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TOURISM CONCESSIONS IN PROTECTED AREAS IN MOZAMBIQUE

MANUAL FOR OPERATORS AND CONCESSIONAIRES

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TOURISM CONCESSIONS IN PROTECTED AREAS IN MOZAMBIQUE

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GLOSSARY

TERM	GENERAL MEANING	LEGAL MEANING IN MOZAMBIQUE
<p><i>Community Legal Entity</i></p> <p><i>Entidade Legal Comunitária</i></p>		<p>A legal vehicle incorporated by community members for the purposes of entering, as one, as a business, into contractual arrangements with the private and public sector, which can take the form of a civil non profitable association (with a business extension), or farming–livestock cooperative.</p>
<p><i>Concession</i></p> <p><i>Concessão</i></p>	<p>Commercial operation governed by a private enterprise (the most common scenario), by an NGO or other not-for-profit organization, by a local government, or by a Park Agency’s employees. A concession provides public service and may require some capital investment by a concessionaire for buildings, equipment and operating costs. A concession could provide accommodation, food and beverage, recreation, education, retail, and interpretive services (Eagles et al, 2009).</p> <p>The rights, whether full or restricted or shared or exclusive to conduct tourism activities and/or to commercially use state-owned plant and/or animal resources (collectively referred to as wildlife resources) on business principles in proclaimed protected areas and any other State Land for a specified period of time (Republic of Namibia, 2007)</p>	<p>In Portuguese, the scope of the word concession is wider than its legal meaning (vd below in Concession Contract) and includes the “giving away, releasing” of rights and possessions, and is legally also used as “the discretionary granting of...” (visas, permits).</p>
<p><i>Concession Contract</i></p> <p><i>Contrato de Concessão</i></p>	<p>For any concession to operate there must be a legal agreement between a country's government authorities, administered through a protected area agency, and a concessionaire. It contains regulatory and contractual provisions to be respected by both parties (Eagles et al, 2009).</p> <p>The written agreement between the Park and partner, specifying the rights and obligations of both parties. It might also be called a concession agreement, lease, management or services contract, or by various other names. The descriptive term is important only as it is understood by the Park, in the country, and generally within the context and for the purpose it</p>	<p>According to the PPP legislation, a type of partnership agreement between public and private sector.</p>

TERM	GENERAL MEANING	LEGAL MEANING IN MOZAMBIQUE
<p>Concession Development Processes</p> <p><i>Processos de Desenvolvimento de Concessões</i></p>	<p>is intended (Dornbusch, 2011).</p> <p>Steps involved in the development of tourism concessions, which include: Establishment/clarification of the Legal Framework, Planning, Procurement, Contracting, Management, Monitoring, and Enforcement.</p>	<p>According to the Public Private Partnership (PPP) legislation, the processes entail the following stages:</p> <ul style="list-style-type: none"> × Conceptualization × Definition of basic guiding principles × Drafting of technical, environmental and economic-financial feasibility studies × Promotion and launching of tenders × Analysis and evaluation of the proposals × Negotiation × Adjudication × Implementation × Management, running and maintenance × Monitoring and evaluation × Devolution
<p>Concession Models</p> <p><i>Modelos de Concessão</i></p>	<p>Alternative ways of public and private parties cooperating in designing, building, operating and developing a tourism project in protected areas (PAs).</p>	<p>The available legal options are:</p> <ul style="list-style-type: none"> × Public departments are created to manage PAs: <ul style="list-style-type: none"> ○ Tourism operations and activities by the private sector (PS) and Communities' subject to license × Contractual delegation of rights by the Council of Minister (CM) to a third party: <ul style="list-style-type: none"> ○ Over the whole PA, a Co-management contract with the private sector: <ul style="list-style-type: none"> ▪ Involving the creation of a mixed nature Special Purpose Vehicle (SPV) ▪ Not involving the creation of a mixed nature SPV ○ Over specific areas/sites, a Concession contract: <ul style="list-style-type: none"> ▪ Directly with the Private Sector ▪ Directly with Local Communities (or other appointed entity) requiring Private Sector subsequent involvement/participation × Conservation management rights, including of concessioning, granted by law to a national PA agency (in the form of a public institute with administrative and financial autonomy)
<p>Concession Regimes</p> <p><i>Regimes base de</i></p>	<p>Ownership of the land, resources and facilities in PAs, which can be Public, Community owned or Private.</p>	<p>Constitutionally, the ownership of the land, resources and facilities in PAs is vested with the State.</p>

TERM	GENERAL MEANING	LEGAL MEANING IN MOZAMBIQUE
<i>Concessões</i>		
DUAT <i>Direito de Uso e Aproveitamento da Terra</i>	Property rights include (minor) rights: to (exclusively) own, possess, use, benefit from assets and resources.	Land legislation defines the DUAT as a titled or customary right to use and develop the land (according to an exploration plan).
Ecotourism <i>Ecoturismo</i>	<p>Ecotourism is used to mean forms of tourism which have the following characteristics:</p> <ul style="list-style-type: none"> × Nature-based forms of tourism in which the main motivation of the tourists is the observation and appreciation of nature as well as the traditional cultures prevailing in natural areas × With educational and interpretation features; × It is generally, but not exclusively, organised by specialised tour operators for small groups. Service provider partners at the destinations tend to be small, locally owned businesses; × Minimizes negative impacts upon the natural and socio-cultural environment; × Supports the maintenance of natural areas which are used as ecotourism attractions by: <ul style="list-style-type: none"> ○ generating economic benefits for host communities, organisations and authorities managing natural areas with conservation purposes, ○ providing alternative employment and income opportunities for local communities, ○ increasing awareness towards the conservation of natural and cultural assets, both among locals and tourists (UNWTO, 2001) 	According to the Tourism legislation, Ecotourism means a set of tourism activities developed in natural areas, ensuring conservation of the environment and the well being of local communities, with the involvement of tourists and consumers of tourism products and services.
Equity Arrangements OR Institutional Models <i>Formas de investimento OU Modelos</i>		<p>Currently in Mozambique, the scenarios include:</p> <p>Public sector's role:</p> <ul style="list-style-type: none"> × Conceding authority And /or × Shareholder in the Special Purpose Vehicle SPV: <ul style="list-style-type: none"> ○ Funding options: non recoverable investment; shareholder loans or exempt from funding/financing obligations

TERM	GENERAL MEANING	LEGAL MEANING IN MOZAMBIQUE
<i>Institucionais</i>		Communities role: <ul style="list-style-type: none"> × Lessor / Licensee And/or × Shareholder in a mixed nature SPV: <ul style="list-style-type: none"> ○ Funding options: non recoverable investment; shareholder loans or exempt from funding/financing obligations PS' role: <ul style="list-style-type: none"> × Lessee / Licensee And/or × Implementing company × Shareholder in a mixed nature SPV
<i>Institutional actor/ Stakeholder</i> <i>Actor Institucional competente</i>	A community, a public entity, a group or an individual who organises itself, takes action to gain social recognition of its own interests and concerns and is willing to assume some task and responsibility.	
<i>Legal Framework</i> <i>Quadro Legal</i>	System of official documents comprising policies, primary/constitutional and secondary/regulations legislation.	
<i>License</i> <i>Licença</i>	A permission usually revocable, to commit some act that would otherwise be unlawful (Blacks Law, 2004) Can be enacted as a License or as a Permit	
<i>Management Plan</i> <i>Plano de Maneio</i>	Park management contain statements of management objectives in sufficient detail to indicate how a park will protect and represent the natural and cultural aspects of its region. They specify the type and degree of resource protection and management needed to assure the ecological integrity of the park and the management of its cultural resources; define the type, character and locale of visitor facilities, activities and services; and identify target groups (Parks Canada, undated).	Mozambique law does not define or regulate the concept of PA (or conservation area) Management Plans, which are only referred in relation to conservation, management and use of forestry and wildlife resources.
<i>Procurement Models/Regimes</i> <i>Modelos ou Regimes</i>	Public procurement regimes: <ul style="list-style-type: none"> × Open tender × Short List tender 	Public Procurement Regime opens up for other modalities for contracting with the State (variations of Tender) and does not regulate unsolicited bids.

TERM	GENERAL MEANING	LEGAL MEANING IN MOZAMBIQUE
<i>de Selecção e Contratação</i>	<ul style="list-style-type: none"> × Unsolicited bid × Direct award 	There is no specific regime for Tourism Concessions in PAs.
Protected Area (PA) <i>Área de Protecção e Área de Conservação</i>	Area of land and/or sea especially dedicated to the protection and maintenance of biodiversity, and of natural and associated cultural resources, and managed through legal or other effective means (IUCN, 1994)	<p>Land and Forestry and Wildlife legislation definition of Conservation Areas overlaps with that of Totally Protected Areas, which are areas of public domain for conservation of biodiversity, fragile ecosystems or animal or plant: National Parks and Reserves and Zones of Cultural-Historical Value and Use, which together with the Hunting Concessions / <i>Coutadas</i> (also part of the public domain) and community programs or reserves, are qualified as conservation areas for tourism purposes.</p> <p>The recent Conservation Policy updates the categories of Conservation Areas, which now include: Total Reserve, National Park, Monument, Special Reserve (national or provincial), Protected Landscape, Biosphere, Transfrontier Conservation Area, Private Reserve, Community Reserve, and Community Sanctuary (national, provincial or district).</p>
Public-Private Partnerships (PPP) <i>Parcerias Público-Privadas</i>	A PPP is a contract between the public sector and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building, development and operation of a project (National Treasury, 2004)	<p>In Mozambique, a PPP contract will be entered when the project is developed in a public domain area, with full or partial financing of the private partner for the efficient provision of services or goods the availability of which to users is the responsibility of the state to guarantee.</p> <p>Types of contracts: Concession, Lease or Affermage, Management.</p>
Special License <i>Licença Especial</i>	The equivalent of an operational license with conservation requirements attached.	According to the Land legislation, it's a license issued (by the competent sectoral authority) for the performance of economical activities in PAs.
State Property <i>Património do Estado</i>	Includes all movable and immovable property belonging to the state as well as intellectual property rights vested in the State.	Mozambique legislation differentiates between State public domain (which includes constitutionally listed immovable actives) and private domain assets (other immovable assets and movable actives).
Tender <i>Concurso</i>		The general rule for contracting with public sector is that of the open tender.
Tourism Concession	A partnership contract between the public sector and communities or private	

TERM	GENERAL MEANING	LEGAL MEANING IN MOZAMBIQUE
Contract <i>Contrato de Concessão para Turismo</i>	sector, where special attention is given to construction/rehabilitation of infra-structures and facilities, conservation management and environmental and social responsibility (Wyman, undated)	
Tourism Concessions <i>Concessões para Turismo</i>	Commercial tourism operation governed by a private enterprise (the most common scenario), by an NGO or other not-for-profit organization, by a local government, or by a Park Agency's employees. A concession provides public service and may require some capital investment by a concessionaire for buildings, equipment and operating costs. A concession could provide accommodation, food and beverage, recreation, education, retail, and interpretive services (Eagles et al, 2009).	In Mozambique are also referred to as Concessions/Concessioning Systems, and means the granting of (delegation) rights to develop tourism activities in PA by the competent public authority: <ul style="list-style-type: none"> × Unilaterally, in the form of a (Special) License × In a mutually agreed manner, in the form of a Concession or Lease Contract
Tourism Concessions Components <i>Componentes das Concessões para Turismo</i>	Main factors affecting Contract execution and implementation include: <ul style="list-style-type: none"> × Concession qualifications × Legal responsibility × Financial responsibility × Environmental responsibility × Social responsibility 	
Tourism License <i>Alvará de Turismo</i>	A permit, unilateral act, confirming that the applicable legal requirements (technical, commercial and otherwise) are met and a tourism activity can be performed.	Tourism License regulations establish the list of accommodation sector and recreational activities tourism operational licenses.
Tourism User Fees <i>Receitas de Turismo</i>	Market-based funding mechanisms that can be used to gather significant revenues from tourism-based activities which can then be directed toward supporting PAs and other conservation efforts. The fees partially reflect the cost of supplying recreational services, the demand for natural resources, and the value that visitors place on their experience at the site. <ul style="list-style-type: none"> × Entrance Fees × Concession or Franchise Fees × Licenses and Permits (activities) Fees × Tourism-based taxes 	According to the legislation governing fees and other charges applicable in PAs: <ul style="list-style-type: none"> × Entrance Fees × Recreational and Other activities Fees × Area Occupation Fees (together, the Legal Fees) <ul style="list-style-type: none"> × Tourism-based taxes (licensing and permits) Contractually, the following contributions have been implemented: <ul style="list-style-type: none"> × Community / social responsibility × Conservation / environmental responsibility

<i>TERM</i>	<i>GENERAL MEANING</i>	<i>LEGAL MEANING IN MOZAMBIQUE</i>
<p><i>Transaction advisor</i> <i>Consultor para as negociações</i></p>	<p>A person or persons appointed in writing by an accounting officer or accounting authority of an institution, who has or have appropriate skills and experience to assist and advise the institution in connection with a PPP, including the preparation and conclusion of a PPP agreement (National Treasury, 2004)</p>	

Acronyms

AFD	Agence Française de Développement	<i>Agence Française de Développement</i>
ANAC	National Administration of Conservation Areas	<i>Administração Nacional das Áreas de Conservação</i>
AWF	African Wildlife Foundation	<i>African Wildlife Foundation</i>
BIOFUND	Foundation for the Conservation of Biodiversity	<i>Fundação para a Conservação da Biodiversidade</i>
BM	Bank of Mozambique (Central Bank)	<i>Banco de Moçambique</i>
CBD	Convention on Biological Diversity	<i>Convenção sobre Diversidade Biológica</i>
CGAC	PA Management Council	<i>Conselho de Gestão de Área de Conservação</i>
CM	Council of Ministers	<i>Conselho de Ministros</i>
CONDES	National Council for Sustainable Development	<i>Conselho Nacional para o Desenvolvimento Sustentável</i>
DNAIA	National Directorate for the Assessment of Environmental Impacts	<i>Direcção Nacional de Avaliação do Impacto Ambiental</i>
DNGA	National Directorate for Environmental Management	<i>Direcção Nacional de Gestão Ambiental</i>
DINATUR	National Directorate for Tourism	<i>Direcção Nacional de Turismo</i>
DNAC	National Directorate for Conservation Areas	<i>Direcção Nacional das Áreas de Conservação</i>
DUAT	Land Use and Development Title	<i>Direito de Uso e Aproveitamento da Terra</i>
EIA	Environmental Impact Assessment	<i>Estudo de Impacto Ambiental</i>
EoI	Expression of Interest	<i>Manifestação de Interesse</i>
GEF	Global Environmental Facility	<i>Global Environmental Facility</i>
GoM	Government of Mozambique	<i>Governo da República de Moçambique</i>
IACM	Mozambique Civil Aviation Institute	<i>Instituto de Aviação Civil de Moçambique</i>
INAMAR	National Maritime Institute	<i>Instituto Nacional da Marinha</i>
INATUR	National Tourism Institute	<i>Instituto Nacional de Turismo</i>
INSS	National Institute for Social Security	<i>Instituto Nacional de Segurança Social</i>
MF	Ministry of Finance	<i>Ministério das Finanças</i>
MIC	Ministry of Industry and Commerce	<i>Ministério de Indústria e Comércio</i>
MICOA	Ministry for Coordination of Environmental Affairs	<i>Ministério para a Coordenação da Acção Ambiental</i>
MITUR	Ministry of Tourism	<i>Ministério do Turismo</i>
MPD	Ministry of Planning and Development	<i>Ministério da Planificação e Desenvolvimento</i>
MSR	Maputo Special Reserve	<i>Reserva Especial de Maputo</i>
MPescas	Ministry of Fisheries	<i>Ministério das Pescas</i>
MTC	Ministry of Transports and Communications	<i>Ministério dos Transportes e Comunicações</i>
MZM	Metical (ais) (Mozambique official currency)	<i>Metical (ais)</i>
NGO	Non-Governmental organization	<i>ONG – Organizações não-governamentais</i>

PA	Protected Area (for conservation purposes)	<i>Áreas de Protecção Total</i>
PPF	Peace Parks Foundation	<i>Peace Parks Foundation</i>
PS	Private Sector	<i>Sector Privado</i>
RFP	Request for Proposals or Prospectus	<i>Solicitação de Propostas</i>
QNP	Quirimbas National Park	<i>Parque Nacional das Quirimbas</i>
SADC	Southern Africa Development Community	<i>Comunidade para o Desenvolvimento da África Austral</i>
SGDRN	Sociedade para Gestão e Desenvolvimento da Reserva do Niassa Lda	<i>Sociedade para Gestão e Desenvolvimento da Reserva do Niassa Lda</i>
SPV	Special Purpose Vehicle (implementing/ joint venture company)	<i>Empresa implementadora</i>
TFCA	Trans-frontier Conservation Areas	<i>ACTF - Áreas de Conservação Transfronteiriça</i>
UNDP	United States Development Programme	<i>PNUD – Programa das Nações Unidas para o Desenvolvimento</i>
USAID	United States Agency for International Development	<i>United States Agency for International Development</i>
WB	World Bank	<i>Banco Mundial</i>
WWF	World Wide Fund for Nature	<i>World Wide Fund for Nature</i>

EXECUTIVE SUMMARY

1.1 INTRODUCTION

1.1.1 BACKGROUND

Approximately 15%¹ of Mozambique's land area is comprised of State owned National Parks and Reserves. Developing sustainable tourism concession models in and around Mozambique's key protected areas, is one way for the Government of Mozambique (GoM) to get the private sector engaged, to enable communities to benefit from tourism development, to create jobs, and to help the Mozambique's tourism industry grow. When designed and implemented correctly, tourism concessions can greatly benefit a wide range of stakeholders, while ensuring the environmental protection of critical assets.

1.1.2 PURPOSE AND OBJECTIVE OF THIS MANUAL

This Manual is designed to provide the **private sector and stakeholders in general** with a step-by-step guide to help them understand the process for **obtaining and operating a tourism concession in Mozambique National Parks and Reserves**.

The Manual has been designed to provide realistic approaches to concession and concession management based upon an examination of real examples. The manual aims to improve awareness of the risks and benefits associated with concessions, provide mitigating strategies, and communicate and share appropriate practices and standards associated with tourism concessions. The manual provides information to design and implement workable concessions based upon legal and sound market, financial, economic, social and environmental imperatives.

1.1.3 HOW THE MANUAL WAS DEVELOPED

This Manual was developed through a process of reviewing existing concession reports, consultation, and review:

Desk review of literature, to examine best practice models of tourism concessions in protected areas, looking at current practices implemented in Mozambique, in the region (e.g. South Africa, Namibia, Botswana), and other countries where tourism concession models have been highly effective. Review of literature relating to existing concessions processes and agreements in Mozambique.

Stakeholder consultation, through interviews and focus groups, to gather information on concessions processes within Mozambique, the experiences to date, lessons learned, identify best practices, and solicit opinion recommendations for future concession models and processes. Interviews were

¹ <http://www.cbd.int/countries/?country=mz>.

conducted either face-to-face or via telephone between 12 January and 22 February 2012. A focus group discussion was held with the Conservation Forum group on 24 January 2012.

Drafting of the concessions manual.

A 4-day international training workshop, to gather further information for the review and to gather materials for a concessions manual for Mozambique. The workshop was held between 19 and 22 March 2012, and was attended by 69 people from Mozambique, South Africa, Madagascar and the USA. The workshop report can be found in Annex [A.1 Workshop Report](#).

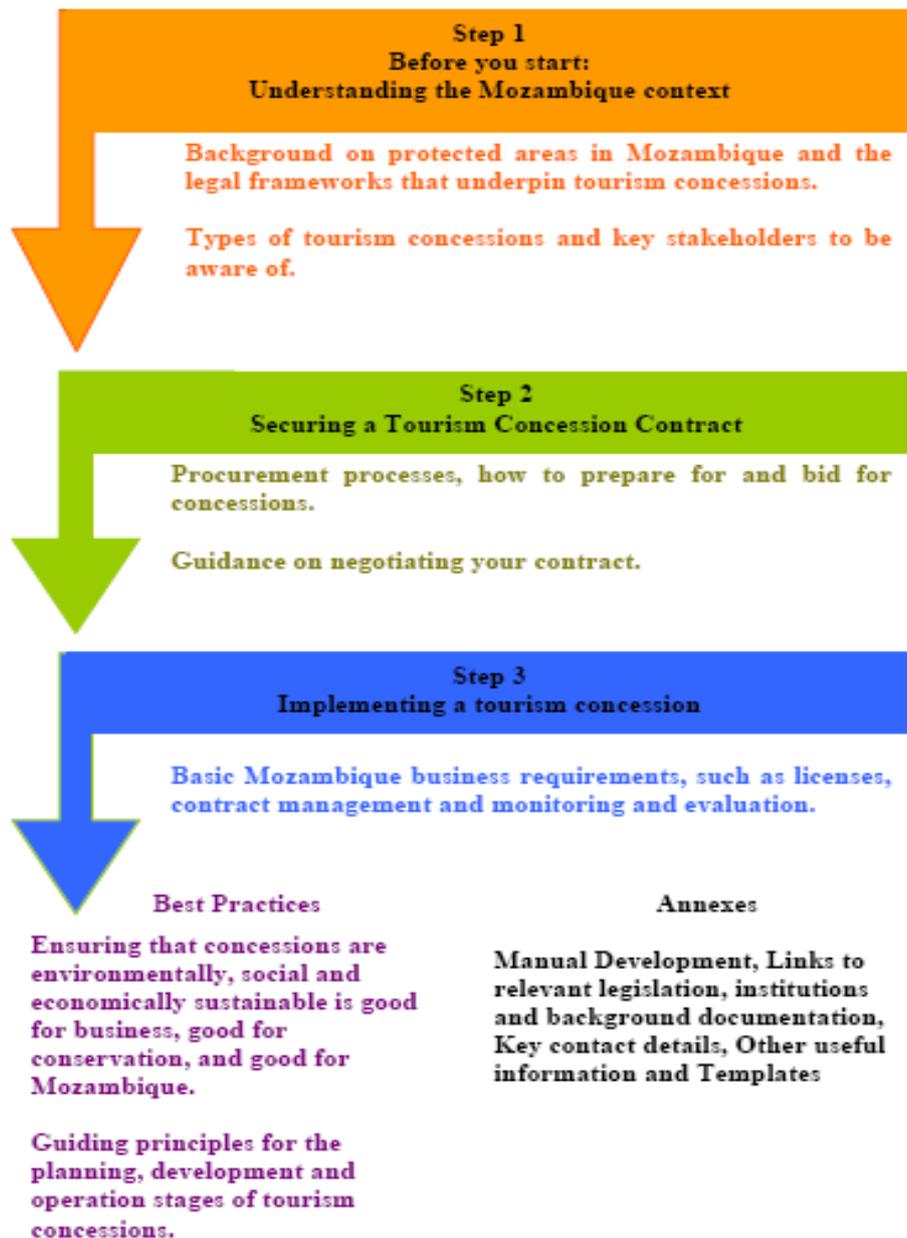
Review of draft concessions manual and report, including a briefing of tourism stakeholders, during the training workshop, and circulation of the draft for comment.

Finalisation of concessions manual, incorporating comments received on draft versions.

