processing, material handling, slurry handling, automation, along with OEM quality replacement parts, modernization services and other after-sale services.	+258 842 721 261 louis.dutoit@flsmidth.com	Louis Du Toit
	ICE Seguros SA	ICE Seguros is a Mozambique licensed Property and Casualty Insurer who specializes in providing insurance cover to multinational brokers, clients and global programs.	+258 21 486 612 mdamant@iceafrica.com	Michael Damant
	Investe Imóvel, Lda.	'The InvesteImóvel main business is the Real Estate offering a personalized service to all clients. In addition, provides offices for rental in 2 business centers in Maputo, namely, Maputo Business Center (www.maputobusinesscenter.com), and Polana Business Center (www.polanabusinesscenter.com), and Acacia INN Guest House (www.acaciainnguesthouse.com) also in the center of Maputo city.	+258 21 498318 elsasantos@investeimovel.co.mz	Elsa Santos
	MB Consulting Lda.	MB Consulting (MB), is a medium-sized enterprise (SME), 100% Mozambican, with more than 50 experienced and dynamic young consultants. Between frames, are trainees in training, Juniors and Seniors, and its administrative staff composed by administrative and support personnel, finance team, human resources, logistics and marketing, ensuring support to ensure the necessary support for the success of consultants.	+258 21 49 24 69 mariam@mbconsulting.co.mz	Mariam Umarji

ASSOCIATION OF COMMERCE, INDUSTRY AND SERVICES

# New Members – Up to September

LOGO	EMPRESA	DESCRIÇÃO DA EMPRESA	CONTACTO – E-MAIL	REPRESENTANTE
	Moza Fleet Services, Lda	The Moza Fleet Services, Ltd. offers the following services: <ul style="list-style-type: none"> <li>• Long term rental with maintenance;</li> <li>• Fleet management;</li> <li>• Operational leasing;</li> <li>• Maintenance management;</li> <li>• Insurance management;</li> <li>• Tracking.</li> </ul>	+258 21 48 77 Samuel.manhique@mozafleet.com	Samuel Eugénio Manhique
	Ping Serviços, Lda.	Ping Services is a company with 100% of Mozambican capital, operating in the sectors of Communications and Information Technology, Electronics and Services in various areas, with the vision to be a reference in all sectors and operates the mission of providing our services reliability and security, in competitive terms, offering solutions that exceed customer expectations.	+258 21 400 383 robertomavume@pingservicos.co.mz	Roberto Mavume
	Proconsult, Lda.	PROCONSULT, LDA is an independent consulting firm, founded in 2002 and based in Maputo. Currently has a portfolio of more than 50 companies in Mozambique and employs more than 20 professionals with partnerships in South Africa and Mauritius.	+258 21 328669 nac@proconsult.co.mz	Nilsa Abdul Carimo
	Touch Publicidade	Touch Advertising develops: <ul style="list-style-type: none"> <li>• Communication strategies for business, people and products;</li> <li>• Conception and ad design (advertisements) and advertising campaigns;</li> <li>• Consulting and image advisory and Public Relations;</li> <li>• Media Management;</li> <li>• Design, coordination and production of events, including promotional events;</li> <li>• Creation and multimedia content management.</li> </ul>	+258 21496037/8 ben.antonio@touch.co.mz	Breznivio António

## FICHA TÉCNICA

**Propriedade:** ACIS - Sede - Avenida Poder Popular nº 264, Prédio AMI, Beira - Moçambique - Tel: +258 23325997 - Fax: +258 21019527  
Sucursal: Av. da Marginal, parcela 141C, Edifício da Goba Alliance Seguros, Maputo Tel: +258 21244326 - Fax: +258 21494785

**Coordenação e Redação:** Comtexto, Lda  
**Layout e Maquetização:** Gráfica Lizo Design  
**Fotografias:** Life style, El  
**Periodicidade:** Mensal

# emprego

Visite [www.emprego.co.mz](http://www.emprego.co.mz)

Candidatos  
**82,689**



Masculino  
**52,7%**



Feminino  
**47,3%**

Idade

25-34 **37,14%**  
35-44 **22,60%**  
18-24 **21,32%**  
45-54 **13,17%**  
55+ **5,79%**

País

1. **Moçambique**  
2. **Quénia**  
3. **Países Baixos**  
4. **Portugal**  
5. **África do Sul**

Cidades mais procuradas

1. **Maputo**  
2. **Nampula**  
3. **Beira**  
4. **Tete**  
5. **Pemba**

Categorias mais procuradas

1. **Informática**  
2. **Administração**  
3. **Finanças**  
4. **Manutenção**  
5. **Gestão**

## ESTATÍSTICAS DE EMPREGO Agosto 2015

Relatório do mercado laboral online