1.1.4 MANUAL STRUCTURE

The Manual contains the steps and sections described in Figure 1 below:

Figure 1: Structure of the manual



STEP 1: BEFORE YOU START - UNDERSTANDING THE MOZAMBIQUE CONTEXT

2.1 GENERAL

2.1.1 MOZAMBIKAN PROTECTED AREAS FOR CONSERVATION PURPOSES

The Land Law² was the first legal diploma establishing the concept of total protection zones, and subsequently the Forests and Wildlife legislation clarified that National Parks and National Reserves, and also Zones of Cultural-Historical Value and Use³, are **public domain conservation protected areas (PA)**, part of the national natural patrimony, destined to the conservation of biodiversity, fragile ecosystems or animal or plants⁴; hunting concessions are defined solely as part of the public domain, and not constitutionally qualified directly as protected areas⁵:

- **6 National Parks**, of which two are coastal/marine protected areas namely, Bazaruto (1430 km² exclusively marine) and Quirimbas (7500 km², of which ~1500 km² is marine) - and 4 of which are inland national parks – Banhine (7000 km²), Gorongosa (10000 km²), Limpopo (10000 km²) and Zinave (3700 km²);
- **6 National land Reserves** – Gilé (2100 km²), Marromeu,(1500 km²) Niassa (42200 km²), Maputo Special Reserve (700 km²), Chimanimani (6400 km²) and Pomene (200 km²);
- **1 Lake Partial Reserve** – Niassa;
- **1 marine Biological Reserve** – Inhaca (100 km²);
- **1 partial Marine Reserve** – Ponta do Ouro (67,800 ha); and ⁶

Official hunting areas or *Coutadas*, are governed by Forestry and Wildlife legislation and by a colonial regulation dated 1965⁷ which establish that exploitation of these areas and operation of hunting activities are subject to terms and conditions (including conservation management, infrastructure development and maintenance and social responsibility) agreed under a concession agreement (with DNAC)⁸. There are currently 15⁹ *Coutadas* occupying an area of approximately 54056 km²)¹⁰.

² Land legislation - Law 19/97 and its Regulation, approved by Decree 66/98, amended.

³ Not within the scope of this manual; governed by Law 10/88, Regulation approved by Decree 27/94. Also private conservation areas such as game farms are not included in this manual.

⁴ Forestry and Wildlife legislation - Law 10/99 and its Regulation, approved by Decree 12/2002.

⁵ Which has opened the legal debate for the status and regime of such concessions; not within the scope of this Manual.

⁶ Source: adapted from UNDP, undated, www.niassareserve.org, and www.actf.gov.org.

⁷ A new draft is intended to be discussed still in this year of 2012.

⁸ Without jeopardy to the need of applying for either, or both, tourism and commercial licenses as explained in this Manual

⁹ Coutada 8 is not included as it will be soon deproclaimed.

¹⁰ DNAC, 2012

All immovable and fixed assets with a permanent nature erected in a PA are an integral part of the state public domain, hence not subject to private ownership.

2.1.2 INTERNATIONAL AND REGIONAL CONVENTIONS

In Mozambique, international principles and norms become enforceable upon ratification and publication. Mozambique has ratified and published, amongst others, the Convention on Biological Diversity (CBD) (Resolution 2/94); on **Trade in Endangered Species of Wild Fauna and Flora** (Resolution 30/81) and on **Wetlands** (Resolution 45/2003)¹¹, UN **Law of the Sea** (Resolution 21/96) and **Straddling Fish Stocks and Highly Migratory Fish Stocks** Convention (Resolution 19/2008).

A number of Mozambique's conservation and protected areas have been linked with protected and conservation areas in surrounding countries, as part of regional Trans-frontier Conservation Area (TFCA) initiatives¹²: the **Great Limpopo Transfrontier Park** (with South Africa and Zimbabwe)¹³ and the **Lubombo Transfrontier** Conservation and Resource Area (South Africa and Swaziland)¹⁴.

2.1.3 CONSERVATION

The present classification of protected areas is primarily regulated by three legal instruments: the Land Law (19/97) and Forests and Wildlife Law (10/99) for terrestrial areas; and the General Regulation for Maritime Fishing for the marine areas (Decree 43/2003)¹⁵.

The recent **Conservation Policy and Implementation Strategy** (Resolution 63/2009) proposes that all conservation areas (public and private land) are to be reclassified to better align with the International Union for the Conservation of Nature (IUCN) classification scheme for PAs. The following 9 categories are proposed in the Conservation Policy: *Total Reserve* (IUCN I); *National Park* (IUCN II); *Monument* (IUCN III); *Special Reserve* (national or provincial) (IUCN IV); *Protected Landscape* (IUCN V); *Biosphere*, and *Transfrontier Conservation Area* (IUCN VI); *Private Reserve* (IUCN II-V); *Community Reserve* (IUCN II-V); and *Community Sanctuary* (national, provincial or district).

2.1.4 TOURISM

The **Tourism Policy and Strategy** (Resolution 14/2003), qualifies PA as key assets for tourism development. **Tourism Law** 4/2004, and **Marketing Strategy** approved by Resolution 45/2006, respectively, develop regulations applicable to activities allowed in conservation areas and principles such as sustainable tourism development, and establish priority tourism development areas, where PA are included, as well as tourism routes.

¹¹ Lake Niassa has been designated to be listed as an International Wetland site (Resolution 67/2011).

¹² Legal grounds: Southern African Development Community Protocol on Wildlife Conservation and Law Enforcement, ratified by Mozambique under Resolution 14/2002.

¹³ Treaty signed 9 December 2002.

¹⁴ Trilateral Protocol signed 22 June 2000.

¹⁵ UNDP, undated.

Worth highlighting, **Tourism establishments and activities Licensing Regime** (Decree 18/2007)¹⁶, restrict activities that may be undertaken in PA to ecotourism, hunting, photography, filming, and contemplation with recreational or commercial purposes, recreational diving and other as indicated in the respective management plan; it further establishes the requirement for local communities to be consulted and formally give their opinion to the development of tourism projects in PA. According to Decree 39/2007, fractional ownership and time share is legally possible (no example up to date) inside PA and subject to the presentation of a special license.

Of utmost importance for sustainable tourism in PA is the regime established by Decree 27/2003 for the **tourism user fees** (TUF) in National Parks and Reserves: entry, adventure, area occupation/site¹⁷, camping and other (e.g. photography, filming, towing, search (and rescue), sport fishing, scuba diving, snorkelling, and scientific research). And this is so because in terms of the **sharing of PA tourism revenues legislation** (Decree 15/2009 and Ministerial Diploma 66/2010), communities¹⁸ are entitled to share PA's legal fees revenues: the income is submitted by park administration to the relevant tax department where a portion is allocated to the state budget (20%), a portion returned to be paid to the local management committees (16%) and the remainder (64%) returned (on application) to the relevant protected area administration. Contractual concession fees can only legally be charged when the conceding authority (a park administration, such as in Niassa National Reserve, or a community legal entity, like in Ponta Chemucane in the MSR), is of a private nature¹⁹.

2.1.5 ENVIRONMENT

The **Environmental Law** (Law 20/97) and **Environmental Impact Assessment (EIA) Regulation** approved by Decree 45/2004, amended) subject the licensing (and operations) of all tourism projects in PA to the preparation and approval of a fully fledged EIA and management plan (resettlement included)²⁰.

2.2 KEY STAKEHOLDERS

2.2.1 PUBLIC

GoM and Ministries directorates (central level) are generally in charge of creating policies, designing implementing strategies and regulating different aspects of tourism concessions. Together or through Provincial and District services (local level), and autonomous public entities, these agencies apply and

¹⁶ Drafts of Ecotourism licensing diplomas have been prepared in the past and are in the pipeline to be reviewed and approved.

¹⁷ The Area occupation/Site land fee, the highest of all (1000 MZM / ha), is also part of the Decree's list of legal fees.

¹⁸ As long as organised in local management committees (Ministerial Diploma 93/2005).

¹⁹ Until such time PPP legislation is found to be applicable to ANAC scenario, or if such fees are created by an act of Parliament (i.e. a Law). Note that the current Conservation Law drafts include such a provision.

²⁰ In buffer zones, tourism projects may be classified as a Class A or B Project, meaning, requiring a fully-fledged EIA or a simplified one.

enforce the applicable legislation, as summarised in Table 1 below:

Table 1: Public Stakeholder roles and responsibilities

Stakeholder	Role and responsibility
National Government	
Council of Ministers (CM) ²¹	CM is empowered to establish, modify or deproclaim protected areas for conservation purposes.
National Council for Sustainable Development (CONDES) ²²	CONDES is a consultation body of the CM and has the responsibility to ensure that development activities (from planning to licensing of operators) are implemented in a sustainable way by all sectors.
Ministry of Tourism (MITUR) ²³	MITUR is legally responsible for managing PA for conservation purposes, including to represent GoM on granting contractual concessions, and approving management plans.
National Directorate for Conservation Areas (DNAC)	DNAC is responsible for the technical establishment and management of National Parks, National Reserves and <i>Coutadas</i> , and also to issue special licenses for tourism projects and activities in PA.
National Directorate for Tourism (DINATUR)	DINATUR is competent for generally licensing tourism projects and activities.
Ministry of Fisheries (MPescas) ²⁴	MPescas is responsible for the management of fisheries resources and marine protection areas, including for the proposal for the establishment of marine reserves ²⁵ and for issuing temporary fisheries licenses and launching of bots permits.
Ministry of Transport and Communications (MTC) ²⁶	MTC is responsible, through local maritime administration services part of INAMAR ²⁸ (National Maritime Institute), for issuing scuba diving licenses.
Mozambique Civil Aviation Institute (IACM) ²⁷	IACM (National Institute for Civil Aviation) is the licensing and regulatory authority responsible for licensing air stripes and aeronautical transport.

²¹ Land legislation.

²² Environmental Law, and CONDES statutes approved by Decree 40/2000.

²³ Statutes (update) approved by Ministerial Diploma 126/2000.

²⁴ Statutes (update) approved by Resolution 38/2010; Fisheries legislation Law 3/90 and Regulation approved by Decree 43/2003.

²⁵ The General Regulation of Maritime Fishing (Decree 43/2003) defines the competency of the Ministry to proclaim 'preservation areas' within the maritime limits of National Parks and Reserves. Ponta de Ouro marine reserve was created (Decree 42/2009) under the auspices of such law.

²⁶ Statutes (update) approved by Resolution 44/2010.

²⁷ Statues (update) approved by Resolution 19/2011.

²⁸ Statutes approved by Decree 32/2004.

Stakeholder	Role and responsibility
<p>Ministry for Coordination of Environmental Affairs (MICOA)²⁹</p> <p>National Directorate for Environmental Management (DNGA)</p> <p>National Directorate for the Evaluation of Environmental Impacts (DNAIA)</p>	<p>MICOA has the overall responsibility for coordinating all environmentally related issues in Mozambique and reports on the national implementation of the CBD. Once created, it will oversee the National Conservation Areas Agency (ANAC).</p> <p>DNGA is responsible for coordinating the conservation planning, management and monitoring of biodiversity throughout the country.</p> <p>DNAIA is responsible for approving EIAs and issuing environmental licenses to tourism projects in PA.</p>
<p>Ministry of Agriculture (MINAG)³⁰</p>	<p>MINAG is legally responsible for granting use and development rights (DUAT) outside PA (such as buffer zones), for all purposes, including for tourism or living/resettlement.</p>
<p>Ministry of Planning and Development (MPD)³¹</p> <p>Centre for Investment Promotion (CPI)³²</p>	<p>MPD is responsible for the preparation and monitoring of all development plans of Mozambique, including budgeting.</p> <p>CPI is responsible for managing the application and approval of investment projects' fiscal incentives and benefits, and depending on the project value, it may also have authorization powers.</p>
<p>Ministry of Finance (MF)³³</p>	<p>MF is responsible for overseeing the financial implementation of public-private-partnerships (PPP).</p>
Provincial and District level	
<p>Licensing Directorates and Services³⁴</p>	<p>All licenses and authorizations applications are submitted before the local body jurisdictionally competent which may be³⁵ a Provincial Directorate, District Services, delegations or local representations of the institutes (including CPI).</p> <p>Parks and Reserves have an Administration, a local department of MITUR in charge of conservation management of each PA³⁶.</p> <p>Forestry and wildlife inspection powers are held by (public officials) inspectors, sworn inspectors and community agents³⁷.</p>

²⁹ Statutes (update) approved by Resolution 16/2009.

³⁰ Statutes (update) approved by Resolution 17/2009.

³¹ Statutes (update) approved by Resolution 53/2010.

³² Statutes (update) approved by Resolution 26/2009.

³³ Statutes approved by Resolution 18/2011.

³⁴ Local Bodies legislation – Law 8/2003, amended, and its Regulation approved by Decree 11/2005

³⁵ It will depend on the structure of the local body itself (existence of an agency)

³⁶ Park administrators are an integral part of the Provincial tourism structure; the administration (organization) itself is a service inherited from MINAG.

³⁷ Forestry and Wildlife Regulation.

Stakeholder	Role and responsibility
Autonomous Agency	
National Administration of Conservation Areas (ANAC)	The PA Agency has been created (Decree 11/2011) as the agency in charge of managing all conservation areas, PA included, and with tourism concessioning powers. It is expected to become functional still in 2012.

Annex B.1 Mozambique Legislation includes the reference of the site where all legal diplomas referred to above can be downloaded, and Table 15: District and PA level authorities in Annex D.2 Local public stakeholders, a list of the Portuguese names for the District and PA level stakeholders.

2.2.2 PRIVATE SECTOR

According to GoM's policies³⁸, private sector investment is considered pivotal for economic growth and poverty alleviation. In conservation, private investors, whether national or foreigner (as long as duly commercially and tax registered in Mozambique), can be tourism concessionaires or tourism operators. The current strategies for tourism concessions in PA (an analysis of the current examples can be found in Annex D.4 Tourism Concession Models and Contracts and Annex

D.7 Expression of Interest

The EoI for the tendering of Ponta Chemucane partnership can be accessed on [../PUBLIC%20DOCS/Annex%20D6_EoI.pdf](#).

E Templates includes examples of contracts entered into), aim at attracting investors with capital investment capacity and a sustainable environmental and social approach.

2.2.3 COMMUNITIES

Communities are legally empowered to be involved in tourism concession approval stages³⁹ and to sharing of benefits: a percentage of parks and reserves revenues and from economic linkages from the implementation of tourism projects.

Irrespective of the date of the creation of a park or a reserve, communities residing in PAs, or dependant on their natural resources⁴⁰, have customary⁴¹ access, occupation, use and benefit rights⁴².

³⁸ GoM Program for 2010-2014 approved by Resolution 2/2004; Tourism and Conservation Policies.

³⁹ Land and Tourism legislation.

⁴⁰ Protected areas in Mozambique are currently home to more than 190,000 people, in UNDP, undated

⁴¹ Scott, 1985.

⁴² Also qualified as native (indigenous), historical (priority) or natural (human). The fact that neither the special license nor the granting of a concession contract results in compulsory expropriation (the

The strategic options for further involving and empowering local communities are described in Section 2.3.5 Tourism contractual concession models below and also in Annex D.4 Tourism Concession Models and Contracts.

When institutionally interacting with other stakeholders, **local communities formal representatives** include official community authorities⁴³, management committees⁴⁴, local management councils⁴⁵ and community legal entities, which in Mozambique tend to take the form of a civil association which has to be incorporated, registered, licensed and enrolled as a private commercial company since it will develop commercial / business activities in parallel with its social objectives, but can also take the form of farming – livestock cooperatives⁴⁶. The involvement of communities' entities in tourism concessions are further discussed in Section 5.3.1 Planning stage below and the legislation governing associations and cooperatives is included in Annex B.1 Mozambique Legislation.

There is a good range of options for local communities, assisted by community brokers or investors themselves, to legally partner with PS:

- Communities holding a special license must be formalised as legal entities;
- Communities holding concession rights must be formalised as legal entities; and
- Communities contractually agreeing sharing of benefits or conservation related issues⁴⁷ do not have to be legally represented by a community legal entity.

Only when organised in community legal entities, local communities can be part of corporate equity arrangements with the PS (i.e., become a shareholder in the implementing company/special purpose vehicle or SPV and be service providers).

2.2.4 DONOR PARTNERS

Since 2008, Mozambique has been the recipient of an average funding of over US\$18 million annual⁴⁸ towards PA development, and many are those that have supported or continue supporting GoM and MITUR's efforts in different fronts, totalizing approximately of 89% of revenues for PA: USAID, WB,

Conservation Policy, Annex 4, establishes the guidelines applicable to resettlement of PA local communities, qualifying it as an extreme measure), over and above their resources management rights as prescribed in the Forestry and Wildlife legislation, also contribute to that understanding.

⁴³ In terms of Decree 15/2000, which creates the legal concept of official community authorities.

⁴⁴ Forestry and Wildlife legislation.

⁴⁵ Sharing of PA revenues legislation - Ministerial Diploma 93/2005, Decree 15/2009 and Ministerial Diploma 66/2010.

⁴⁶ Community Legal Entities legislation – Associations - Law 8/91 and Regulation approved by Decree 37/2000, and Cooperatives Law 8/2005 and Regulation approved by Decree Law 2/2006 and model statutes approved by Ministerial Diploma 155/2006

⁴⁷ A pre-condition for any new tourism development in the QNP.

⁴⁸ Summary of primary funding support from donor partners as from April 2010, in WWF, 2010

AWF, AFD, GEF and the Italian Cooperation⁴⁹.

2.2.5 NON-GOVERNMENTAL ORGANIZATIONS

Locally established non-governmental organizations (NGOs) have been supporting tourism concessions at the management plans (or their review) level and also at the implementation level. Most of the times together with park administrations, the performance of their role as community brokers is crucial. Their main tasks involve facilitating communication with implementing donor agencies/contractors (for example, the Peace Parks Foundation in MSR), providing basic theoretical training in legal issues, organising and legalising communities, and facilitating meetings, mediating explanations and sometimes negotiating on behalf of communities before the private sector, community capacity building in new technologies, products, services and markets and extension activities⁵⁰ and assisting in monitoring compliance of contractual obligations.

In Annex C.2 Community brokers, investors can find an indicative list of community brokers involved in recent tourism concessions in Mozambique.

An illustration of how the key stakeholders are particularly involved and contribute to Mozambique tourism concession development processes can be found in Annex D.1 Institutional framework and stakeholders contributions.

2.3 LEGAL FRAMEWORK

2.3.1 OVERARCHING LEGISLATION

The **Constitution** (revised in 2004), entrenches the notion that the State is the owner of all natural resources occurring within its national territory, land included, and further qualifies some of its assets, such as the total protection zones as part of the public domain. This is the basis for the national tourism concessions regimes.

Other general diplomas affecting tourism concessions and processes include:

- **Land Planning** legislation (Law 19/2007 and its Regulation approved by Decree 23/2008), which regulates the national, provincial and district territorial planning tools scope, procedures and approvals, relevant for tourism concessions in terms of potential sites, hierarchically superior formalization of PA management plans as binding land use tools and integrated management of buffer zones and uses;
- **Commercial Aviation** legislation (Law 21/2009) paved the way for the opening of national airspace to other countries registered airlines (GoM has ratified several bilateral protocols with several countries including Portugal, South Africa, Brasil and Tânzania which have still to be further regulated in terms of routes and other commercial issues) and its Regulation (approved by Decree 39/2011) establishes the regime applicable to air transportation;

⁴⁹ <http://www.cbd.int/lifeweb/project.shtml?did=6319>

⁵⁰ Conservation Policy.

- **Public Procurement Regime** (Decree 15/2010), governing procurement types, proponents and proposals requirements and also administrative contracts such as tourism concession contracts. In 2011, the Parliament enacted Law 15/2011, also known as the **Public Private Partnership (PPP)** law, which has not yet been regulated. It defines PPP as profit intended undertakings and is still to be seen if PPPs in PAs fall under that exception or not; and
- Agreements between communities and private sector or between PA co-management entities and the private sector, are ruled by the **Commercial Code** (Decree-Law 2/2005) (and subsidiary of the Civil Code) and treated as normal commercial business transactions.

With the recent adoption of the **Conservation Policy** (2009) the country will begin updating and reform its enabling conservation legislation to: improve the harmonization of the conservation laws and regulations with other sectoral policies and laws; establish a new institutional framework for protected areas; introduce a new classification system for protected areas, including their management objectives; strengthen the mechanisms for cooperative governance of individual protected areas, notably in respect of local communities participation and functionality of the District authorities; and provide for a wider range of financing mechanisms, including the establishment and administration of a national trust fund, the BIOFUND)⁵¹.

Box 1: BIOFUND

Mozambique has created a trust fund, *Fundação para a Conservação e Biodiversidade* ('BIOFUND, Mozambique') as a complementary financing mechanism for the recently created protected area system.

BIOFUND has been legally incorporated as a private foundation under Mozambique's Civil Code, and considering its scope, it will apply for CM's declaration of public utility. The mission of the Foundation is "to support the conservation of aquatic and terrestrial biodiversity and the sustainable use of natural resources, including the consolidation of the national system of conservation areas".

To achieve its mission and with a focus on support to public benefit and sustainable development, BIOFUND may provide financing for the following activities:

- ⇒ conservation and sustainable management of natural resources and aquatic and terrestrial biodiversity;
- ⇒ management and development of conservation areas, including investment in infrastructure;
- ⇒ community development in harmony with conservation objectives;
- ⇒ research on biodiversity and ecological monitoring;
- ⇒ training for staff of the national system of conservation areas, as well as other relevant sectors;
- ⇒ promotion of tourism and other activities for the benefit of conservation; and
- ⇒ education and raising awareness of conservation and the value of conservation areas.

The oversight, management and administration of the Foundation are entrusted to the General Assembly, a Board of Directors, and an Oversight Committee. Besides these governing bodies there are two consultative bodies, the International Advisory Council and the Patrons' Council.

Source: Overview of PA Network in Mozambique.doc, UNDP, undated and BIOFUND articles of association, not published

⁵¹ UNDP, undated

2.3.2 MANAGEMENT PLANS

PAs main planning tool in terms of **conservation, management and use of forestry and wildlife resources uses**, decentralised for each PA, is the management plan, until now referred sparsely in some legal diplomas such as the Land, and Forestry and Wildlife legislation, which is subject to MITUR's approval⁵².

Mozambique is still at an inception stage as far as the development⁵³ of management plans in accordance with best industry practices⁵⁴ (focusing not only in the resources themselves, but also the environment as a whole, tourism development, social framework and financial sustainability), and the lack of regulation leaves it unclear what their scope and elaboration process is, and if they are compulsory or not and for how long they should remain valid.

When the first district land planning tools are approved, it is expected them to fully integrate PA, and buffer zones, management plans, which will then have an inherent binding nature⁵⁵ as far as land use tools and integrated management is concerned.

2.3.3 APPLICABLE LEGISLATION

All tourism concession companies, whether under a Special License or a Concession Contract, because they will have to become residing entities for tax purposes, must be locally incorporated and registered companies, which are governed by the **Commercial Code**, and may be incorporated by a **private deed** (Contract and Articles of Association) before any Public Notary. In Table 17: Setting up a company in Annex D.3 Applicable Legislation, investors will find a summary of how to set up a business in Mozambique.

Of note, Mozambican nationality of proponents (controlling interest or more than 51% majority) has been used as eligibility (for instance, for Ponta Dobela in the MSR) or an evaluation criterion (for instance, in Niassa National Reserve, the sub-assignment of rights agreement /partnership agreement is restricted to proponents with a minimum participation of 25% of share capital subscribed and paid by Mozambican individuals or companies).

One other example of legal regime especially relevant for foreign investors is that of the contracting of foreign staff. which is subject to the **Migration legislation** (Law 5/93 and its Regulation approved by Decree 38/2006), the **Labour Law**, (Law 23/2007), providing for the main and imperative rules applicable to labour contracts and employment related rights and duties, and foreign staff quotas (1 foreigner for up to 10% nationals on small companies, 1 foreigner to up to 8% nationals on medium and 1 foreigner for up to 5 nationals on large companies); and the **Foreign Workers Employment Regulation** (Decree 55/2008),

⁵² Forestry and Wildlife Regulation

⁵³ Conservation Policy dictates the need for subsequent legislation to regulate further management plans material and procedural components.

⁵⁴ Exception made to the Quirimbas National Park (QNP), Niassa National Reserve and MSR which have used a more comprehensive and modern approach to the preparation and drafting of their respective management plans.

⁵⁵ Land Planning Regulation.

regulating the procedures, and fees for contracting expatriates.

The main legal regimes governing tourism concessions comprise those established by the following legal diplomas:

- The **Land Law** (Law 19/97 and its Regulation, approved by Decree 66/98, amended). In Annex E.1 Special License, investors are guided through the process of applying for a Special License;
- **Forests and Wildlife legislation** (Law 10/99 and its Regulation, approved by Decree 12/2002);
- Decree 8/2007 which regulates firearms' ownership and use licenses;
- **Tourism Law** (Law 4/2004), **Tourism establishments and activities Licensing Regime** (Decree 18/2007)⁵⁶, and **Tourists Transport** (Decree 41/2007);
- The **Regulation for Preventing Pollution and Protecting Coastal and Marine Environment** (Decree 45/2006) which provides for the rules and regulations applicable to allowed and forbidden activities in costal and marine areas (such as the QNP, MSR, Lake Niassa and Bazaruto);
- **Environmental legislation** (Law 20/97) and **Environmental Impact Assessment (EIA) Regulation** approved by Decree 45/2004, amended) provide the rules and regulations applicable to the process for obtaining⁵⁷ environmental licenses required for all tourism projects in PA, legally classified as Class A projects, which include the preparation and approval of a fully fledged Environmental Impact Assessment Study (EIA) and Management Plan (resettlement included)⁵⁸. A list of local environmental consultants is attached in Annex C.3 Others.

Investors can find a more thorough description of these legal regimes in Table 16: Summary of applicable legislation in Annex D.3 Applicable Legislation and in Annex B.1 Mozambique Legislation, some useful links to legal reports (licensing of tourism activities, tax, construction works, amongst others).

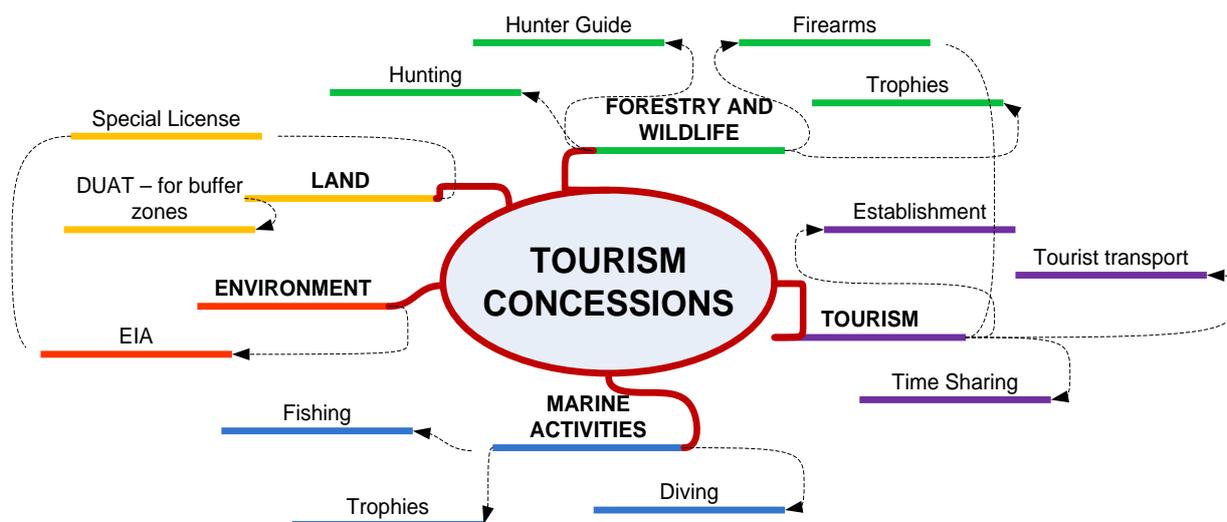
Figure 2 illustrates the main legal regimes directly governing the implementation of a tourism concession. They provide the requirements for PS to apply, at the local level, for a series of licenses, permits, authorizations and approvals:

⁵⁶ Drafts of Ecotourism licensing diplomas have been prepared in the past and are in the pipeline to be reviewed and approved.

⁵⁷ Only Mozambican Environmental consultants (individuals or companies) registered with MICOA can produce EIAs for the purpose of issuance of the environmental license.

⁵⁸ In buffer zones, tourism projects may be classified as a Class A or B Project, meaning, requiring a fully-fledged EIA or a simplified one.

Figure 2: Legislation specific to tourism concessions



2.3.4 CONCESSION CONTRACTS

Generally, a **tourism concession contract** is a partnership contract between the public sector and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building, development and operation of a project in a State owned PA.

The term concession encompasses variations in the type of contractual delegation, or devolution, in the case of communities, (and risks allocation) of rights by the Council of Ministers to a third party: a concession, an operational lease (or Affermage) and management contracts.

In the present development stage of Mozambique PAs, and mostly depending on the outcome of the pre-feasibility studies carried out in preparation for the tender, any of the first 2 types may be appropriate to the required investment in construction, rehabilitation, upgrading or wildlife.

Hunting concessions, traditionally dealt with as concessions *stricto sensu*, are still regulated by a colonial diploma, which is expected to be completely revised and updated soon⁵⁹.

According to Mozambique law, a concession is an administrative contract, subject to public rules, regulations and prerogatives⁶⁰.

In terms of tourism users fees (vd also Section 2.1.4 Tourism above), a tourism concessionaire:

- Will be entitled to charge, collect and channel the Legal fees to the competent authority: entry,

⁵⁹ Typically a lease up to a maximum of 15 years.

⁶⁰ The Procurement Decree regulates the contract's main terms and conditions.

- adventure, camping and other (e.g. photography, filming, towing, search and rescue, sport fishing, fisheries trophies, scuba diving or snorkelling, scientific research legal fees;
- Must pay for the Area occupation/Site fees (1000 MZM/Ha);
 - Must pay other licensing and permits fees;
 - Must pay a fee with a fixed and variable portions⁶¹ (based on criteria such as occupancy rate, n° of beds, gross or net income, turnover, and others);
 - May be required to propose a conservation management contribution; and
 - May be required to propose a community responsibility fee.

2.3.5 TOURISM CONTRACTUAL CONCESSION MODELS

Concession models are alternative ways of public and private parties cooperating in designing, building, operating and developing a tourism project in a PA.

More actively since early 2000, GoM, MITUR and park administrations have gathered considerable experience, and communities have been gaining skills and knowledge, in tourism concessions.

Depending on the adopted planning and procurement strategies, and above all on particular local conditions, tourism concession models will incorporate different equity and contractual arrangements.

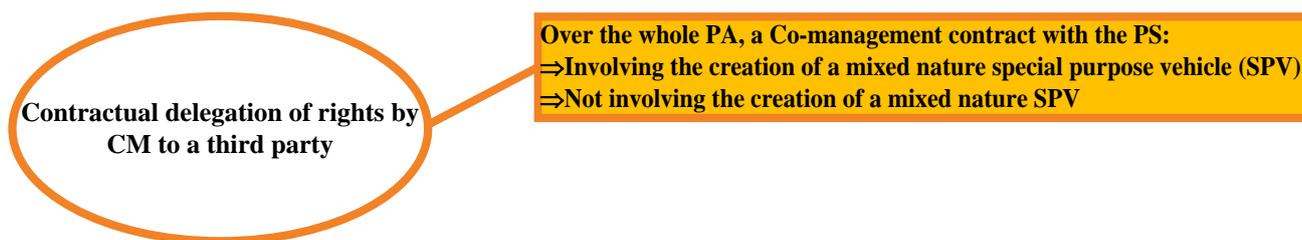
The current range of contractual models, based on a state ownership or co-ownership regime, and leading to **public-private or community-public-private type partnerships**, include:

- **Co-management models (Public-Private Partnerships)** where objectives are above all conservation management oriented (illustrated in
- Figure 3 below):
 - For the **MSR** and Limpopo National Park, with PPF;
 - In the **Niassa National Reserve**, with a mixed nature company⁶², the Sociedade para Gestão e Desenvolvimento da Reserva do Niassa Lda (SGDRN);
 - In the **Banhine National Park**, with AWF;
 - For the **Gilé National Reserve**, with Foundation IGF; and
 - In the **Gorongosa National Park**, with the Carr Foundation (later the Gorongosa Restoration Project).

⁶¹ According to Mozambique legal regime, concession fees are qualified as taxes, hence must be approved by Parliament. Because there is no Law governing Tourism Concessions Fees (and it is questionable whether the PPP legislation applies), these concessions do not formally foresee the payment of a stricto sensu concession fee. When Community holds the Special License or the Concession Contract, concession fees become a matter of private law and are legally admissible.

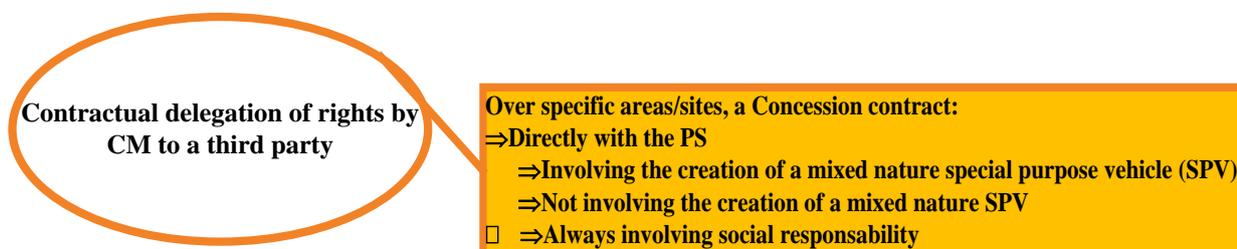
⁶² Partnership between the State (with a 51% share) and *Investimentos Niassa Lda* (with a 49% share)

Figure 3: Co-management model



- **Direct concessions to PS (Public-Private Partnerships)**, where, usually, capital investment is required (illustrated in Figure 4 below)::
 - In **Ponta Dabela and Ponta Milibangalala in the MSR**, with a private company with public shareholders (Mozaico do Indigo SA⁶³) which entitles it to partner with PS⁶⁴ for the sub-lease of the land and performance of sub-concession rights (BOT),
 - In **Niassa National Park**, SGRD tenders for tourism concessions in the form of commercial partnerships, where PS is sub-assigned exploitation rights (for either/or, construction / management of infrastructures, tourism accommodations, provision of recreational activities and hunting) over pre-determined management units for up to 15 years, renewable for 10 more;
 - In **Gorongosa National Park**, GoM and the Gorongosa Restoration Project tender for tourism concessions in the form of commercial partnerships, where contracts are tourism operators contracts (lease type contracts and/or directed to the provision of tourism services and products); and
 - **Hunting Concessions/ Coutadas** are being awarded through a tender process where private sector proponents are requested to present proposals environmentally and socially sustainable.

Figure 4: Direct Concessions



- **Two-tier contractual concession or co-ownership (Community-Public-Private Partnerships)** where the community legal entity has an equity stake in the SPV (Figure 5 includes an indicative diagram of the model) was implemented in **Ponta Chemucane, in the MSR**⁶⁵, where the community association (Ahi Zameni Chemucane) was granted a special license under a concession contract (for 50 years) with GoM entitling it to partner with PS (for 25 years, renewable for up to more 25) for the sub-lease of the land and performance of sub-concession rights; it is also entitled to be a minority shareholder in the project SPV (in an amount equivalent to its capital investment – supported by the WB). PS financial responsibilities, include a financial contribution towards the

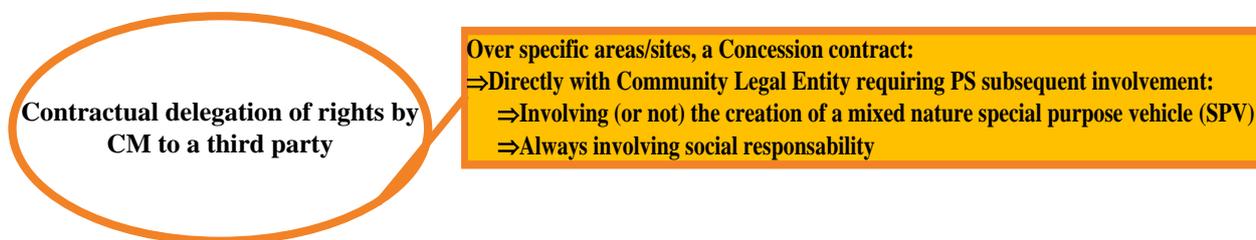
⁶³ With public shareholding from INATUR and the Institute for Managing State Shareholdings (IGEP).

⁶⁴ Tender was not successful and Mdi has signed memorandums of understanding with two private companies for these concessions.

⁶⁵ Approved by Resolution 51/2009.

partnership in the form of a fixed amount corresponding to the compulsory legal fees and a variable amount calculated over the gross revenue, with a guaranteed minimum annual amount. The partnership agreement has been signed, SPV created and EIA process has started. The contract will only become effective when specific conditions precedent are met.

Figure 5: Contractual co-ownership



- **Two-tier special license concessions or co-ownership (Community-Public-Private Partnerships)** where communities do not have an equity stake in the implementing company (SPV), exemplified in Figure 6: For the Tondo Lodge in the Zinave National Park and in Bahnine National Park. The QNP has approved its Tourism Development Plan⁶⁶, basically establishing that community legal entities will be granted the special license entitling them to lease the land and assign exploitation of resources related rights and legally-binding community-investor agreements will be established on a commercial basis; profits accruing from these contracts are to be paid into a fund managed by the community.

Figure 6: Special License Co-ownership



Annex D.4 Tourism Concession Models and Contracts includes a more detailed analysis of contractual clauses in different models.

2.3.6 TOURISM CONCESSIONS AND SPECIAL LICENSE

According to the Land and Forestry and Wildlife legislation, and over and above the licenses required for a company to do business in Mozambique as described in Section 2.3.3 Applicable Legislation above, all economic activities in PAs are subject to the issuing of a license called Special License, and for tourism activities such as in concessions, the issuing entity is DNAC⁶⁷.

If the tourism concession is awarded as a result of a community public private partnership where the

⁶⁶ WWF, 2009.

⁶⁷ Decree 53/2011 approved the license template, and until such time a specific diploma regulates the main terms and conditions of this license, DNAC's internal instructions are applicable.

community co-owns the PA by virtue of holding a Special License with specific terms and conditions attached to carry out a tourism project, the request for proposals or tender documents will further specify the applicable technical, economic, environmental and social requirements for PS to join such partnership/develop a project. In case of a contractual tourism concession, a Special License will also be awarded prior to approval of the contract by the Council of Ministers⁶⁸.

A scheme of the procedure and requirements for granting of a Special License are presented in Annex D.5 Special License.

2.3.7 TOURISM CONCESSIONS AND DUAT

Since PAs are part of the public domain, and any immovable, rights to use and develop the land (DUAT) cannot be granted inside PA, but can be granted in multiple-use (or buffer) zones which are typically established around protected areas. During the land titling process, governed by Land legislation and in which the competent authority is the provincial service for geography and records, DNAC is simply consulted and no special license is required.

Annex C.1 Mozambique Ministries and other public departments includes the link to the Ministry of Agriculture’s official site and the link to DUAT procedures and forms in Annex E.2 DUAT.

2.4 RISKS AND TROUBLESHOOTING

Before you start embarking on a tourism concession in Mozambique, it is important to be aware of some of the challenges likely to be faced, and how you can mitigate against them. Some of these challenges are outlined in the table below.

Table 2: Tourism concessions frameworks risks and indicative mitigation measures

Risks	Mitigation
√ Different protected areas have different systems and rules for procuring and contracting investors in tourism concessions	⇒ All attempt to follow the industry’s best practices
√ There are no standard concession regimes or contracts	⇒ There is the intention to standardise with due respect for local idiosyncrasies
√ There are different levels of capacity and understanding of the legal and concessions development processes in different government departments and sometimes even the same Ministry, and between different provinces.	⇒ Seek assistance with the Official Representative/designated focal point
√ CPI’s assistance is limited and it will not “open doors” in other competent public departments	⇒ Plan to spend time meeting people within several departments in order to obtain the correct licenses and permits
√ Licenses, registrations, authorizations and approvals procedures are cumbersome to be followed	⇒ There is a legal sequence for all steps required so trying to jump or postpone any of them will only be counter-productive
√ Speaking, communicating and preparing documents in a	⇒ Obtain professional local assistance in specific

⁶⁸ For the MSR, the concession (with the community) and partnership (with PS) contracts foresaw the environmental license being a condition precedent for their effectiveness.

foreign language will cause delays and misunderstandings

√ Corruption

√ Inspections and penalties

√ State ownership of the land and immovable and fixed assets with a permanent character makes it impossible to grant these as loan securities (mortgage or pledge)

matters such as with communities, law/transaction, tax and auditing and EIA

⇒ Inform Anti corruption unit in the Attorney general's office (recent).

⇒ Comply, in advance, with all legal requirements and consult a lawyer before paying any fines.

⇒ Carefully assess alternative guarantees.

STEP 2: SECURING A TOURISM CONCESSION CONTRACT

3.1 CONCESSIONS PROCESSES

3.1.1 DESCRIPTION

From the perspective of the conceding authority, the procurement process is generally divided into three main steps: preparation, proposal, and contracting.

Worth noticing that Mozambique Public Procurement regime does not foresee a specific procedure for unsolicited bids which could be treated as the beginning of the process for a direct negotiation, which is allowed, under very specific conditions⁶⁹.

Table 3 below provides an outline of the stages, time frames and main stakeholders involved in an open or short-list tender procurement process. The details of each step will depend on the concession regime adopted and will also vary from protected area, to protected area. The parts that relate to action by the private sector are highlighted, so that the context can be seen.

Table 3: Process for tourism concessions in protected areas

Step of concession process	Description	Main responsible party	Indicative Time frame
1. Preparation			
Strategic plan and timetable	Develop strategy for the concessions process, and timeline.	Ministry of Tourism (MITUR)	4 weeks
Development of criteria for suitable investors	Criteria include level of financial backing, previous experience of similar tourism development and operations and of community development / community relations; environmental, economical and social responsibility programmes.	Park administration, National Directorate for Conservation Areas	2 weeks

⁶⁹ The PPP legislation regulates the matter and establishes that unsolicited bids will start a tendering process where the first applicant will be granted a preferential scoring % if it also tenders.

Step of concession process	Description	Main responsible party	Indicative Time frame
		(DNAC)	
Produce concession specification	<p>Pre-feasibility studies and the Management Plan to guide the selection of concession areas.</p> <p>Process should be inclusive of communities (e.g. whether communities want and support a tourism site in their area, and of what type/scale).</p> <p>Determine the concession regime: e.g. co-management; co-ownership; directly with the private sector,</p> <p>Topographically demarcate the concession areas.</p>	DNAC, Park administration	8-20 weeks
No-objection by GoM	Confirmation of acceptance of the concession areas and the procurement process to be followed.	MITUR, Council of Ministers	Dependant on Council of Ministers agenda & lobbying
Prepare information package and Expression of Interest (EoI) instructions	<p>EoI would normally include background on the protected area, and objectives of the concessions program/ tourism operation that is envisaged for the area and associated activities; a description of the tourism opportunities and concession sites available; the procedure for concessioning; and a map of the area.</p> <p>Instructions for producing and delivering the EoI are created.</p>	DNAC, Park administration	4-6 weeks
Prepare information package Request for Proposals (RFP) instructions, and draft contract	<p>Development of a Request for Proposals (RFP) comprising:</p> <ul style="list-style-type: none"> • a financial bid covering a contribution towards the concession that the investor would propose to pay in addition to the statutory concession fees laid down in Mozambican legislation • a tourism bid covering the investor's proposals for development of tourism including exact site location, type of tourism development, size and number of beds, design, marketing and promotion, etc. and associated technical details • an environmental bid covering environmental issues and how the investor proposes to address them (including where appropriate, any conservation management agreements) • a socio-economic bid covering a financial package for affected communities and proposals for employment of people from local communities, contribution to local community development, working with local communities, etc. • Draft concessions contract • Instructions for producing and delivering the RFP. 	MITUR, DNAC, Park administration	4-6 weeks
No-objection by GoM	Confirmation of the EoI, RFP and draft concession contract.	MITUR, Council of Ministers	Dependant on Council of Ministers agenda & lobbying
Appointment of Tender review committee members	Formal appointment of Jury.	MITUR	1-2 weeks

Step of concession process	Description	Main responsible party	Indicative Time frame
2. Tendering			
Promotion and invitation of EoIs	EoI would normally include background on the protected area, and objectives of the concessions program/ tourism operation that is envisaged for the area and associated activities; a description of the tourism opportunities and concession sites available; the procedure for concessioning; and a map of the area.	MITUR, DNAC, Park administration	4 weeks
Development of the EoI	Review the EoI call and requirements Develop the EoI in line with the request. Depending on EoI, this stage may include initial field visits to see which sites are of interest. Send EoI to the person specified on the EoI before the deadline.	Private Sector	3-6 weeks
Receive EoIs	Collection of proposals in a secure environment.	Tender review committee	2 weeks
Evaluation of EoI and shortlisting	Evaluation of the EoIs in line with the criteria, and shortlisting of candidates that meet them.	Tender review committee	2-3 weeks
Invitation to tender to shortlisted bidders	Issue of RFP to shortlisted candidates.	MITUR, DNAC, Park administration	1-2 weeks
Development of Bid in response to RFP	Research and design of the investment bid, covering all elements of the RFP. Also undertaking due diligence, market research, business planning, consultation with local stakeholders (including partner communities if relevant), field visits to concession area. Send the proposal to the agency before the deadline date.	Private Sector	3 months
Receive proposals	Collection of proposals in a secure environment.	Tender review committee	3 months
Tender evaluation & shortlisting	Each proposal is reviewed and scored in accordance with the RFP. Successful bidder is invited to negotiate minor adjustments to the contract and business plan. Due diligence on preferred candidate.	Tender review committee	6-8 weeks
Interview of short-listed proponents	Successful bidder, or shortlisted bidder, participates in an interview to discuss the proposal and RFP. Negotiations are initiated at this stage.	Tender review committee and private sector	1-2 weeks
3. Contracting			
Conclusion of negotiations	Contract and business plan are finalised.	Private sector, MITUR, DNAC, Park administration	2 months
Approval by GoM	Approval of the execution on the contract and its main terms and conditions	MITUR, Council of Ministers	Dependant on Council of Ministers agenda & lobbying
Signature	Contract is signed by all relevant parties	Private sector, MITUR	1 week
Entering into force	Submission to the Tribunal Asministrativo for approval	MITUR	30 days

Step of concession process	Description	Main responsible party	Indicative Time frame
Implement the contract	Contract is implemented and compliance monitored	Private sector, Park administration, DNAC and MITUR	10 to 25 years

Source: Adapted from MITUR/GoM, 2009; Eagles et al, 2009; NR, 2007; LNP, 2006

When ANAC, the National Conservation Areas authority, becomes operational, the time length will substantially decrease, if not for other technical capacity reasons, since the Council of Ministers no-objections and approvals will no longer be required in terms of the applicable law.

3.3.2 INVESTOR PREPARATION

➤ Expression of Interest (EoI):

The purpose of this stage is to pre-qualify investors, who will subsequently be asked to prepare a full proposal. In general, you may be request to indicate the following for an EoI⁷⁰:

- Which site is of interest to you in the protected area (usually from a list of options prepared by the protected area);
- A broad description of the tourism operation that you envisage for the area;
- Associated activities that are necessary for the successful operation of the concession;
- Number of tourism facilities and number of beds currently owned and/or operated by your company, and your experience within the industry; and
- Years of experience.

Before completing the EoI, investors may wish to visit the protected area to look at the different concession sites, consider which will suit your approach to tourism development, understand the conditions of each concession site, and practical issues such as access and utilities. Investors may also want to meet with stakeholders, including resident or local communities under the supervision and facilitation of the park administration/DNAC.

According to Mozambique Public Procurement Regime (applicable only when the conceding authority), one of the contracting regimes is through a short-list tender.

Once the EoI is reviewed, Request for Proposals (RFP) will be sent to the short-listed proponents. Annex D.7 Expression of Interest, includes the EoI for Ponta Chemucane in the MSR.

➤ Request for Proposals (RFP)

⁷⁰ Limpopo National Park, 2006.

Each RFP will have different requirements for investors to meet. In general, there will be considerable research required in order to compile a good proposal, which meets all of the requirements of the protected area authority.

There may be opportunity at this stage to request more information from the PA agency, such as what utilities and services will be provided (e.g. electricity, roads, water etc), or to review the management plan for the PA.

An overview of the type of information that an investor needs to prepare at this stage can be found in Annex D.6 R.

➤ **The Business Plan**

Develop a business plan for your concession site and in accordance with the concession model explained in the RFP. All protected areas will require this to be finalised for the contract to be signed or become effective.

There are many different styles and approaches to business planning, and Table 4 below provides a simple outline for a 50-page business plan, to be adapted as per investor’s internal policies and RFP requirements.

Table 4: Template contents for a tourism concession business plan

Title	Content / information requirements
Executive summary	
FEASIBILITY STUDY	
Background	
Project context	Tourism in Mozambique; the potential of the development area; challenges;
Project rationale	Objectives; partners and benefit sharing; risks and risk management
Approach	
Market analysis	
Target markets and competitor analysis	Types of visitors (e.g. day, weekend, foreign, domestic); originating markets; competitors
Market opportunities	Tourism trends (i.e. nationally, locally); marketing; relationships and co-marketing; growth markets
Market share and positioning	
Strengths, Weaknesses, Opportunities and Threat analysis	
Impact analysis	
Economic impact	Individual benefits through employment, provision of goods and services. Collective benefits through community funds/revenue sharing
Social impact	Cultural impacts and impacts on society; skills development. Approach to a Social Impact Assessment
Environmental impact	Consider landscape, soil, air, water, biodiversity, waste (solid and liquid), energy,

	access, and footprint of the infrastructure. Approach to the Environmental Impact Assessment.
THE BUSINESS	
Institutional arrangements	
Business structure	Type of company and shareholding details
Management of the business	Management contracts, hierarchy, committees, relevant contracts and/or memorandums of understanding (MoU)
Reporting and decision making	Who is responsible, such as a board of directors
Managing community benefits	(if relevant) how a community fund will be managed.
The concept	
Overview of the development	Can include the style and extent of development, intended markets, activities, style and attractions
Description of facilities	Type of accommodation, services (e.g. water, sanitation, electricity), catering,
Procurement method	
Staffing	Recruitment process, local and non-local staff
Products	Including type of construction materials; furnishings and décor; food and beverages; equipment etc
Services	Including type labour for construction and maintenance, transportation, guiding, laundry etc.
Staff requirements	
Positions to be filled	e.g. manager, housekeeping, catering, labourers, guides etc. during construction and operation phases
Salaries	Per category of worker
Training and promotion	Approaches and guidance
Labour requirements	Work authorizations and residency permits
Staffing principles	Avoiding child labour. Approach to casual and local labour
Marketing plan	
Market segmentation	Types of tourists to be targeted in different market segments
Product offering	Including Unique Selling Points (USP)
Pricing	Strategy for pricing
Marketing strategy	Including use of guide books, internet, tour operators, travel agents, travel magazines, trade shows, word of mouth, media adverts; promotions, collaborative agreements; local and international marketing
Reservation	How bookings will be made, and by whom
FINANCIAL PLAN	
Financial investments	Total investment value in terms of project preparation, capital, services and equipment, and project management
Construction costs and insurance	
Accommodation	
Fixtures and fittings	

Vehicles and equipment	
Marketing	
Licenses, Authorizations and other fees	Which, when and cost (of preparing required documentation and obtaining license)
Staff training	
Legal and accounting	
Projections of business growth	Creation of a spreadsheet to predict changes in income and expenditure over the concession period (e.g. 10 years)
Sensitivity analysis	Evaluation of the likelihood and realistic nature of the projections.
Profit and loss	Spreadsheet including calculations of total income, total costs, gross profit, depreciation, tax, net profit, dividend, retained and accumulated profit and (if relevant) community dividend
Project capital structure	Value to each partner
Cumulative cash flow	Predicted cash flow and profitability
Budget and contributions	Budget for preparation, construction, power and water, accommodation, fixtures and fittings, vehicles and equipment, professional fees, marketing, licenses and insurance, training, working capital. Sources of funding
Annexes	
Detailed budget	
Visitor projections and financial analysis	

Source: Adapted from Eco-MICAIA, undated

➤ **Environmental, social and economic responsibility**

More information about best practices in this area can be found in the Best Practices section of this Manual. Guidance is provided on economic, environmental and social options during the planning, development and operation phases of a tourism concession. Review this section as you prepare your concession, and use it to inform the development of your business plan (particularly for the impact analysis).

➤ **Credibility and references**

Legal backup documentation of the proponent and SPV, existing or proposed, is required in accordance with the Public Procurement Regime, and RFP tend to require further commercial, management and also financial documentation.

Since the non submission of legal and RFP required documentation may lead to an early disqualification, investors should take strong attention to these requirements.

➤ **Required local assistance**

Local legal and tax requirements in Mozambique are substantially different from other SADC's countries and specific terms and conditions should be acknowledged and incorporated when preparing the proposal.

Also during the negotiations stage, and as transactions will tend to be very specific in compliance and social responsibility related details, it will be important for PS to be supported by lawyers and community brokers, an indication of which can be found, respectively, in Annex C.3 Others and Annex C.2 Community brokers.

Local assistance should not be viewed narrowly, as it offers a chance for professional facilitators to interact and transfer know-how to the implementing agents, benefiting, downstream, PS ability to implement the project.

3.3.3 NEGOTIATING THE CONTRACT

Whether a contractual or a licensed concession, investors are expected to enter into contractual arrangements, of different nature and scope and during different stages of the concession development processes, with the main stakeholders of a particular PA: MITUR⁷¹, park administration and communities.

Specifically in what concerns contractual tourism concessions (tourism accommodation and operations concession, a hunting concession or a co-management agreement), PS can expect the following matters to be treated as contract's main terms and conditions (fixed or not fixed, depending on the RFP and contract form attached). Examples of current main terms and conditions are outlined below in Table 5.

Table 5: Terms and conditions of contracts

Theme	Content
● Ownership and handover	- All natural resources, immovable assets and fixed assets with a permanent nature are part of the public domain and shall be returned upon termination of the contract without compensation
● Scope	- Concession, Lease, Operational Lease, Management services, partnerships (consortium and similar)
● Activities	- Most likely involving construction works - Operations
● Business Plan	- Integral part; to be reviewed upon specific conditions
● Rights and Responsibilities	- Risk allocation will be clear, in that all financial and commercial risks and environmental impacts are borne by PS - Exclusive and control and preferential use (<i>influência</i>) rights will be awarded to PS
● Rent, Fees and other charges	- Structured fees - Escalated, at least with inflation rate
● Performance Bond	- Not frequently required
● Step in rights	- Dependant on project investment value; if loans are included as associated agreements (hence, subject to grantor approval)

⁷¹ Gorongosa co-management agreement negotiations with Carr Foundation took approximately 6 years.

● Capital investment	- PS, with or without community equity investment
● Duration	- Varying from 10 to 25 years; renewal dependant on updated plan, fees and past compliance
● Area/Size	- Dependant on product, usually measured in hectares (ha)
● Conservation management	- Establishment of coordinating mechanisms/fora/entities; management responsibilities, activities and targets.
● Reporting	- Regular reporting obligations
● Non compliance, Penalties and Termination	- Interest is usually not charged on late payments - Penalties, if charged, will be fixed - Termination causes: end of term, mutual agreement, material breach, force majeure and change in circumstances (will not cover tax legislation change but will include change in markets)
● Monitoring and Enforcement	- PA agency will have inspection and technical auditing rights - Notifications and prior warnings will be required prior to enforcing penalties or termination rights
● Dispute Settlement	- Arbitration - Local mediation structures and powers

3.2 RISKS AND TROUBLESHOOTING

Table 6 below summarises the main threats affecting particular stages of PS involvement in tourism concessions development processes:

Table 6: Concessions processes risks and indicative mitigation measures

Risks	Mitigation
√ Transaction costs can be high when developing partnerships with local rural communities, as they will probably have very low capacity and understanding of the tourism industry	⇒ Several NGOs have experience of working with them in Mozambique, and may be worth commissioning as brokers
√ Unclear or not precise scope of the bid and contract	⇒ Request clarifications during RFP stage
√ Insufficient data (e.g. lack of management plans, or market information)	⇒ Site visits; prepare pre-feasibility studies; background information prepared (e.g. PA management plan; infrastructure development plan)
√ Product appropriateness	⇒ Due diligence
√ Access to finance	⇒ Objective step in clauses
√ Slow public sector action	⇒ Request assistance from MITUR contract focal point
√ Business plan incomplete or insufficient	⇒ Revise and ensure that financial planning and institutional arrangements (particularly with community partnerships) are prepared
√ Insufficient infrastructure in the PA	⇒ Ensure that the business and tourism plan is in line with existing or proposed infrastructure
√ Lack of clarity on EIA requirements	⇒ Discuss with MICOA and ensure DNAIA approves the ToR for the assessment
√ Unreal expectations – of all sides of what the benefits will be; accessibility on the ground.	⇒ Do your homework and know what is realistic
√ Time delays	⇒ Be patient and if appropriate request MITUR for a confirmation of the status of the tender process

√	No guarantee that the tender will be awarded	⇒	Be aware that this can happen
√	Public officials using or disclosing confidential or project related information without PS acceptance	⇒	Always require that submission of any documents is officially confirmed (stamp, signature and date)
√	Lack of transparency and political interference when granting the contract/choosing the selected bidder	⇒	Request written clarifications and confirmations during the process.

STEP 3: IMPLEMENTING A TOURISM CONCESSION

4.1 BASIC BUSINESS REQUIREMENTS: STEP BY STEP

4.1.1 GENERAL

Mozambique official language is Portuguese and it must be used in all applications and communications with public departments.

Despite the common use of American Dollars (USD) and South African Rands (ZAR), Metical (MZM) is the official currency⁷² and must be used for paying fees and other charges and most of all, must be used in the tourism concession companies financial accounts.

4.1.2 LICENSING

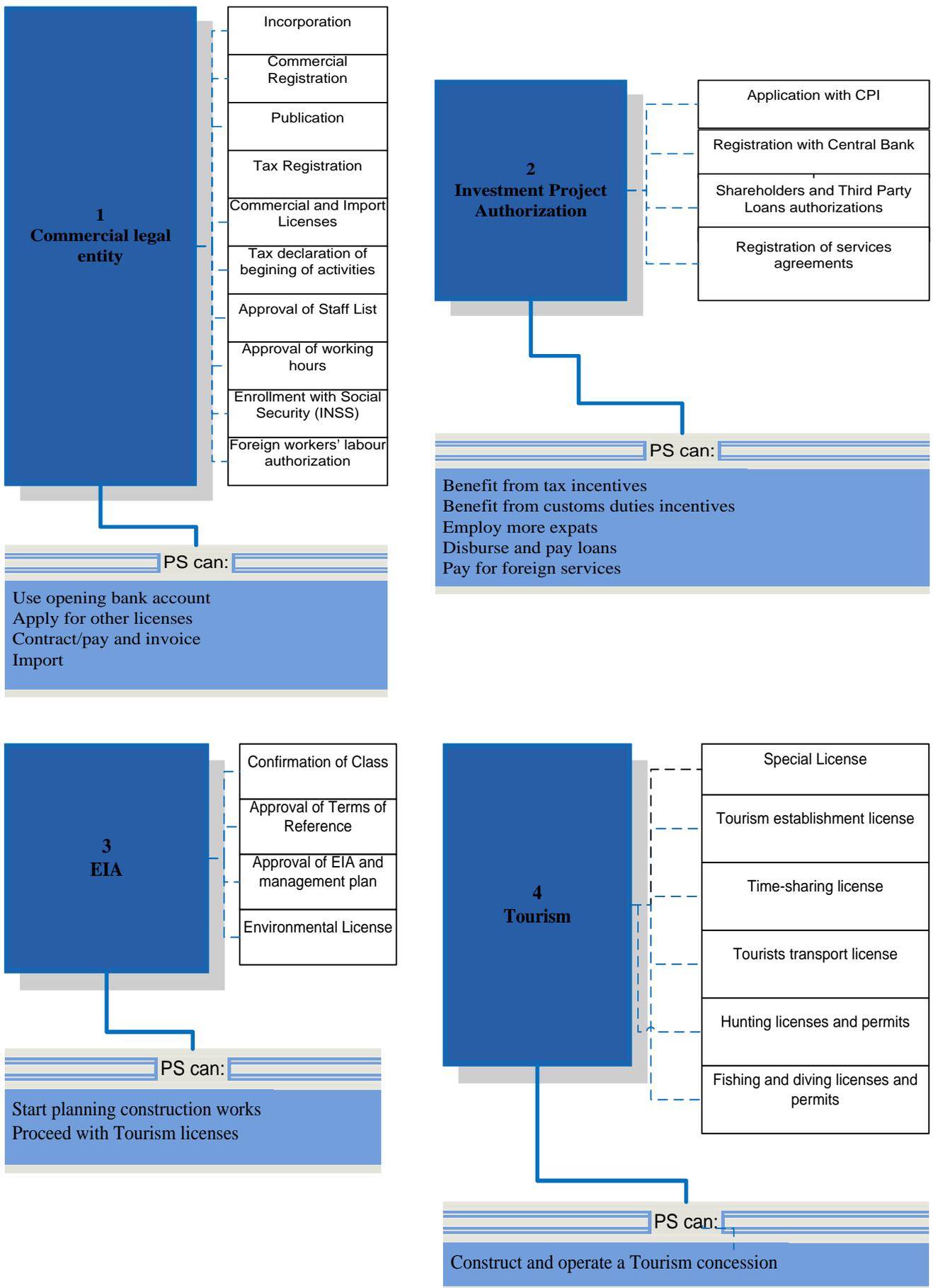
All licenses required to operate a business and implement a tourism concession are described in Section 2.3.3 Applicable Legislation, and competent licensing entities are those listed in Table 1, also above.

Licenses, authorizations and approvals processes are being standardised, and investors should use the official forms and templates for submissions to be officially considered. Annex B.1 Mozambique Legislation includes a list of links where detailed procedures, requirements, fees and inspections can be consulted.

The flow charts in Figure 7 below present a scheme for the ideal sequence of licensing requirements applicable to the performance of contractual tourism concessions in PAs.

⁷² On 06.04.2012 the average exchange rate was for USD, 27 and for ZAR, 3.5.

Figure 7: Ideal sequence of licensing, enrolments, approvals and authorizations requirements



4.1.3 OPERATIONS AND CONCESSION MANAGEMENT

Considering how many legal diplomas will govern operations (and also that it is likely that contractual arrangements will include clauses ensuring conceding entity termination rights in case of breach of legal obligations, irrespectively of being or not listed), PS tourism concessionaires must ensure that a legal compliance mechanism is set in place as from date of beginning of negotiation of contracts.

Over and above legal compliance, PS must also warrant that contractual compliance is made a priority (for instance, it is strongly advisable that reports are submitted with appropriate level of detail and backup documentation). Ongoing communication with Park administration and MITUR designated representative is also essential.

The following sections describe contract management, monitoring and evaluation, communication and trust, dispute resolution, business and tourism management.

➤ **Contract Management**

The objectives of contract management are⁷³:

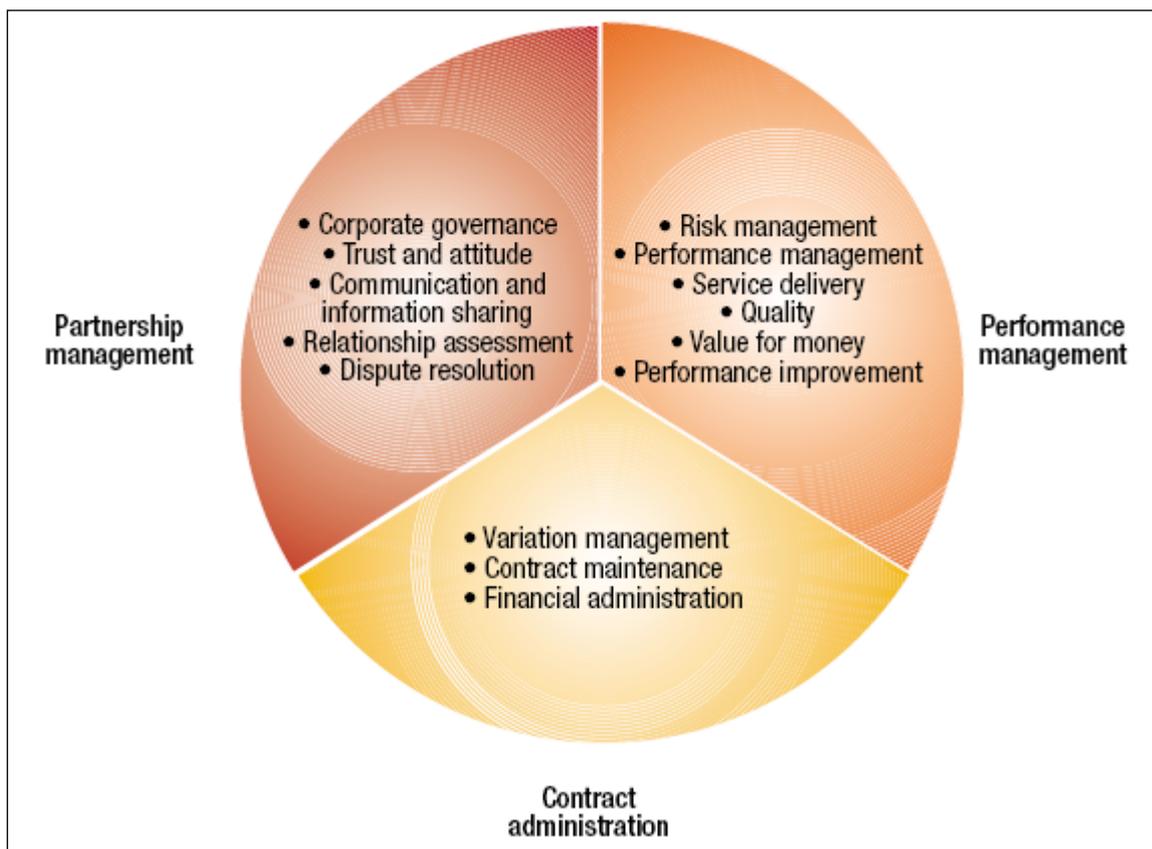
- To manage the partnerships and establish good working relationships
- To define roles, responsibilities and protocols;
- To measure outputs against required objectives and regulate performance;
- To enable administrative processes required for effective management; and
- To react timeously, manage variations and settle disputes.

From the perspective of the PA agency, the management of a concession contract is built upon three main elements: partnership management, contract administration, and performance management.

The key dimensions of each of these elements are outlined below in Figure 8.

⁷³ Varghese, 2012.

Figure 8: Concession agreement management functions



Source: National Treasury PPP Unit, 2004

During the operation of the concession, the key functions of the contract management are as follows⁷⁴:

- **Partnership management:** This includes reviewing and revising the agreement as necessary; managing change; and commissioning independent reviews.
- **Performance management:** This entails ensuring that contracted services are provided, while also managing risks, performance and variations.
- **Concession administration:** This incorporates the review and revision of financial administration, agreement, maintenance and variation management procedures. Also involved is the calculation, recording and deducting of penalties.
- **Communication structures:** Including principles and reporting requirements, and understanding about who is contacted on particular issues.

➤ **Monitoring and Evaluation**

Performance monitoring systems should be established to enable the concessions partners to⁷⁵:

⁷⁴ Adapted from National Treasury PPP Unit, 2004; Varghese, 2012.

⁷⁵ Adapted from National Treasury PPP Unit, 2004.

- regularly check progress to ensure that project milestones are met, including site visits by representatives of the PA agency where necessary;
- hold regular progress meetings with the private party and consider performance reports;
- conduct regular and random inspections of the supplied goods and services;
- check that all performance conditions and clauses in the concessions agreement are acted upon;
- develop effective mechanisms for obtaining feedback from end users and other key stakeholders;
- review any third party monitoring reports;
- inspect deliverables to ensure inferior goods or services are not accepted; and
- maintain comprehensive documentation on performance monitoring.

Effective monitoring should provide the basis for reviewing actual concessionaire performance against the output specifications and other obligations contained in the concession agreement. Like monitoring, reviews can be carried out by the institution and/or independent third parties⁷⁶.

Action taken by the PA agency to correct concessionaire performance needs to be in line with the provisions in the concession agreement and commensurate with the severity of the transgression. The application of formal warnings, penalty deductions, and other responses should be undertaken in a manner that is likely to achieve the best result. An overly rigid approach may jeopardise continuing service delivery to end users, while too much lenience could encourage the private party to commit further breaches⁷⁷.

Monitoring may include elements of financial performance, environmental impact (in line with an environmental management plan), and social and cultural impacts. The latter is particularly important where the concessionaire is a joint-venture between a private sector company and a community organisation, and where revenues and other financial benefits flow.

➤ **Communication and trust**

Good communication is often the make or break in managing a partnership. It is vital that the parties agree to formal disciplines about how they communicate in the project, and that they do not break protocols or stray into informalities. Many cases of mistrust or concern over poor performance in a service relationship result from a failure to communicate at senior management level, or from each party's failure to understand the business goals or intentions of the other side. Consistent communication is also important, or differences in perspective may create difficulties in the partnership⁷⁸.

Sharing information between the concessionaire and the PA agency may raise legitimate concerns about how information will be used. There may, for example, be a concern that information about the PA agency's plans, finances and resources will be used by the concessionaire for its commercial advantage. Willingness to share information openly depends largely on the element of trust. Joint management committees can be used to improve collaboration and communication. However, they need to have clearly defined roles and responsibilities in order to operate effectively.

⁷⁶ Adapted from National Treasury PPP Unit, 2004.

⁷⁷ Adapted from National Treasury PPP Unit, 2004.

⁷⁸ Adapted from National Treasury PPP Unit, 2004.

However, there should be a realistic balance between openness and reserving negotiating positions⁷⁹.

The roles and responsibilities of the PA agency and the concessionaire should be clarified as the concession contract is negotiated. However, if the concession is operating, and issues arise that need clarification, the parties should work together to find a common way forward.

➤ **Dispute resolution**

The main goal of the project officer should be to anticipate and prevent disputes from arising in the first place. When this is not possible, he or she should facilitate co-operation between both sides to ensure that problems are recognised and resolved quickly and effectively. If it is necessary to involve a higher level of authority, the PA agency should attempt to create the best possible atmosphere for an agreement to be reached. Whatever the nature of the problem, the PA agency should ensure that⁸⁰:

- problems are recorded as and when they occur;
- the concessionaire is notified of problems using the mechanism set out in the concession agreement
- approaches to resolving problems are clear and documented; and
- escalation procedures set out in the concession agreement are followed.

Problems can occur if⁸¹:

- the PA agency loses control, resulting in unbalanced decisions that do not serve the PA agency's interests;
- decisions are not taken at the right time – or are not taken at all;
- the concession business does not integrate effectively with existing processes, and fails;
- people (from both sides) fail to understand their obligations and responsibilities, leading to unnecessary disputes;
- project staff do not have appropriate or sufficient training and expertise;
- too many issues are escalated inappropriately, which can slow down decision making;
- the intended benefits are not realized; and
- opportunities to improve value for money and performance are missed.

Business and tourism management

It is assumed that concessionaires will have previous experience in the operation of tourism enterprises, before embarking on a concession. The operation of the tourism business will follow the business plan, and in particular should address⁸²:

- Marketing – including strategy, pricing, promotion, sales and reservations;

⁷⁹ Adapted from National Treasury PPP Unit, 2004.

⁸⁰ Adapted from National Treasury PPP Unit, 2004.

⁸¹ Adapted from National Treasury PPP Unit, 2004, Varghese 2012.

⁸² Adapted from Eagles et al, 2009.

- Tourism products and activities – facilities provided, tourism activities (e.g. safari drives, walks, bird watching, diving, fishing, cultural tours etc.) and interpretation (e.g. cultural and environmental);
- Staffing – including organization and management, training, promotion, and principles (i.e. customer service);
- Procurement – including of staff, products and services; and
- Reporting and record keeping – as required in the concession agreement.

4.2 RISKS AND TROUBLESHOOTING

Some of the critical success factors in a concession agreement include the following:⁸³

- service delivery continues to be satisfactory to both the concessionaire and the PA agency;
- expected benefits from the concession, value for money and innovation are realized;
- there is a good relationship between the concessionaire and the PA agency;
- both the concessionaire and the PA agency are aware of their respective contractual obligations and has the necessary resources and expertise to honour them;
- disputes are resolved at the appropriate level without recourse to external dispute resolution; and
- changing service delivery requirements are anticipated, and variation procedures are used to minimise any negative consequences and maximise any opportunities brought about by change.

Some of the risks, and problems that can arise, in addition to options for mitigating them are outlined in Table 7 below.

Table 7: Concessions management risks and indicative mitigation measures

Risks	Mitigation
√ Language barrier	⇒ Local representative (resident or a national partner).
√ Culture barrier between private sector and community	⇒ Community brokers, communication, coordination, meetings.
√ Bureaucratic procedures	⇒ Be well prepared/advised.
√ A poorly drafted concession agreement	⇒ Revision and amendment of the agreement.
√ The people involved in negotiating the concession agreement are not the same as those given responsibility for managing it	⇒ Retain institutional memory. Document processes. Ensure new individuals receive adequate handover.
√ Inadequate resources are assigned to concession agreement management	⇒ Ensure adequate budget is provided. Initiate processes to raise sufficient funds. Improve efficiency of management or down-scale activities.
√ Poor institutional leadership and/or misunderstanding of the concession agreement	⇒ Capacity building / training. Suitable recruitment of leadership. Replacement of inadequate staff. Good communication.
√ The institution team does not match the private party team in terms of skills or experience (or both)	⇒ Capacity building / training. Replacement of inadequate staff. Good communication.
√ The wrong people are put in place, leading to personality clashes or ineffective management	⇒ Replacement of people involved. Good communication.
√ The context, complexities and dependencies of the concession agreement are not well understood	⇒ Communication and liaison to clarify areas of misunderstanding. Revision of agreement if required.
√ There is a failure to assess private party or institutional assumptions adequately	⇒ Revision of processes in relation to new information.
√ Authorities or responsibilities relating to commercial decisions are not clear	⇒ Clarify through discussion and negotiation. Revision of concession agreement.

⁸³ Adapted from National Treasury PPP Unit, 2004

√ A focus on current arrangements rather than on what is possible or the potential for improvement	⇒ Scoping and brainstorming exercises.
√ A failure to monitor and manage institution risks.	⇒ Modify monitoring and management systems.
√ Wrong interpretation and enforcement of legal provisions by competent public officials, such as the understanding that activities within the 100m from high tide mark are completely forbidden	⇒ Bring your legal advisors for meetings with public stakeholders and prepare good and legally sound cover letters (usually a very brief summary of why and what documents are being presented).
√ Geographical barriers – i.e. hard to organize to meet if stakeholders are broadly dispersed	⇒ Plan in advance.

Source: Adapted from National Treasury PPP Unit, 2004

BEST PRACTICES

5.1 BEST PRACTICE IN SUSTAINABLE TOURISM

Sustainable tourism provides the context for responsible tourism practices. According to the World Tourism Organization, sustainable tourism development guidelines and management practices are applicable to **all forms of tourism in all types of destinations**, including mass tourism and the various niche tourism segments. Sustainability principles refer to the **environmental, economic and socio-cultural aspects** of tourism development, and a suitable balance must be established between these three dimensions to guarantee its long-term sustainability. Thus, sustainable tourism should:

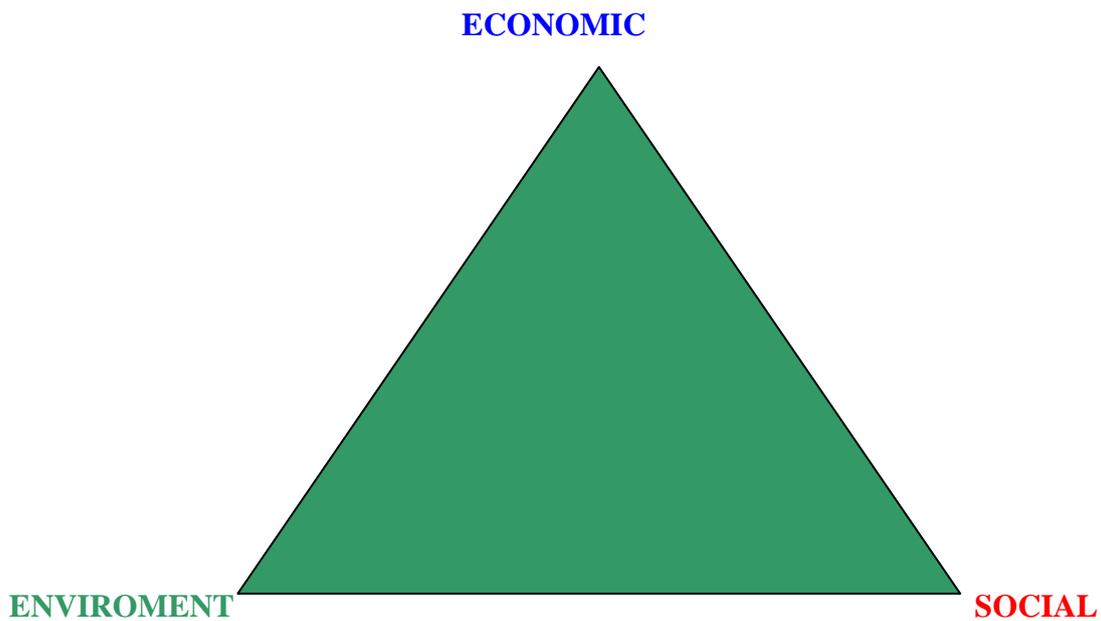
- 1) Make **optimal use of environmental resources** that constitute a key element in tourism development, maintaining essential ecological processes and helping to conserve natural heritage and biodiversity.
- 2) Respect the **socio-cultural authenticity of host communities**, conserve their built and living cultural heritage and traditional values, and contribute to inter-cultural understanding and tolerance.
- 3) Ensure viable, **long-term economic operations**, providing socio-economic benefits to all stakeholders that are fairly distributed, including stable employment and income-earning opportunities and social services to host communities, and contributing to poverty alleviation.

Sustainable tourism development requires the **informed participation of all relevant stakeholders**, as well as strong political leadership to ensure wide participation and consensus

building. Achieving sustainable tourism is a continuous process and it requires constant monitoring of impacts, introducing the necessary preventive and/or corrective measures whenever necessary. Sustainable tourism should also maintain a **high level of tourist satisfaction** and ensure a meaningful experience to the tourists, raising their awareness about sustainability issues and promoting sustainable tourism practices amongst them⁸⁴.

Practicing sustainability means constantly trying to resolve the conflict between various competing goals. It involves at the same time, making profits, maintaining environmental quality and upholding social equity and justice. These famously known three dimensions are often referred to as the ‘triple-bottom-line’.

Figure 9: The triple bottom line



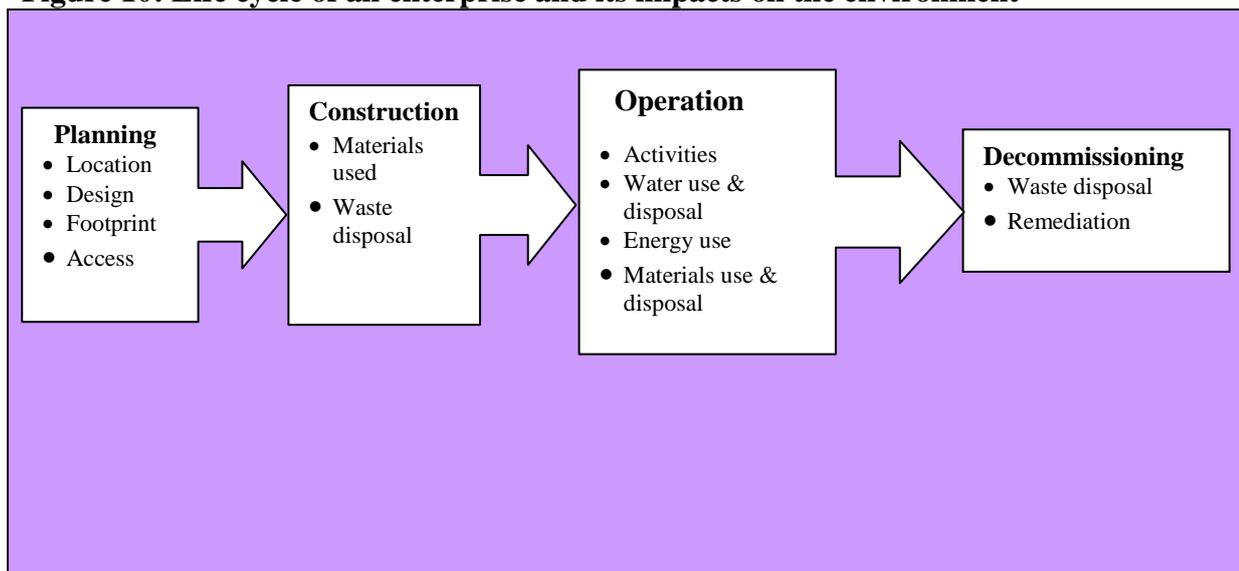
5.2 ENVIRONMENTAL BEST PRACTICE

A tourism enterprise can affect the local environment and its biodiversity values in a number of ways – both positive and negative. To determine how a particular enterprise impacts on the natural world, it is necessary to examine all aspects of the operation over the life cycle of the enterprise⁸⁵.

⁸⁴ WTO, 2004.

⁸⁵ Spenceley et al, 2002

Figure 10: Life cycle of an enterprise and its impacts on the environment



Source: Spenceley et al, 2002

5.2.1 PLANNING STAGE

There are a number of legal and planning requirements that must be fulfilled as a matter of course when developing a new tourism enterprise. Information that is gathered during the planning stage can be very valuable to the enterprise during subsequent phases of its operations. More specifically⁸⁶:

- Work with the Environmental Impact Assessment (EIA) consultant to develop the operation in an environmentally friendly way.** Instruct the consultant to provide information about the valuable conservation features in and around the potential site, and to advise on the position that has the least negative environmental impact. A list with Mozambique environmental consultants is included in Table 14, in Annex C.3 Others.
- Consider development plans in relation to the lowest possible ecological impact.** This is especially relevant in environmentally fragile areas such as the coastal zone, indigenous forests, wildlife habitats and wetlands.
- Use the EIA to make responsible, informed decisions in planning the location of the enterprise, its design, footprint and access to the site.

Based on the environmental information contained in the EIA, the developer can request that the architect/s design cost effective buildings in relation to the local environment. For example⁸⁷:

- Instruct the architects to **maximise the use of sustainably harvested, local materials** in their design. This minimises transportation of materials, could decrease costs, while having a positive economic impact on the revenue and employment of local enterprises.
- Consider design in relation to **minimising operational water use, energy use, and materials use** to reduce future environmental costs.

⁸⁶ Spenceley et al, 2002

⁸⁷ Spenceley et al, 2002.

- c. Responsibly consider the **impact of the location, size, construction and features of the buildings** on local people, other visitors and wildlife in relation to noise and light pollution. Plan the design to minimise negative impacts. (e.g. diesel generators and workshops tend to be very noisy).
- d. Incorporate **local architectural styles** to improve the aesthetic impact of the development and emulate local cultural styles.
- e. Plan landscaped areas to **contribute to the biodiversity** of the area by planting and conserving local indigenous species (and in line with the management plan for the PA).

5.2.2 DEVELOPMENT STAGE

During the development process, the concession must develop a comprehensive **environmental management plan and systems**, to comply with Mozambican legislation and implement measures to avoid and mitigate any negative environmental impacts. The environmental management plan must include plans for waste management, water management, and energy management to minimise waste production and use of water and energy⁸⁸.

For larger operations, it is worthwhile considering the development of an environmental management system (EMS) for the enterprise. An EMS (e.g. ISO14001) is a mechanism that is applied to a business to audit its environmental performance. The EMS systematically examines the amount of consumption (e.g. energy, water, packaging resources, food) and waste production (e.g. sewage, waste water, organic and inorganic waste) within a company, and tries to find ways of reducing these amounts⁸⁹.

Sustainable design and planning considerations should include⁹⁰:

- a. Prior to construction, **stipulating what proportion of the building materials should be locally produced** by sustainable means, and giving architects a feasible percentage target to aim for (e.g. 30% of construction materials to be sourced from communities and resources within 50 km). Ensure that architects investigate local natural resources during their design period, and monitor their progress towards the target.
- b. Ensuring that quantity surveyors have correctly addressed the volumes of resources required to construct buildings so as to minimise wastage.
- c. **Minimising the transformation of the environment** around the enterprise – try to maintain existing mature trees and avoid clearing nearby vegetation.
- d. **Considering the siting of access roads**, materials storage sites, and waste disposal areas carefully in relation to the EIA – to minimise negative impacts.

5.2.3 OPERATIONS STAGE

During the operation of the concession, the main environmental issues that should be addressed relate to energy, water, waste and biodiversity.

⁸⁸ MITUR/RoM, 2009.

⁸⁹ Spenceley et al, 2002.

⁹⁰ Spenceley et al, 2002.

Energy

There are a range of energy sources that can be used by tourism enterprises to provide power for lighting, cooking, heating, cooling and transportation. The choice of power source/s will likely depend on location, local infrastructure, availability and cost. For example, renewable sources of energy (e.g. solar power; wind power) are ‘clean’⁹¹ because they rely on natural sources and do not produce environmentally damaging discharges⁹².

Some energy sources are more damaging to the environment than others. For example, it is fairly well accepted that the use of fossil fuels (e.g. burning natural gas, petrol, diesel, or coal) releases carbon dioxide into the atmosphere, which contributes to global climate change. The enterprise’s choice of energy source, and the ways in which these sources are utilised, will determine the type of impact that the operation has on its environment⁹³.

Options for energy saving include the following⁹⁴:

- Always purchase **energy efficient appliances**, such as those with an ‘Energy Star’ rating.
- If you are using other energy sources, **adjust the hot water thermostat** on geysers to the lowest suitable level (46 to 49° C rather than the normal +60° C).
- Install **solar water heaters** – once installed, solar power is free!
- Set fridge and freezer **thermostats** to the appropriate temperature for the type of food and the storage period. Set the fridge at between 2.2 and 4.4° C, and the freezer at between –17.8 and -15° C.⁹⁵
- Insulate cold and hot pipes and appliances – include roofs, windows, water boiling units, geysers, and fridges.
- Install energy saving light bulbs. These can include compact fluorescent lights and Light Emitting Diodes (LEDs) (the most efficient). Although they can be more expensive to purchase than incandescent bulbs, they save you energy and money in the long term.
- Where air conditioning is used, provide ceiling fans as an alternative. Put the thermostats at 23° C, and ensure that they are turned off when no guests are in the room.

Water

Water is possibly the world’s most valuable resource, and sustainable enterprises will recognise its importance. The availability of fresh, clean water varies widely across Mozambique: although potable water may be available in major towns and cities through a reticulated mains supply, in protected areas it may only be sourced from boreholes, dams, or seasonal rivers and must be purified by the user⁹⁶.

⁹¹ Outside of having to create the infrastructure required

⁹² Spenceley et al, 2002

⁹³ Spenceley et al, 2002

⁹⁴ Spenceley et al, 2002

⁹⁵ Talacko & Andrews (1998)

⁹⁶ Spenceley et al, 2002

In PAs, an enterprise can determine how much water it uses in a number of different ways⁹⁷.

1. **Water meters** – Most water meters record consumption in kilolitres. The enterprise can monitor water usage by regularly recording the metre reading. They should be calibrated to the 0.1 litre level to allow users to check for leaks.
2. **Pump flow rates** – Some enterprises pump water from groundwater through boreholes, or from rivers and lakes. By recording the operating time of the pump, and the flow rate of the water, the enterprise can monitor water consumption.

Options for water saving include the following⁹⁸:

- **Water saving devices**, such as low-flow showerheads and faucets can be installed, and may reduce water consumption by half.
- **Fixing each leak** and dripping tap. This can save up to 420 kilolitres of water a year.
- **Flush volumes** in toilets can also be reduced by installing dual-flush systems. A cheaper and simple option is to put putting bricks or plastic filled container inside cisterns to reduce water flow per flush.
- **Waste water can be recycled**, by taking it from showers and sinks, filtering it, and then using it to irrigate gardens, or to flush toilets.
- **Collect rainwater** and use it. It is relatively easy to install a system of gutters along tiled or corrugated roofs that channel rainwater flow into a large cistern. Install a filter to ensure that debris such as leaves cannot enter the cistern.
- **Educate staff and guests**, by providing positive and engaging information regarding the importance of water conservation, and outlining how staff and guests can help (e.g. by having quick showers instead of baths, and by only having linen and towels cleaned when they are dirty, rather than every day).
- **Create incentives** for tourists and staff to save water by metering usage in bathrooms, laundry and kitchen, and then offering a gift/discount for people who use less than your benchmark. (e.g. less than 350 litres per person per day).

In many wildlife areas in southern Africa, water can be disposed of in a **reed bed wastewater** disposal system. These can clean waste water in a way that does not need energy or chemicals, while creating an attraction for visitors (e.g. a bird hide next to a pan) and provide valuable habitats for wildlife.

⁹⁷ Spenceley et al, 2002

⁹⁸ Spenceley et al, 2002

Box 2: Monitoring water consumption in the Kruger National Park

Prospective concessionaires in Kruger National Park had to abide by the commitments SANParks had made to limiting and monitoring water consumption and wastewater disposal. A benchmark limit of 350 litres of water per person, per bed was defined within the tender information prepared by SANParks. Concessionaires were required to install and maintain meters, which SANParks would consequently monitor. In addition, concessionaires were required to estimate volumes of waste water that were likely to be produced each day, and to compile monthly monitoring and reports to SANParks.⁹⁹ At Pretoriuskop Rest Camp in Kruger National Park, on average 4.7 million litres of water are used monthly by tourists, staff and for irrigation. SANParks estimate that each kilolitre costs R89c to pump and filter from a nearby river. A benchmark for water use by tourists was calculated at around 890 litres per bed night occupied, at an average cost of about R79 per bed night occupied (approx US\$10) (www.parks-sa.co.za)¹⁰¹.

Waste

Thinking of the materials that the enterprise uses, and what happens to them, is a great start to addressing waste management. An important part of managing waste responsibly is to shift attention towards reducing sources of potential waste before having to deal with the messy reality of disposing of it. The enterprise might also raise its concerns with suppliers, stressing the financial costs associated with disposing of their packaging¹⁰².

Options for reducing waste, pollution, and use of harmful substances can include the following¹⁰³:

- In the **kitchen**, order and prepare food in relation to guest and staff requirements to minimise waste as well as cooling and storage requirements. Purchase non-perishable goods in bulk – food that is ordered in bulk not only has less packaging, but will have cheaper purchasing and delivery costs.
- In **wildlife areas**, it is particularly important to make sure that wildlife cannot access food and food waste – use mongoose/monkey/baboon/hyena proof bins, and keep kitchen doors closed!
- In **guest rooms**, use of re-fillable wall dispensers for biodegradable liquid soaps and moisturisers throughout the enterprise, rather than regularly providing new, individual soap tablets. Also use purified water in re-fillable bottles rather than water in disposable plastic bottles, to reduce waste.
- In **offices**, circulate information verbally during meetings, electronically by email, and through central notice white-boards rather than paper memos for everyone. Recycle paper and printer cartridges, and purchase recycled and chlorine free paper.
- In the **garden**, create a compost heap for leaves, and chip branches to use as mulch on flowerbeds.
- Give **visitors** information before they arrive on the types of things they need to bring, and what can be disposed of on site – educate clients before they arrive. Advise tourists not to litter and instead adopt a ‘pack it in, pack it out’ policy – especially in conservation areas and where wildlife is around.
- Create a **worm farm** (vermiculture) to make a useful soil conditioner for your garden from vegetable waste. Consider donating waste food to a local pig farmer.

⁹⁹ SANParks (2000).

¹⁰⁰ Kalwa, et al. (2002).

¹⁰¹ Kalwa, et al. (2002).

¹⁰² Spenceley et al, 2002.

¹⁰³ Spenceley et al, 2002.

The PA may provide its own guidance on waste management, which you will need to follow in terms of your concession contract.

Your energy use, and your waste disposal mechanism, may produce emissions of carbon dioxide. These contribute to global climate change. For guidance on calculating and off-setting your emissions, see the box below.

Box 3: Calculating and off-setting your carbon emissions	
<ul style="list-style-type: none"> • Calculate how much fuel you are using from burning fossil fuels (e.g. petrol, diesel, paraffin, coal), from grid electricity (in South Africa this is mainly produced from coal-fired power stations), and from wood and charcoal. • Then calculate the amount of carbon dioxide that your enterprise is producing by burning these fuels. You can use some of the online tools to do this (see below). • You can purchase voluntary off-sets, or you can start an initiative of your own (e.g. 1 tree planted absorbs an estimated 1 tonne of CO₂ over 20 years). • Tools are available from the Global Reporting Initiative to guide calculations too: www.globalreporting.org. 	
Carbon Offset company	Website
Ag Cert / Driving Green (Based in Ireland)	www.eta.co.uk/green_driving
Atmosfair (Based in Germany)	www.atmosfair.de/en/
Carbon Fund (Based in U.S.)	www.carbonfund.org
CarbonNeutral Company (Based in UK)	www.carbonneutral.com
Climate Care (Based in UK)	www.jpmorganclimatecare.com
Climate Friendly (Based in Australia)	climatefriendly.com
Climate Trust (Based in US)	www.climatetrust.org
CO2balance (Based in UK)	www.co2balance.com
My Climate (Based in Switzerland)	www.myclimate.org
Native Energy (Based in US)	www.nativeenergy.com
Renewable Choice Energy (based in U.S.)	www.renewablechoice.com

Source: Spenceley et al, 2010

Biodiversity

The PA management plan, and the concessions contract, should provide you with guidance on how to conserve biodiversity. Some general guidelines that you can use to enhance the local environment include:

- Adhere to any **national and international requirements** that govern the trade in listed, endangered or threatened (or any combination of these) species. Alert your guests to these requirements.
 - Information on the requirements can be found at the Department of Environment Website (www.environment.gov.za) and include the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). information can

- also be found through TRAFFIC (www.traffic.org)
- Only plant **indigenous/endemic** plant species, and types that are naturally found in your area and demand appropriate volumes of water. Indigenous species are those that naturally occur in the area and have not been brought or introduced through human activity.
- **Replace plants with indigenous species.** Remember that indigenous trees are adapted to thrive in the climate and environment of the area, and therefore more likely to survive in the long term than exotics. When removing invasive alien vegetation, be aware of potential erosion problems if there is significant cover, or the topography/soil/climate is conducive to soil loss. The PA authority should have lists of which plants are invasive aliens.
- **Avoid using broad-based chemical pesticides** that can destroy natural predators in your garden. Rather select plant species that do not require pesticides. Where there are pest problems that have hygiene and health implications for guests and staff (e.g. cockroaches, rats, mosquitoes), then **use poisons responsibly** and in specific areas where they are needed inside buildings. Contact a reputable supplier who will only use substances that do not accumulate in the food chain (e.g. they cannot induce secondary poisoning when a predator eats an animal that has been poisoned).
- When procuring local supplies, especially fish and seafood, ensure that these supplies have been legally and sustainably harvested¹⁰⁴.
- Consider the impact of **game drives, guided walks, and mobile camps** on flora and fauna. Habituation of wildlife is one impact of tourism that can improve the wildlife experience – however – it can go too far. Animals that are ‘tame’ or pose a health or safety risk due to their lack of fear can be problematic. Consider how close you get to wildlife and how to minimise disturbance. Think carefully about conditions for off road driving, or off-path hiking.

Box 4: Conservation by Wilderness Safaris in South Africa

In South Africa, Wilderness Safaris has concessions in the Makuleke Contractual Park (within Kruger National Park) and in the Greater St Lucia Wetland Park (a World Heritage Site), covering 320 km². In the Makuleke Contractual Park the company has partnered with a number of agencies to do research of the Makuleke Wetlands Ramsar Site. Research has been done on bats, butterflies, the implications of the wetlands to large mammals, and satellite tracking of elephants within the Great Limpopo Transfrontier Conservation Area. They are also partnership with a doctoral student to study the impacts of off-road driving.

Source: Wilderness Holdings Ltd, 2011

5.3 ECONOMIC BEST PRACTICE

At a minimum, a viable tourism enterprise needs to generate sufficient turnover to cover its operational costs and to recover investments that have been made. Economic best practice is about¹⁰⁵:

- Increasing the benefits of tourism and sharing these more widely and equitably;
- Creating and promoting employment and entrepreneurial opportunities for local community members;
- Putting to work locally available labour and skills;

¹⁰⁴ MITUR/RoM, 2009

¹⁰⁵ Spenceley et al, 2002

- Forging mutually beneficial economic linkages between the formal and informal sector within the immediate small business community; and
- Reducing leakages and increasing the multiplier effect (e.g. retaining as much revenue as possible in the local economy).

Tourism concessions in PAs in particular can reduce poverty in communities who are living in rural and remote areas. This can be done through employment, through creating business opportunities or partnership agreements. The income generated by one permanent job can support a large extended family, and can keep many people out of poverty.

The simplest way of doing business with communities is often through procurement. A mind-shift is needed from seeing community members as people in need of charity, towards seeing them as:

- potential sellers and consumers of products/services
- potential distributor and retailers,
- employees; and
- shareholders, owners and partners in joint ventures.

This issue of improved livelihoods is particularly relevant to nature-based tourism enterprises, because the people living in close proximity to the business (e.g. within or next to a protected area) have a major impact on the protection of natural resources. Not surprisingly, local residents who are excluded economically and socially from tourism will have little if any stake in the sustainable use of natural resources, including wildlife and habitat. There are numerous examples from throughout Africa that document the rapid decline of biodiversity through the agency of people who are excluded from the benefits resource-dependent activities like tourism.¹⁰⁶ However the converse is also true: when local residents are empowered to participate meaningfully in tourism activities, the overall tourism experience is greatly enhanced.

5.3.1 PLANNING STAGE

The planning phase is the best time to consider any joint-venture partnership with a local or resident community. Joint ventures can be described as business activities undertaken between two or more parties for their mutual benefit. Stakeholders may include the public sector (e.g. conservation authority), the private sector (e.g. tourism operators) and a community (e.g. investor or group of micro, small and medium enterprises). The venture may be a formal contractual partnership, or a more simple operating business agreement between the parties. The essence of a joint venture is that mutually beneficial commercial operations can be developed through pooling various skills and resources between joint venture members¹⁰⁷.

1. **Preferentially enter into agreements that directly benefit local communities and conservation** through the business and land tenure arrangements. Such benefits may include lease payments, capacity building or protection of biodiversity. Report on the nature of the agreement, and transparently report the local benefits.
2. **Avoid undermining traditional resource access rights** through joint venture agreements that control access and use of natural resources including land. Report on traditional livelihood activities and demonstrate that proposed arrangements do not jeopardise them.

¹⁰⁶ e.g. Ashley (1996); Everett and Lehmkuhl (1996) Folke, et al (1993) King and Stewart (1996)

¹⁰⁷ Spenceley et al, 2002

3. **Obtain legal advice to ensure transparent contractual agreements** regarding responsibilities of stakeholders, risk sharing, and equitable sharing of profits, dividends, management fees, preferential loans or any other benefits extending from a joint venture enterprise.
4. **Educate local community investors about the fixed capital and operating capital needs of tourism projects and the structuring thereof** (e.g. that investors are likely to incur high initial capital costs with low returns in the early years, followed by largely debt free cash generation 5-10 years later if the project meets critical turnover levels consistently¹⁰⁸).

If formal partnerships are to be developed with local community representatives, they can be established along the lines described in Table 8 below¹⁰⁹.

Table 8: Establishing Sustainable Partnerships: An enterprise perspective

Step 1	The enterprise should define its own objectives and clarify how these objectives will be met through co-operation with others.
Step 2	The enterprise should identify prospective partners based on the objectives to be met. Partners may be drawn from the public, private and/or community sectors. Special care should be taken to ensure that disadvantaged parties have not been excluded from this process of identifying and selecting partners.
Step 3	The enterprise should identify the mandated representatives of all partners . When dealing with communities, certain issues should be taken into account.
Step 4	The enterprise should (re)define the objectives of co-operation in consultation with all partners. The partnership arrangement should benefit all the partners. This process may require the skills of a reputable independent facilitator, especially where there are language differences between the parties. Try to accommodate the language needs of all parties, especially those with the weakest capacity and to keep all partners informed.
Step 5	The parties should choose a method of co-operation . This method will derive from the objectives. In some cases an informal arrangement may be sufficient, however it may be necessary to create a formal structure with legal standing. In particular formal structures are required if funds will be distributed / managed and if the structure is to have any decision-making authority. Widely used methods of co-operation include: <ul style="list-style-type: none"> ➤ A management board (to involve partners in the management of the enterprise or activity) ➤ A trust (to manage flow of benefits to partners, in particular to the wider community) ➤ A communication forum (to tackle issues of joint concern, such as resource management, safety & security)
Step 6	The parties should implement the chosen method of co-operation . Throughout the implementation process, it is important to: <ul style="list-style-type: none"> ➤ Enable weaker / marginalized partners to participate fully and meaningfully ➤ Make it easy for all partners and representatives to attend meetings ➤ Report on the assistance provided to ‘emerging’ partners in terms of time, training, advice, transport and other resources
Step 7	The parties should monitor and report on the success of the co-operative structure against the objectives set by the parties.

With co-ownership concession models, communities lease land and assets over which they have rights, to professional operators in the private sector who are then responsible for developing, running and managing a tourism operation for a set period of time. After this, the community may choose to continue with the arrangement, or seek a different operator, or decide to manage the tourism operation directly themselves. The contacts between communities and operators will also include provisions for community members to be employed in the tourism operation, and for them to receive appropriate training. Through this, the

¹⁰⁸ Cleverdon (2002)

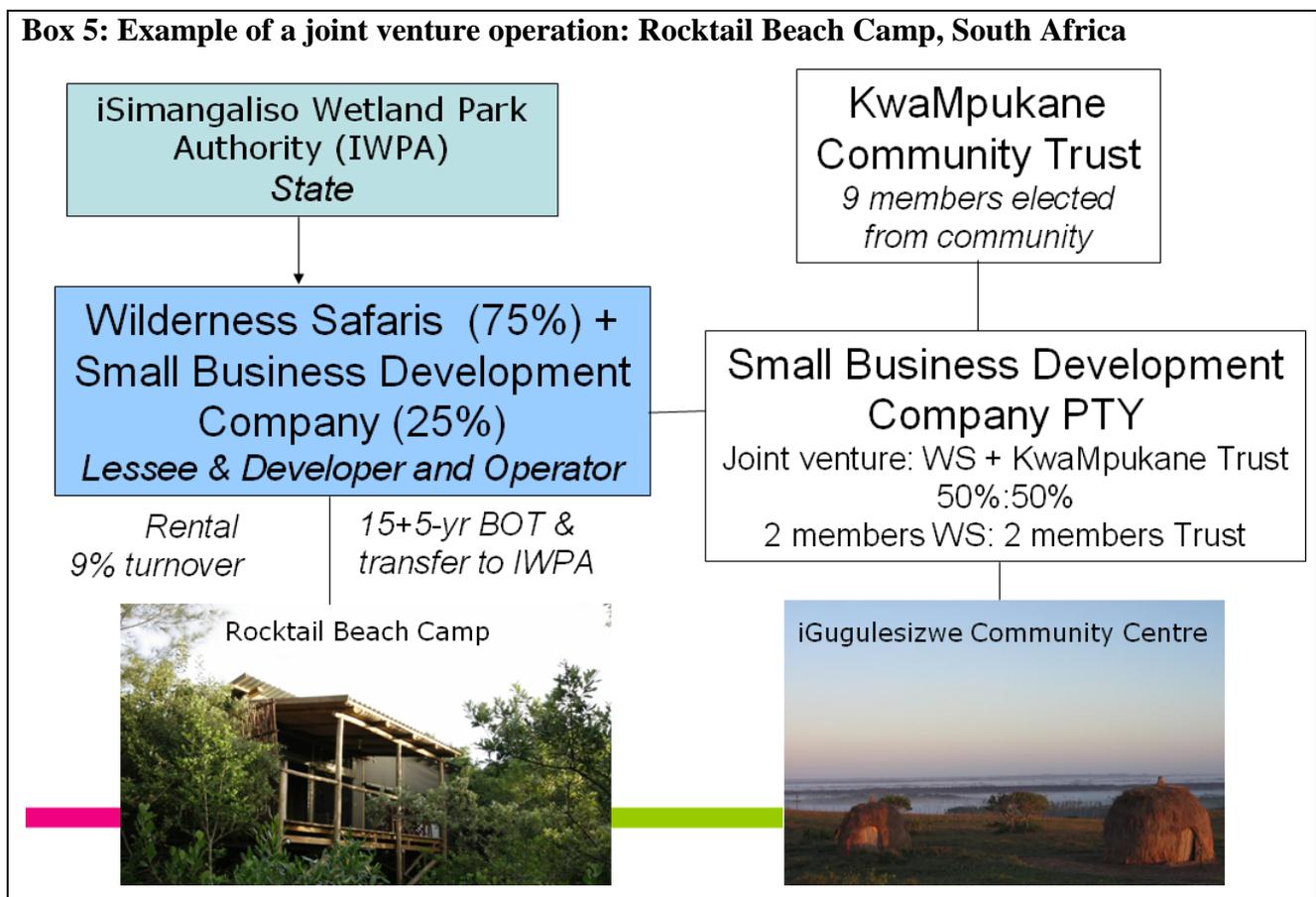
¹⁰⁹ Spenceley et al, 2002

community can benefit from the professional expertise of operators who are experienced in tourism, and can themselves gain experience in the tourism sector¹¹⁰.

Key aspects of the co-ownership model are that¹¹¹:

- Contracts between communities and investors are established on a commercial basis at commercial rates, and the profits that accrue from these contracts are paid into a fund that is managed by the community.
- Statutory entrance and use fees are still levied and remitted to the relevant State authorities (generally the authorities responsible for conservation and protected area management).
- Co-ownership does not imply co-management. The involvement of the private sector in developing in tourism around a community brings a realistic market focus to operations.

An example of a joint-venture tourism concession in the iSimangaliso Wetland Park World Heritage Site of South Africa is outlined below in Box 5. In this instance, both the tourism operation and the community-based company are joint-ventures.



Source: Spenceley, 2009

Templates for joint-venture agreements between private sector and community organisations can be found in

¹¹⁰ MITUR/RoM, 2009

¹¹¹ MITUR/RoM, 2009

According to Mozambique associations and cooperatives legislation (vd also Section 2.2.3

Communities above and Annex B.1 Mozambique Legislation) legislation, the processes for incorporating and operating any of the two forms of community legal entity as long as their scope is local has been made easier. Their functioning structure is similar: a body representing the members, a management board and an auditing structure¹¹², and, in the case of associations, funds raised are to be fully repaid to members or reinvested in social actions as the general assembly so decides, whilst in cooperatives, funds raised are fully reinvested in the cooperative business itself.

5.3.2 DEVELOPMENT STAGE

Recruitment and training

During phases of development, your operation will have requirements for construction labour. You will also want to begin recruiting labour, and training people, so that they are ready to staff and operate the tourism business. For any enterprise, the mechanism/s through which staff are recruited, selected, remunerated, trained and empowered will have significant implications for the local economy and stability. Tourism enterprises should aim to¹¹³:

1. **Recruit and employ staff in an equitable and transparent manner.** Clearly describe to staff and potential recruits the mechanism by which positions are advertised, and the criteria for selecting people to take on the position (e.g. based on experience, qualifications, gender equity, racial equity, local people, etc).
2. **Ensure consistency, transparency and fairness in recruitment and employment.** The enterprise should lay out its human resources policies for all staff to view, in line with national rules (Labour legislation.)
3. **Go beyond the standard minimum wages** for the region, and transparently link wages to positions and experience, rather than gender or race. Paying above the minimum wage, and providing a living wage, is very important.
4. **Minimise the seasonality of employment**, and try to operate your enterprise in a way that ensures consistent employment throughout the year. Report on monthly wages paid to staff and monitor progress towards reduced seasonality of payments.
5. Promote the **human and career development** of local people, and especially women. In collaboration with staff, consider developing a written policy for equal opportunities in employment and training and ensure that all staff are aware of its contents.
6. **Provide access to training that** is relevant to their work, and enhances their opportunities for advancement.
7. Prohibit **child labour, forced labour** and **sexual exploitation** of staff.

Procurement

¹¹² Associations and cooperatives are not trust funds.

¹¹³ Spenceley et al, 2002

Even small tourism enterprises can have a considerable amount of buying power, especially when it comes to purchasing building and operational goods and services in rural areas. Purchasing activities can also generate employment, stimulate local business development¹¹⁴. Some examples of local procurement options during construction include:

- **Products:** bricks, sand, thatch, wood and other building materials
- **Services:** Brick-making, construction labour, electrical work, furniture making, plumbing

Best practice in terms of procurement includes the following¹¹⁵:

1. **Aiming to source a target proportion of goods and services from local people**, and within Mozambique.
2. **Purchasing locally made goods wherever quality, quantity and consistency allows.** Local SMMEs can be assisted to provide the quality, quantity and consistency required. Examples of locally offered services and produced goods that might be procured/purchased include tourist specialised guiding, goods transport, garbage removal, furniture, uniforms, soft furnishings, decorations, gifts, paper, soap, candles and tableware.
3. **Advise small local businesses of your requirements** for consumables and more conventional needs (e.g. non-craft related). The enterprise can purchase a large percentage of these goods simply by changing its buying patterns.
4. **Provide feedback to local entrepreneurs and small businesses** on the quality, range, and quantity of products that are required by the established enterprise and by tourists. Assist in the development of new complementary products, and report on these.
5. **Pay fair prices for goods and services sourced from local communities.** In cases where local entrepreneurs are unsure of a feasible price for their goods, facilitate cost calculation in terms of time and effort taken in production, and the cost of materials, rent etc in order to derive a price which ensures a break-even. The objective of fair pricing is *not* to obtain rock-bottom prices, which may ultimately lead to the demise of the businesses (either in ignorance or innocence).

5.3.3 OPERATIONS STAGE

During the operation of the concession, the tourism enterprise can continue to purchase in the same way as described above. The type of products and services that may be obtained from local people may include the following:

- **Products:** crafts, furniture, food and beverages, uniforms
- **Services:** entertainment, gardening services, security, housekeeping, laundry, maintenance, transport, waste removal

Similarly, the recruitment and training of people fairly, and from local communities, can also continue as described for the development phase. One element that can begin during the operation of the concession, relates to Corporate Social Responsibility which is described below.

¹¹⁴ Spenceley et al, 2002

¹¹⁵ Spenceley et al, 2002

Corporate social responsibility

Corporate Social Responsibility (CSR) is defined as the strategic and operational activities of a business as these relate to its social, environmental, economic and ethical responsibilities. CSR is a component of business sustainability. CSR is a form of self-regulation in *any* business, irrespective of its size, scale or scope or social setting. The foundations of CSR rest on a business agreeing to, and meeting, acceptable standards of behaviour and performance in terms of adherence to law, ethical standards and international norms and values. This includes upholding the principles of good governance, fair labour standards, sound health, safety and environmental management and respect for human rights.

CSR usually includes social programs that address education, health (including HIV/AIDS), social and community development, food security and agriculture, environment, enterprise development, training and capacity building, arts and culture, housing and living conditions, safety and security, donations and grants, and sports development. The programs may be funded through donations of goods or services, or through employee volunteerism¹¹⁶.

Box 6: Environmental education as corporate social responsibility

Wilderness Safaris also has a “Children in the Wilderness Program” (CITW) programme. The aim is to offer rural children a six-day life skills and environmental educational experience. The program combines leadership, environmental education, life skills and recreation in a unique and safe wilderness environment¹¹⁷. The programme is designed to increase self-esteem, teach new skills and impart knowledge to children. The fundamental objectives of this programme are continued in the local communities with the support of our staff to ensure the principles learned on camp are continually reinforced and extended to the rest of the community¹¹⁸. In order to operate the CITW program, Wilderness Safaris closes down some of its camps to full paying guests for a number of weeks each year, providing the children with exclusive use of these camps. Groups of 16 to 45 children are transferred into the respective camps for a period of six days at a time and given the opportunity to experience these wilderness areas and their wildlife¹¹⁹.

By the end of 2009, CITW had hosted 3,013 children over 17,162 children-in-camp days across seven Southern African countries. Countries such as Botswana, Namibia and Malawi host just under 100 children per year with smaller numbers being hosted in South Africa, Zambia, Seychelles and Zimbabwe annually or biennially.¹²⁰ Funds for the program come from fundraising events (50%), guests and individual donors (30%) and corporate donors (20%), and the majority of the funds (70%) are spent on the programs themselves¹²¹. The program costs around R6 million per annum (approximately US\$850,000)¹²².

¹¹⁶ Trialogue, 2010

¹¹⁷ CITW, 2009a

¹¹⁸ CITW, 2009a

¹¹⁹ CITW, 2008

¹²⁰ CITW, 2009b

¹²¹ CITW, 2009b

¹²² Pers. Com. Roche, 2010, cited in Spenceley 2010

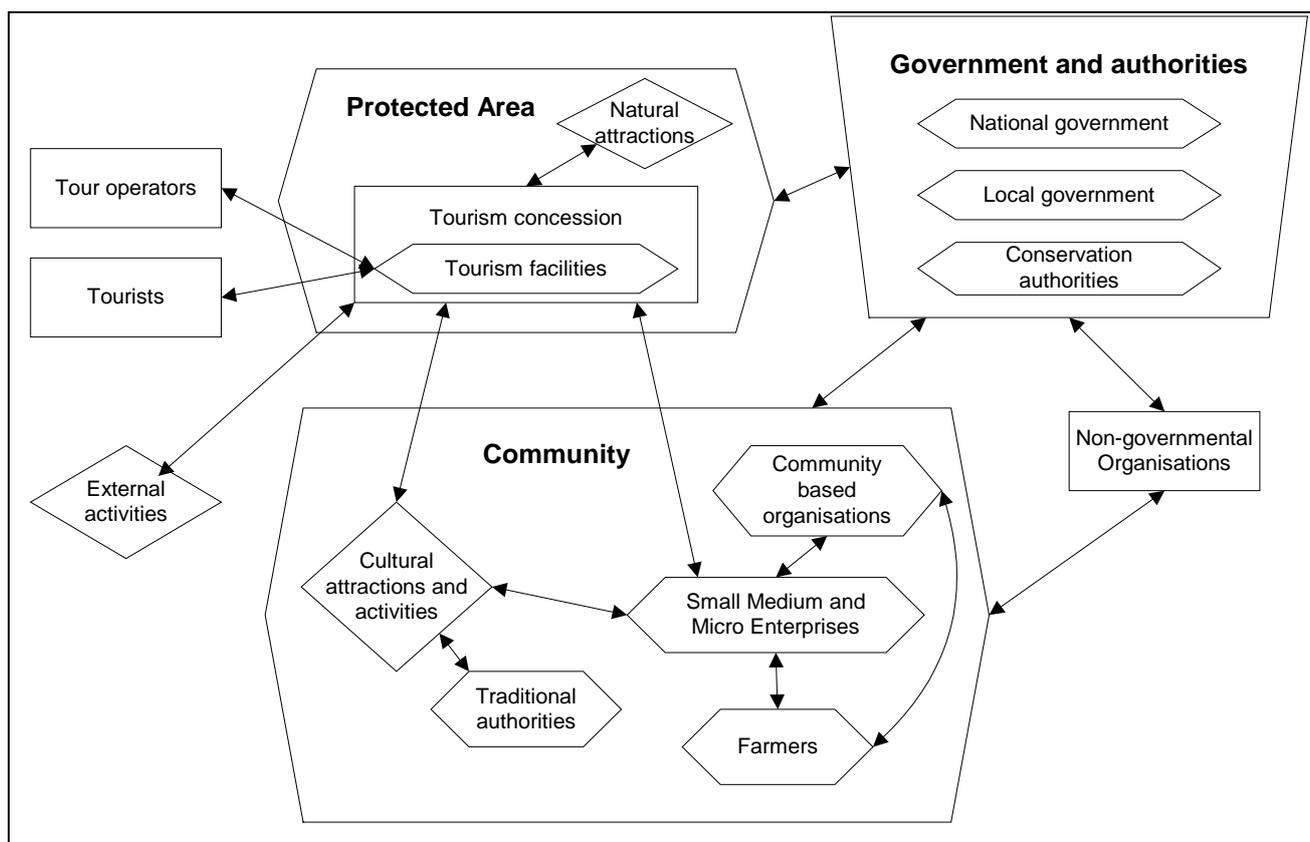
In its traditional form, CSR has been seen as a reactive risk management function to protect reputation and maintain community support to operate. Today, CSR has strategic role in business sustainability as businesses seek to build brands, self-regulate through voluntary codes of conduct and capture a new generation of socially aware consumers¹²³.

- CSR strategies and policies are a means to achieve and enhance business sustainability.
- CSR is part of business sustainability – it covers a wide range of issues relating to business conduct, from corporate governance and environmental protection, to issues of social inclusion, human rights and national economic development.
- Adopting a CSR strategy is therefore the expression of commitment of business to contribute to sustainable development - working with employees, their families, the local community and society at large to improve quality of life, in ways that are both good for business, the natural environment and good for development.

5.4 SOCIAL AND CULTURAL BEST PRACTICE

The business of a tourism concession in PA is linked to a variety of stakeholders that utilise the natural environment and the resources and assets associated with it (see Figure 11).

Figure 11: Tourism concession stakeholder map



Source: Adapted from Spenceley et al, 2011

¹²³ Spenceley et al, 2011

The stakeholders may include the appointed government authority who owns the land, the conservation authority who manages it, local farmers, land owners, residents, local businesses and SMMEs, as well as organisations that live in the vicinity of the concession. These groups can be described as tourism concession stakeholders who are from very different and varied backgrounds, with different interests, concerns and value systems. These values and beliefs may be conflicting, which is why it is important for the business to learn how to engage with its stakeholders¹²⁴.

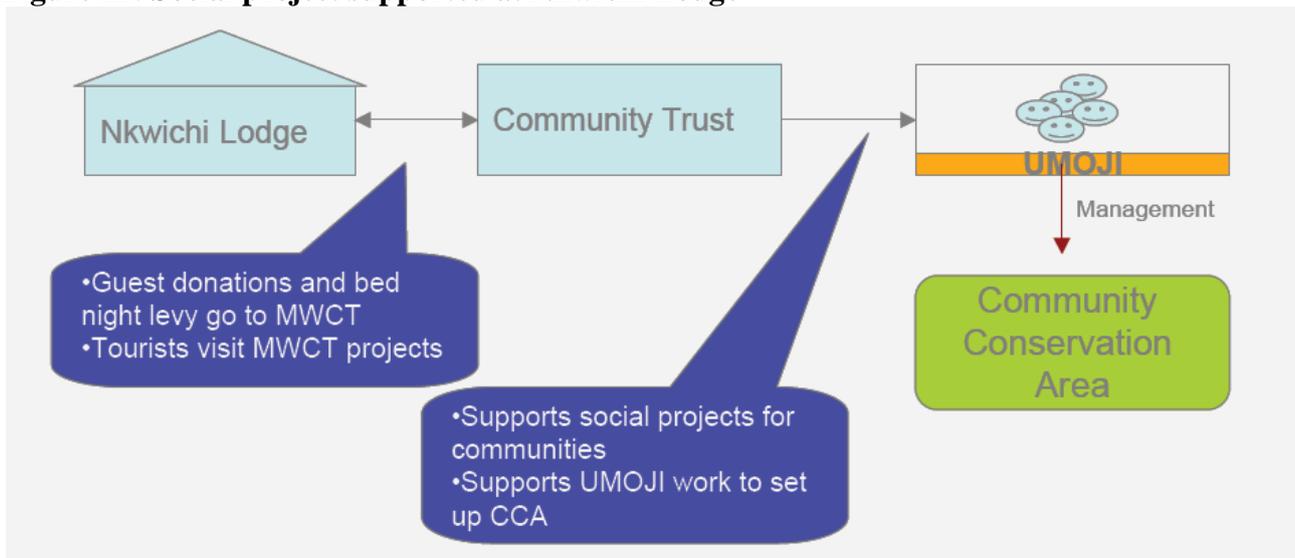
If communities are directly involved in the tourism concession, then they would more likely support it. However, if a concession business has disempowered or disenfranchised communities, then they may have difficulty supporting the business, and they may be antagonistic towards both the operation and tourists¹²⁵. An example of a model involving a local community at Nkwichi Lodge is shown below. Nkwichi Lodge has not observed any negative cultural impacts, or any social problems as a result of its approach to working with communities. In fact the purchase of local products and crafts is encouraged¹²⁶.

¹²⁴ Spenceley et al, 2011

¹²⁵ Spenceley et al, 2011

¹²⁶ Mussanhane, 2008

Figure 12: Social project supported at Nkwichi Lodge



Source: Mussanhane, 2008

In many rural areas, natural resources are relied upon as a means of survival, or as a development node to raise the standard of living through job creation, education and housing. For community support to be gained when faced with potential socio-economic impacts, the business benefits must outweigh the perceived disadvantages in the eyes of the community¹²⁷.

5.4.1 PLANNING STAGE

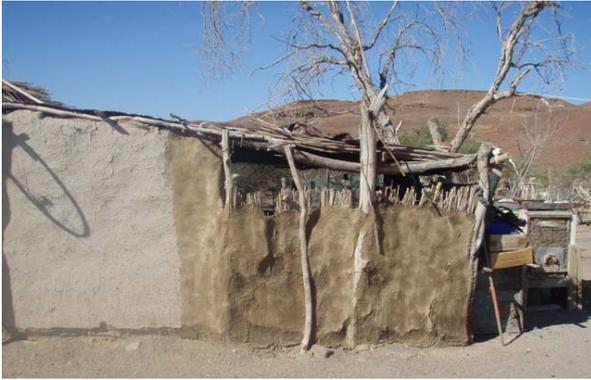
During the planning of your tourism concession, it is good to begin dialogue and engagement with resident or local communities. This can help you with the following¹²⁸:

- to gain a better understanding of the business impacts;
- to help articulate the business mission, values, strategy, commitments or implementation;
- to facilitate a regulatory approvals process;
- to participate in measurement and reporting;
- to avert or solve a crisis;
- avoid the ‘honey pot effect’ where more people migrate into the area;
- to proactively improve relationships; and
- to understand the expectations, risks and motivation of all stakeholders.

Local culture can also be addressed during the planning phase, for example by incorporating cultural elements into the architectural design of the facilities (see photos below). You may also purchase local crafts to use as part of the enterprise décor, such as furniture, decorations, soft furnishings, tableware, etc.

¹²⁷ Spenceley et al, 2011

¹²⁸ Spenceley et al, 2011



Construction in Namibian villages



Mimicry of technique at Damaraland

© Dana Allan, Wilderness Safaris

5.4.2 DEVELOPMENT STAGE

Ensure that you do not undermine the traditional activities of host and local communities through tourism. For example, traditional stories and folklore should not be manipulated. For tourists, ‘authenticity’ is desirable and improves the quality of experience. However, culture should not be undermined through ‘performance’ on behalf of tourists. Cultural integrity should be maintained for the long-term benefit of the host community, and for tourism potential. Also, ad hoc donations of sweets, alcohol, cash (etc.) can have negative social ramifications within host communities. Donations should rather be undertaken in a controlled and transparent manner¹²⁹.

As your operation develops, your dialogue with communities may identify the need for a code of conduct, or a social contract. A social contract between host communities and tourism enterprises can promote transparency, understanding and improved cooperation. A process for developing a social contract is summarised in Table 9 below¹³⁰.

Table 9: Steps to developing a Social Contract: an enterprise perspective

Step 1	The enterprise should identify appropriate representatives of the host community, with whom it can negotiate the terms of the social contract.
Step 2	The parties should identify the range of issues that will be covered by the social contract. In particular, the potential negative impacts of tourism should be flagged for possible inclusion in the social contract.
Step 3	The parties should agree on certain principles that will manage the implementation of the social contract. For example, a principled decision may be taken that tourists should not make cash or sweet donations directly to children. Once these principled decisions have been taken, the parties must identify those activities that must be undertaken to ensure compliance. In this instance, enterprise staff can inform visitors on arrival that cash / sweet donations are inappropriate. Visitors can be provided with information on how to make more appropriate donations to the host community.
Step 4	The parties should implement the agreements contained in the social contract. The parties should promote its use by staff, visitors, community members and other relevant parties to forge positive and consistent relationships. Staff and community members should be encouraged and motivated to take joint responsibility for implementing the contract and complying with its principles.
Step 5	Where breaches occur, the parties should jointly determine what actions should be taken to remedy the situation. All breaches should be documented, as should the remedies agreed upon.
Step 6	The parties should monitor and report on the implementation process. Monitoring should incorporate the use of standardised reporting systems and repeatable mechanisms for monitoring change, with indicators as quantifiable, transparent and auditable as possible.

¹²⁹ Spenceley et al, 2002

¹³⁰ Spenceley et al, 2002

Source: Spenceley et al, 2002

As described above in Section 2.2.5 Non-Governmental Organizations (a list included in Annex C.2 Community brokers), NGOs can help with meaningful work with communities.

The social contract can include issues including safety and security, resource rights and resettlement, traditional activities, tourist donations, relations between staff and community members, exploitation, traditional livelihoods, staff religious and cultural practices, intellectual property and cultural integrity.

5.4.3 OPERATIONS STAGE

Internationally, there has been a growing interest in heritage and cultural tourism. This growing interest has created positive views of indigenous knowledge and cultural resources, and also engendered a wide range of expectations for the impacts of cultural tourism¹³¹.

The challenge for communities and heritage sites is to provide a unique, special, and participatory tourist experience that will stimulate investment resulting in jobs and economic development. This challenge is complicated by three critical imperatives¹³²:

- The need to preserve the integrity of the cultural resources being used for tourism purposes;
- The need to offer an ‘authentic’ experience; and
- The need to respect the social and cultural way of life of the host community.

Established tourism enterprises can help to meet this challenge – and so generate local economic development in disadvantaged communities – by promoting cultural and heritage tours to their guests¹³³:

1. **Promoting local cuisine** by including local dishes in menus offered to guests. Consider including at least one local dish on each menu, and create opportunities for local entrepreneurs to produce, supply and serve local cuisine with interpretation to guests (e.g. presentations on the meaning and historical origins of the foods). Local cuisine, however basic, is an important source of information and ‘entertainment’ for tourists.
2. **Supporting the development and growth of a sustainable local handicraft industry by:**
 - **Offering tourists excursions to local workshops and craft markets.** Such excursions can be commercially attractive to the host enterprise if they are part of the package offered to guests, in which case the enterprise and the place/s visited share the commission.
 - **Promoting the development of improved design,** production, packaging and presentation of crafts. Make sure that crafters are aware of the tastes, needs and price sensitivities of guests.
 - **Displaying local crafts for resale** in your craft shop or retail area. Devote an area, or a proportion of goods on sale, to local handicraft.

Remember though, that historical and archaeological artefacts belong to the state and their finding and disposal is subject to the legal regime approved by the Law and Regulation on Cultural Protection (Law 10/88 and Decree 27/94).

¹³¹ Spenceley et al, 2002

¹³² Spenceley et al, 2002

¹³³ Spenceley et al, 2002

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ANNEXES

A MANUAL DEVELOPMENT

A.1 WORKSHOP REPORT

The workshop report, which includes a summary and highlights of the discussions held on the workshop “Concessions tourism opportunities in conservation areas and maximizing rural development: Lessons and the way forward for Mozambique and other Southern African countries” held in Maputo between 19 and 21 March 2012 can be accessed on [..\PUBLIC DOCS\Concessions workshop report 10 April 2012.pdf](#) .

B LINKS

B.1 MOZAMBIQUE LEGISLATION

All legal diplomas and reports on legal frameworks referred to in this Manual can be accessed on [Annex B1](#).

Mozambique tourism official website, with information on national destinations, tourism activities and others can be viewed on <http://www.visitmozambique.net/>, and in <http://www.clubofmozambique.com/solutions1/news.php>, investors can find updated information on tenders, opportunities and others. <http://www.legisambiente.gov.mz/> is an official GoM site with updated environmental legislation, and <http://www.portaldogoverno.gov.mz> also an official GoM site with relevant information, not only, but also, on forms, frameworks and tenders.

ACIS Sofala is a non profit association of Mozambique companies with an extensive library in legal and other business environment matters. Their internet site can be accessed on [ACIS - MMEC 2012](#).

B.2 OTHER

Through out the document there are several references to useful internet sites. Other sites of interest for tourism concessions include:

- User's Manual on the Convention on Biological Diversity's (CBD) Guidelines on Biodiversity and Tourism Development - [User's Manual](#)
- [Public-private partnerships in South Africa - www.ppp.gov.za](#)
- **ConserveOnline**, a "one-stop" online, public library, created and maintained by The Nature Conservancy in partnership with other conservation organizations - <http://conserveonline.org/>

C KEY CONTACT DETAILS

C.1 MOZAMBIQUE MINISTRIES AND OTHER PUBLIC DEPARTMENTS

Table 10: Government departments

Government departments	Responsibility	Contact details
MITUR	Tourism	http://www.mitur.gov.mz/
DNAC ACTF	PA; Special License	+258 21303616 / 21300941 http://www.actf.gov.mz/index/
DINATUR	Tourism accommodation and activities license	+258 21303699
INATUR	Marketing and promotion	http://www.inatur.org.mz/
MICOA	Environment	http://www.micoa.gov.mz
DNAIA	EIA	+258 21 466059
MPescas	Fisheries	http://www.mozpesca.gov.mz/
IACM	Civil Aviation	+258 2146 56 82
INE	Statistics	http://www.ine.gov.mz/Dashboards.aspx
CPI	Investment	www.cpi.co.mz
MINAG	Land and DUATs	Sejam todos bem vindos ao nosso Ministério

C.2 COMMUNITY BROKERS

These details are for information only, and should not be considered an endorsement of credentials.

Table 11: Community brokers

Organisation	Community broker experience in Mozambique	Website
MICAIA	Ndzou Camp (Chimanaimani), developing community associations and community lodges with the Moribane community	www.micaia.org
African Safari Foundation	Chemucane (Maputo Special Reserve) brokering agreement between community and investor	www.asl-foundation.org
Technoserve	Covane Lodge (Massingir) and Chemucane (Maputo Special Reserve), brokering agreements between community and investor	www.technoserve.org
Lupa	Covane Lodge (Massingir) and Tinti Gala (Maputo Special Reserve), developing community associations and community lodges	www.helvetas.org.mz
Centro Terra Viva	Land and environmental rights	http://www.ctv.org.mz/

C.3 OTHERS

These details are for information only, and should not be considered an endorsement of credentials.

Table 12: Lawyers

Organisation	Contact
Ferreira Rocha & Associados	www.fralaw.com
Gabinete Legal Moçambique – Advogados	+258 21 302 173
PGA, Sociedade de Advogados, Lda	+258 21 48 64 48

PDA, Sociedade de Advogados, Lda	+258 2149 30 50
Sal & Caldeira, Advogados Lda	www.salcaldeira.com
SCAN – Advogados e Consultores	www.scan.co.mz
Silva Garcia Advogados e Consultores, Lda	+ 258 21 486601

Table 13: Accounts and auditing

Organisation	Website
BDO Mozambique	www.bdo.co.mz
Ernest & Young Moçambique	www.ey.com/
Grant Thornton Mozambique	www.gtmozambique.com
KPMG Mozambique	www.kpmg.co.mz/
Pricewaterhouse Coopers Moçambique	www.pwc.com/mz/en

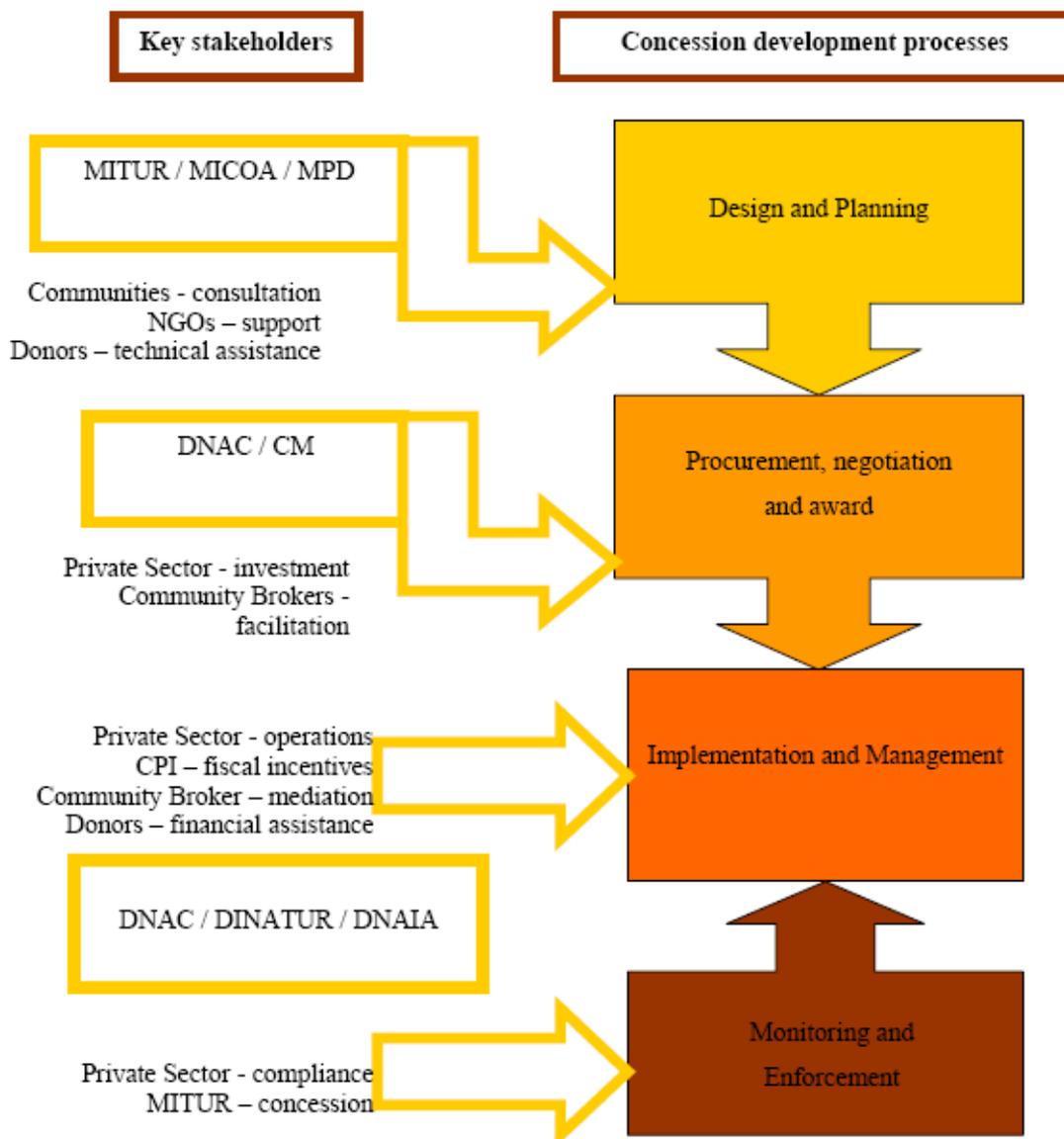
Table 14: Environmental consultants

Organisation	Website
Aurecon Moçambique	http://www.aurecongroup.com/en/Locations/Africa/Mozambique/Maputo/Maputo.aspx
Consultec	http://www.consultec.co.mz/Portugues/EnderecoContacto.htm
Impacto	http://www.impacto.co.mz/index.html
Lis Moçambique SA	http://www.lismocambique.com
SCDS Lda (part of the Norconsult group)	+258 21 48 50 58/9
Verde Azul	http://www.verdeazul.co.mz/

D OTHER USEFUL INFORMATION

D.1 INSTITUTIONAL FRAMEWORK AND STAKEHOLDERS CONTRIBUTIONS

Figure 13: Stakeholders involvement in concessions development in Mozambique



D.2 LOCAL PUBLIC STAKEHOLDERS

Table 15: District and PA level authorities

District and PA level authorities	
Park administration	<i>Administração do Parque</i>
Park rangers offices	<i>Posto de Fiscalização</i>
District Government	<i>Governo Distrital</i>

Head of Post (Head of the smallest public administration jurisdiction)	<i>Chefe do Posto</i>
INAMAR (and MFisheries) smallest public administration jurisdiction	<i>Capitania</i>

D.3 APPLICABLE LEGISLATION

Table 16: Summary of applicable legislation

Matter	Regime
Land, Forestry and Wildlife	<ul style="list-style-type: none"> • The Land Law (Law 19/97 and its Regulation, approved by Decree 66/98, amended) was the first legal diploma establishing the concept of total protection zones, and subsequently the Forests and Wildlife legislation (Law 10/99 and its Regulation, approved by Decree 12/2002) clarified that National Parks and National Reserves are conservation protected areas in that National Parks offer total protection to all flora, fauna, landscapes, and geology within their boundaries, where no hunting or livestock rearing, natural resource exploitation, land modification, or alien species are permitted; and National and Biological Reserves provide total protection for specified plant and animal species and/or ecosystems, while other resources may be exploited as described in the management plan; • Forestry and Wildlife legislation also regulate the other categories of conservation areas (e.g. <i>Coutadas</i>, Forest Reserves and Community Reserves), which offer varying levels of protection to fauna and flora within their boundaries; • Land occupation and and tourism development rights in PAs are subject to the granting of a special license for tourism activities. DNAC is the competent issuing entity; • Multiple-use (or buffer) zones are typically established around protected areas: even though an integral part of the PA from a land use and conservation or tourism concession strategy perspective, the applicable legal regime is such that the private sector can directly acquire rights to use and develop portions of such land (<i>Direito de Uso e Aproveitamento da Terra or DUAT</i>)¹³⁴.
Coastal, marine areas	<ul style="list-style-type: none"> • The General Regulation of Maritime Fishing (Decree 43/2003) defines the competency of the Ministry of Fisheries to proclaim ‘preservation areas’, within the maritime limits, of National Parks and Reserves. Ponta de Ouro marine reserve has been created (Decree 42/2009) under the auspices of such law; • The Regulation for Preventing Pollution and Protecting Coastal and Marine Environment (Decree 45/2006) provides for the rules and regulations applicable to allowed and forbidden activities in costal and marine areas, which also applies to PA such as the Quirimbas National Park (QNP), MSR and Lake Niassa.
Tourism	<ul style="list-style-type: none"> • Tourism legislation is comprised, though not limited to, by the Tourism Law (Law 4/2004), Tourism establishments and activities Licensing Regime (Decree 18/2007)¹³⁵, Time sharing and fractional ownership legislation (Decree 39/2007) and Tourist transportation Licensing regime (Decree 41/2007); • The type of activities that may be undertaken in protected areas are legally limited to ecotourism, hunting, photography, filming, and contemplation with recreational or commercial purposes, recreational diving and other as indicated in the respective management plan; • In order to obtain the tourism project authorization in a PA or respective buffer zone, which is the initial output of the tourism licensing procedure, the regime requires the applicant to obtain the positive opinion of the jurisdictionally competent District government and positive opinion of residing local communities; • When the project has complied with all licensing requirements and the establishment is ready to become operational, an inspection will be agreed with DINATUR and the license itself or <i>Alvará</i> will be granted; • All tourism operators must be licensed.

¹³⁴ Where DNAC is legally consulted and management plans simply taken into account, not binding

¹³⁵ Drafts of Ecotourism licensing diplomas have been prepared in the past and are in the pipeline to be reviewed and approved

Matter	Regime
Hunting	<ul style="list-style-type: none"> • Official hunting areas or <i>Coutadas</i>, are governed by Forestry and Wildlife legislation and by a colonial regulation dated 1965¹³⁶ which establish that exploitation of these areas and operation of hunting activities are subject to terms and conditions (including conservation management, infrastructure development and maintenance and social responsibility) agreed under a concession agreement (with DNAC)¹³⁷ • The community co-ownership with PS model is replacing the community and PS corporate or commercial partnerships approaches. For specific areas (Niassa), there is already experience in granting hunting concessions directly to the PS, communities benefiting as recipients of social responsibility arrangements; • Forestry and Wildlife and the Tourism Licensing Regime legislation (complemented, in its specifics, by Decree 8/2007) regulate firearms' ownership and use licenses.
Fishing and Diving	<ul style="list-style-type: none"> • Launching of boats and fishing permits and trophies, regulated by Decree 51/99, are granted by the Ministry of Fisheries and diving permits are granted by the National Maritime Institute (<i>Instituto Nacional da Marinha</i> or INAMAR) according to Decree 44/2006; • Both regulations prescribe the procedure and forms to be used for obtaining the permits and applicable fees.
Environment	<ul style="list-style-type: none"> • Environmental legislation (Law 20/97 and Environmental Impact Assessment (EIA) Regulation approved by Decree 45/2004, amended) provide the rules and regulations applicable to the process of obtaining environmental licenses required for all tourism projects in PA (classified as Class A projects), which include the preparation and approval of a fully fledged Environmental Impact Assessment study (EIA) and Management Plan (resettlement included)¹³⁸; • The EIA application for tourism concessions in a PA is submitted locally at the District or Provincial governments level and internally will be assessed and reviewed by the National Directorate for the Evaluation of Environmental Impacts (DNAIA), part of the Ministry for Coordination of Environmental Affairs (MICOA).
Investment	<ul style="list-style-type: none"> • According to the Investment legislation (Law 3/93 and its Regulation approved by Decree 43/2009, amended), tourism concession projects, thorough the respective special purpose vehicle (SPV) or implementing company, are eligible to receive incentives, and foreign investment is secured (mainly in terms of repatriation of profits, availability of foreign currency to comply with foreign loans and dispute settlement mechanisms); • Fiscal exemptions and benefits are non negotiable and as established by the Code of Fiscal Incentives approved by Law 4/2009: <ul style="list-style-type: none"> ○ Exclusively to the tourism industry (concessionaires and accommodation operators) in PA such as Exemption of duties and VAT on construction material, fixtures, movable equipment, electric apparatus and machines, tax credits; ○ Exclusive to the creation of basic infrastructure, such as reductions in corporate tax rates for 15 years. • Application of tax incentives to the implementing company's accounts will be monitored by the competent tax department; • Labour legislation in Mozambique also makes provision for investment project authorizations allowing the automatic authorizations for the employment of foreigners over and above the maximum legal quotas; • The Centro de Promoção de Investimentos (CPI) is the governmental entity generally in charge of receiving and processing investment project authorizations for tourism

¹³⁶ A new draft is intended to be discussed still in this year of 2012

¹³⁷ Without jeopardy to the need of applying for either, or both, tourism and commercial licenses

¹³⁸ In buffer zones, tourism projects may be classified as a Class A or B Project, meaning, requiring a fully-fledged EIA or a simplified one (ESIA)

Matter	Regime
	<p>concessions. The process is standardized: CPI requires that project applications are submitted in accordance with a specific form¹³⁹, which requires supporting documentation to also be submitted. CPI will inform applicants of the positive dispatch, and a fee must be paid (equivalent to 0.001 of the project value) for the terms and conditions of the Investment Project Authorization to be released (which must be registered with the Central Bank within 120 days from its notification). Specifically for imports, there are procedures to be followed with CPI for assuring that duties exemptions are effected.</p>
Commercial	<ul style="list-style-type: none"> • All tourism concessions companies, whether under a Special License or a Concession Contract, because they will have to become residing entities for tax/invoicing purposes, are only granted to locally incorporated and registered companies¹⁴⁰. The most common types of commercial companies are limited liability companies or <i>Limitadas</i> (where shareholders hold quotas or portions of the share capital) and joint stock companies or <i>Sociedades Anónimas</i> (shareholding is titled), the former simpler in terms of corporate governance requirements; • Companies may be incorporated by a private deed (Contract and Articles of Association) before any Public Notaries. For registration with the Commercial Entities Registrar office, the deed, a name reservation certificate, evidence of the opening of a bank account and a specific details form are required to be submitted. Fees will depend on the share capital amount. At the same time, a copy of the deed, and registration receipt, is submitted to the National Press for publication in the 3rd Series of the Official Gazette¹⁴¹; • The most common types of commercial companies are limited liability companies or <i>Limitadas</i> (where shareholders hold quotas or portions of the share capital) and joint stock companies or <i>Sociedade Anónima</i> shareholding is titled), the former simpler in terms of corporate governance requirements. Commercial law does not establish a minimum value for the share capital, which will be dependant on the shareholders own funds and loan commitments. Further, there are no qualified majority rules nor compulsory minority rights, both free and dependant on the shareholders arrangements; • Even though the main activity will not be commercial, tourism concessionaires will start operations by applying for a services license¹⁴² which must allow, in its scope, to also apply for an import license and annual card as may be required in the early stages of development of the project. A services license is probably the quickest and cheapest to obtain, and a license will be required for the company to declare beginning of activities before the tax department and for the bank account signatories to start using the money deposited in the opening account; • Applications must be submitted before the One-stop Shop (<i>Balcão Único de Atendimento</i> or BAÚ) of the Province where the head office will be and in accordance with the applicable forms.
Labour	<ul style="list-style-type: none"> • Mozambican Labour Law (Law 23/2007) establishes the main and imperative rules applicable to labour contracts and employment related rights and duties. The Foreign Workers Employment Regulation (Decree 55/2008) regulates the procedures and fixes the fees for contracting expatriates; • Labour contracts can only be temporary (up to 2 years, renewable once) if the tasks to be performed are also provisional or interim in nature. Notwithstanding, small and medium companies (respectively with up to 10 and 49 employees) are free to contract on a temporary basis for the first 10 years of operations;

¹³⁹ Downloadable at www.cpi.co.mz

¹⁴⁰ In the past, the Mozambican nationality of proponents (controlling interest or more than 51% majority) has been used as eligibility (Dobela in the MSR) or an evaluation

¹⁴¹ The cost of publication of an average length articles of association will vary from 5 to 7 thousand Meticais.

¹⁴² Commercial Licensing regime approved by Decree 49/2004.

Matter	Regime
	<ul style="list-style-type: none"> • Foreigners, whether directors, managers, experts or operational and financial staff working in Mozambique require a labour authorization: immediately granted for periods of up to 30 days, maximum of 90 days in a year, automatically granted for foreigners inside the maximum legal quota (1 foreigner for up to 10% nationals on small companies, 1 foreigner to up to 8% nationals on medium and 1 foreigner for up to 5 nationals on large companies) or according to an Investment Project Authorisation, and discretionarily granted to foreign employees according to their CV and professional and educational qualifications. • The application documents, together with a cover form, are submitted and handled at the level of the provincial labour directorate; • Other labour related obligations include the submission of a staff list¹⁴³, approval of the working hours schedule (48 hours week, enrolment of the company and employees with the National Institute for Social Security (INSS), which entails payments to the health and pension scheme in the proportion of 4% of the employer's responsibility (paid on behalf of the employee) and 3% of the employee's responsibility (usually discounted and also paid on behalf of the employee); • Foreign workers are exempt from paying INSS contributions if evidence is presented that the person contributes to another health/pension scheme in their home country or otherwise; • Labour insurance against workplace accidents and occupational illnesses are compulsory but there is no legal minimum.
Migration	<ul style="list-style-type: none"> • Law 5/93 and its Regulation approved by Decree 38/2006, amended, establish the legal framework applicable to Visas and Residency permits for foreign employees; • The first step to obtaining the residency permit (also called DIRE) is to submit a request together with a copy of the labour authorization and an updated original of the criminal record to a Mozambican embassy outside the country. This visa will be valid only for a few months, during which time the applicant (if working or residing for longer than 180 days, becomes a tax resident) will proceed with obtaining a residency permit. • The residency permit can be obtained before the provincial migration directorate.
Taxes	<ul style="list-style-type: none"> • The current tax system, applicable to all residents, has the following main pillars: <ul style="list-style-type: none"> ○ Value Added Tax (VAT) is an indirect tax on expenditure and imports – 17% (Law 32/2007 and Decree 7/2008, amended); For goods or services subject to a fixed price regime (including fuel), there are effective rates which are differentiated by applying the general tax rate to fractions of the respective price; ○ Excise Tax on Specific Consumption¹⁴⁴ levies the consumption of specific goods detailed in the list (annexed to the respective Code); applied to the producer or the importer; rates currently in force are detailed in Decree 37/2002, dated 11 December. This Decree presents a Table, which also lists the eligible goods. The established rates are 5%, 30%, 40% and 65%, depending on the nature of the goods, and on extra-fiscal objectives (of social or economic nature, or general or special prevention); ○ IRPC (<i>Imposto sobre o Rendimento das Pessoas Colectivas</i>) is the Corporate Tax (on profit) – 32% (Law 34/2007 and Decree 9/2008, amended); Unless a double taxation agreement is applicable, withholding tax (20%.) is due with the request for authorization of payment of services (fees and other charges included), intellectual property rights (5%) and on the repayment of interest in loans and shareholders loans; ○ IRPS (<i>Imposto sobre o Rendimento das Pessoas Singulares</i>) is the Personal Income Tax. - minimum of 0.2% and maximum of 29.9%¹⁴⁵ (Law 33/2007 and

¹⁴³ This List, if the request for a foreign employee labour authorization is submitted within 30 days of the confirmation of the Declaration of Beginning of Activities by the tax department, does not have to be enclosed. It is worth noting that this List must be officially acknowledged (will bear a stamp) by the Provincial Labour Directorate, which entails that it must, at least, contemplate 1 national employee

¹⁴⁴ Alcoholic beverages and processed tobacco are subject to a special import and inspection regime

¹⁴⁵ IRPS taxes for 2012 were approved by Ministerial Diploma 243/2011

Matter	Regime
	<p>Decree 8/2008, amended).</p> <ul style="list-style-type: none"> • The total income, including that obtained outside the national territory, is subject to both Corporate and Personal Income Taxes unless there is a double taxation agreement (currently with Portugal, Mauritius, Italy, United Arab Emirates, Macau, South Africa, Vietnam, India and Botswana); • Tax legislation (Decree 77/1998 and Ministerial Diploma 82/2005) regulates the procedures and mechanisms for tax reimbursements; • Import duties are levied on the value of goods to be imported or exported through the borders of the national territory, and the CIF (Cost, Insurance & Freight) value is normally adopted. Generally, the rates will vary from 2.5% for raw materials, 7.5% for intermediary goods, 5.0% for capital goods and 20.0% for consumer goods. For imported goods that are exempt from duties, and for custom clearance of zero rated products (table of custom duties), a fixed fee is levied (<i>Taxa de Serviços Aduaneiros or TSA</i>).
Foreign Exchange Control	<ul style="list-style-type: none"> • All imports of foreign currency capital into Mozambique are subject to foreign exchange controls; • According to the recently enacted Foreign Exchange Law and Regulation (Law 11/2009 and Decree 83/2010), the execution of shareholders and third party loans agreements between resident companies and foreign entities is subject to the prior authorization from Central Bank: the contract and parties will be given a reference and each time a transfer is received, such import must also be registered. Repayments will only be authorised if, amongst other formal requirements, import registrations and tax clearance certificates are presented; • Any payments for the provision of services by non resident entities, is subject to a registration procedure with commercial banks (that shall follow up directly with Central Bank); a contract stipulating several payments will have to be subject to the opinion of the tax department (for calculating withholding tax due) over and above the procedure regarding the tax clearance certificate; • Central Bank requires specific forms to be used for each request; • The only feature of the foreign recipients of the payments that is relevant in terms of foreign exchange controls is the application of a double taxation agreement.
Community ¹⁴⁶	<ul style="list-style-type: none"> • When institutionally interacting with other stakeholders, local communities represent themselves through the traditional leaders, existing, by official community authorities¹⁴⁷, management committees¹⁴⁸, local management councils¹⁴⁹ or community legal entities¹⁵⁰, which in Mozambique tend to take the form of a civil association which has to be incorporated, registered, licensed and enrolled as a private commercial company since it will develop commercial / business activities in parallel with its social objectives, but can also take the form of farming – livestock cooperatives.
Land Planning	<ul style="list-style-type: none"> • Land Planning legislation (Law 19/2007 and its Regulation approved by Decree 23/2008) regulate the national, provincial and district territorial planning tools scope, procedures and approvals, relevant for tourism concessions in terms of zoning of sites and respective buffer zones.

¹⁴⁶ According to UNDP, undated, protected areas in Mozambique are currently home to more than 190,000 people.

¹⁴⁷ Decree 15/2000.

¹⁴⁸ Forestry and Wildlife legislation.

¹⁴⁹ Sharing of PA revenues legislation.

¹⁵⁰ Community Legal Entities legislation – Associations - Law 8/91 and Regulation approved by Decree 37/2000, and Cooperatives Law 8/2005 and Regulation approved by Decree Law 2/2006 and model statutes approved by Ministerial Diploma 155/2006.

Matter	Regime
Insurances	<ul style="list-style-type: none"> ● There is no legal requirement in terms of what specific insurances tourism concessionaires and operators must have; ● Notwithstanding, it is current practice in terms of concession contracts for concessionaires to have in place third party civil liability insurances for construction works and tourists activities.

Table 17: Setting up a company

Guidelines; you may find differences in different sources.

Step	Time to Complete	Cost involved	Comments
1 Obtain certification of unique name "certidão negativa" at the Commercial Registrar Office of Maputo (Conservatória do Registo Comercial).	2 days	MZM 75	See the Comercial Code Articles 18, 19, 20, 21, 22, 24, 26-35 (see attachment 110220-Part of commercial code)
2 Open a provisional bank account, deposit minimum capital and obtain a verification of deposit with a local bank	1 day	no charge or bank commission	Limited liability companies ("sociedades por quotas") must open bank accounts to prove that at least half of the minimum required capital has been paid before the Articles of Association are notarized. The bank account must be open in the name of the company approved by de Registrar Office of Maputo at the "certidão negativa"(Procedure.1)
3 Incorporate the company through a public deed executed at a local Notary	5 days	Notary costs: This is not a fixed amount. The cost is the sum of: a) Fixed Emoluments-100 MZM + b) 5 MZM per page included in the records book, + c) a Variable emolument that depends on capital : If capital is \leq to 5.000.000 MZM the emolument corresponds to 0,2% of capital and if capital is $>$ to 5.000.000 the emolument corresponds to 0,2 % for the first 5.000.000 MZMof capital and 0,01% for the remaining capital, + d) 20% of c) when there is more than one act in the deed of c), + e) Stamp Tax 0,05 % of capital, + f) Other Stamps -18 MZM, + g) per certificate-30 MZM, plus 5 per page of certificate, plus 1,1 MZM per page as Selo de Verba.	File the draft of Articles of Association, the name certification, the proof of deposited funds, ID of founders, quotaholders and powers of attorney, in case any of the shareholders are being represented by other persons. The statutes are in the records book (livro de notas de escrituras diversas) kept by the notary office. The client receives a photocopy of the document, which is stamped and authenticated by the notary but should require and pay another two photocopies to be used at the following two procedures. The notary also certifies that the legal requirements are satisfied, that the statutes conform with the law, and that all partners freely consent to the agreement. Public deeds must be scheduled one week before their execution.

4 Register provisionally with the Commercial Registrar Office of Maputo (Conservatória de Registo Comercial); request for a commercial registry certificate	14 days	<p>A fixed value of 50 MZM, +</p> <ul style="list-style-type: none"> - Share capital up to 5.000 (five thousand meticais) is taxable at a rate of 2%; - Over the excess it is applicable a tax at the rate of 1%. <p>To the amount calculated based on the above it shall be added a variable amount (for administrative costs) up to the maximum of 1.000 MZM (one thousand meticais).</p> <p>The expiry date of the provisional registration is 90 days. If the publication of the articles of association does not occur prior to such expiry date, the renewal of the provisional registration will have to be requested. This renewed registration will be valid for another 90 days.</p>	Provisional registration is not legally required, but as the National Press Office sometimes takes several months to publish the Articles of Association, companies often operate under a provisional registration until the articles are published. The company has 90 days to register in commercial registry.
5 Publish articles of agreement in Boletim da Republica (Official Gazette)	3 months (simultaneous with procedure 4)	MZM dependant on share capital amount	<p>An electronic version of the company's articles of incorporation to be published in the official gazette must now be submitted to the National Printing House.</p> <p>Performed by the National Press Office. Publication is supposed to take place within 90 days of the request. Businesses have a 3-month period during which they can operate under a provisional registration. If publishing is delayed for more than 6 months, companies must register again. A fixed fee of 475,00 Mtc\$ per each 25-line page is due.</p>
6 Apply for an operational license (Alvará)	30 days (simultaneous with procedure 5, but after procedure 4)	<p>MZM 2660</p> <p>a) Emoluments -2.500,00-(if the company will import or export goods and service plus 500,00 for each class of goods imported or/and exported; if the company is a wholesale and or retail dealer plus 250,00 Mtc\$ for each shop)</p> <p>b) 160,00 Mtc\$ to the Centre Environmental Hygiene to support the costs of the opinions of the Fire Department and Ministry of Health, which became an</p>	<p>File the following documents:</p> <ul style="list-style-type: none"> • Letter of application with an authenticated signature, containing: <ol style="list-style-type: none"> 1-The name of the firm and its head office; 2-The commercial activity required, with the indication of the classes of merchandises or services the it pretends to exercise; 3-The location of the establishment; • Certificate of incorporation of the commercial registrar offices; or copy of the articles of association; the provisional registration is all that is necessary) • Notarised copies of personal

		<p>internal procedure.</p> <p>There is now a provisional license that can be obtained after the inspection is done. It is a statement saying that the company passed the inspection. The alvara' takes longer because it has to be printed in a special format and has to be signed, etc.</p>	<p>identification documents;</p> <ul style="list-style-type: none"> • Notarised copy of lease (If company owns the premises, when applying for the operational permit the Real Estate Registrar Office certificate evidencing such ownership must be submitted) <p>The Ministry of Industry and Commerce, once the request for the obtainment of the operational license is required, should organise the appliance of the necessary inspections by the health, fire and other public health departments.</p>
7 Receive inspection from Ministry of Health and Fire Department and Ministry of Commerce and Industry	8 days (simultaneous with procedure 6)	no charge	Although this inspection takes no more than one hour to be completed, it can take more than one week to be scheduled/ make an appointment with the Ministry of Health. Now the inspection is coordinated and there is one joined inspection
8 Declare the beginning of activity at the tax department "Repartição de Finanças"	15 days (simultaneous with procedure 6)	nominal	<p>After the Tax Reform the "old" taxes have been replaced by a unique income tax. In addition, Modelo 7 needs to be filed to register, under a different taxpayer number, for the imposto sobre o rendimento do trabalho (income withholding tax), secção A, and Modelo 44 is the registration form for the complementary tax.</p> <p>The declaration of the beginning of activity for tax purposes (VAT and Corporate Income Tax) should be applied 15 days prior to the beginning of the activity. This process involves communicating initiation of activity to the tax department of the appropriate fiscal district through a form known as Modelo 6. Documents to be filed include: 3 copies of tripled Modelo 5, and an authenticated copy of the operational license.. Fifteen days later a unique taxpayer number - N.U.I.T. (Número Único de Identificação Tributária) is assigned to the company and an individual file, for all taxes , is open</p>
9 Register for VAT (Imposto sobre o Valor Acrescentado).	7 days (simultaneous with procedure 6)	nominal	
10 Declare the beginning of activity and register job candidates at the provincial Employment Centre	1 day (simultaneous with procedure 6)	Each copy of the chart costs MZM 5 assuming 10 workers	Request the work cards within the following 30 days of the start of employment agreements; Deliver a map of the work hours; Declare the employment of national workers within 30 days of the start of their respective employment agreement.

			<p>The employer with more than 10 workers is supposed to open a file (processo individual) and prepare four copies of a form known as relação nominal, listing the name, position, skills, date of birth, sex, identification card number date of entry, date of last promotion, wage or salary, and number of hours due per month for every worker. These four copies are presented to the Employment Centre, that after stamping them keep three copies and give back to the employer the fourth one that must be posted publicly. This chart must be updated and approved by the Ministry of Labour every year. Together with the Relação Nominal the company must submit a annual holiday's scheme - Plano de Férias - and a work card per worker, (cost: 5,00 Mtc's each), with the ID elements and the signature of worker. These cards after having been stamped by the Employment Centre are given back to the company, which give them back to each worker as his identification card as a worker.</p>
11 Register workers with the social security system	1 day (simultaneous with procedure 6)	no charge	<p>Register the company within 15 days counted from the commence of activity. Register workers within 15 days counted from the start of their employment agreements. A special form (boletim de identificação de beneficiaries) must be filled out for each worker and submitted to the Instituto Nacional de Seguranca Social within 15 days of signing the labour contract, accompanied by an authenticated copy of that worker's identification card, an authenticated copy of the operational license and the company's NUIT. A special form - Ficha da empresa - must be filled for each company</p>
12 Subscribe a workmen's compensation insurance coverage	1 day (simultaneous with procedure 6)	no charge	
13 Convert the provisional registration into the final commercial registration and obtain a copy of the registration certificate	14 days	MZM 70	<p>Once the Articles of Association are published, the applicant takes them to the Commercial Registry, at which point the provisional registration becomes permanent and a minimum fee applies. Previously, a copy of the final registration certificate is needed for the industrial or commercial license. Decree 49/2004 of 17 November (art 8) changed this requirement (the provisional registration plus the copy of the public</p>

			deed of incorporation are sufficient to continue with the formalities) The came in to force 80 days afterwards (Feb 2005)
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Source: Technoserve, undated

D.4 TOURISM CONCESSION MODELS AND CONTRACTS

The range of models, based on a state ownership or co-ownership regime, and leading to public-private or community-public-private type partnerships and contracts, can be summarised as follows:

Table 18: Models and Contracts

Park / Reserve	Direct concessions to PS	Two-tier concessions or co-ownership where communities have an equity in the implementing company	Two-tier concessions or co-ownership where communities do not have an equity interest
Maputo Special Reserve	<p>Ponta Dobela and Ponta Milibangalala¹⁵¹</p> <p>MdI was granted a special license under a Concession contract with GoM;</p> <p>All commercial and financial contracts relevant to the tourism project are treated as associated agreements and subject to MITURs prior approval;</p> <p>Duration of the concession: 25 years; of the partnership agreement: up to 25 years;</p> <p>PS financial responsibilities, include a financial contribution towards the partnership in the form of a fixed amount corresponding to the compulsory legal fees and a variable amount calculated over gross revenue, with a guaranteed minimum annual amount, 75% of which was destined to conservation management activities;</p> <p>PS environmental responsibilities included an active participation in the joint management committee (mainly on conservation related issues and monitoring of project implementation)¹⁵².</p>	<p>Ponta Chemucane, in the MSR²</p> <p>The community association (Ahi Zameni Chemucane) was granted a special license under a concession contract with GoM;</p> <p>All commercial and financial contracts relevant to the tourism project are treated as associated agreements and subject to MITUR's prior approval;</p> <p>Duration of the concession: 50 years, non renewable; of the partnership agreement: 25 years, renewable for up to 25 more;</p> <p>PS financial responsibilities, include a financial contribution towards the partnership in the form of a fixed amount corresponding to the compulsory legal fees and a variable amount calculated over the gross revenue, with a guaranteed minimum annual amount;</p> <p>PS empowerment/social responsibilities</p>	

¹⁵¹ Approved by Resolutions 52/2009 and 53/2009

¹⁵² Like with the Makuleke experience, Chemucane sets up a joint conservation management board .

Park / Reserve	Direct concessions to PS	Two-tier concessions or co-ownership where communities have an equity in the implementing company	Two-tier concessions or co-ownership where communities do not have an equity interest
		include: a comprehensive community benefit plan based on request for proposals guidelines.	

Park / Reserve	Direct concessions to PS	Two-tier concessions or co-ownership where communities have an equity in the implementing company	Two-tier concessions or co-ownership where communities do not have an equity interest
Limpopo National Park	2 tourism concessions and leases currently operating, and is currently initiating a new tender process for concession sites in the park ¹⁵³		
Niassa National Reserve	<p>PS is sub-assigned exploitation rights for both hunting and non-consumptive tourism concessions;</p> <p>Contracts can have a duration of up to 15 years, renewable for 10 more;</p> <p>PS financial responsibilities, include Concession and Conservation Fees are negotiated in terms of the tender, where preference is likely to be given to structures that provide for both a guaranteed (or fixed) annual sum combined with a non-guaranteed (or variable) performance based sum appropriate to the nature of the operations being proposed (e.g. percentage of turnover, bed-night fee etc.);</p> <p>PS empowerment/social responsibilities: any company that enters into a contractual agreement must have 25% ownership by Mozambican citizen(s) or by a Mozambican entity (itself with majority Mozambican citizen ownership)¹⁵⁴.</p>		
Banhine National			

¹⁵³ In 2007, an attempt was made to prepare a pre-qualification tender for the Limpopo National Park (LNP), which was not successful in terms of approvals required at the planning stage. In 2008, the CM approved a template for concessions contracts in the LNP

¹⁵⁴ Institutionally, and in response to investor's interest in partnering with the local communities, park management is considering going through the process of establishing a community entity in Niassa that will be representative of all communities living within the reserve. Once the establishment of this community entity is complete, winning bidders have the option to join in partnership with this entity to fulfil the statutory nationality requirement

Park / Reserve	Direct concessions to PS	Two-tier concessions or co-ownership where communities have an equity in the implementing company	Two-tier concessions or co-ownership where communities do not have an equity interest
Park			
Gilé National Reserve			
Gorongosa National Park	<p>The contracts are tourism operators contracts: lease type contracts and/or directed to the provision of tourism services and products</p> <p>PS is required to provide a development bond;</p> <p>Subject to the payment of TUF legal fees.</p>		
Quirimbas National Park			<p>According to the QNP Tourism Development Plan:</p> <p>Community legal entities will be granted the Special License entitling them to lease the land and assign exploitation of resources related rights;</p> <p>Legally-binding community-investor agreements will be established on a commercial basis, and the profits that accrue from these contracts are paid into a fund that is managed by the community;</p> <p>Tourism concessions will be offered for periods of no more than 20-30 years in coastal areas and on islands, and 25-35 years inland;</p>

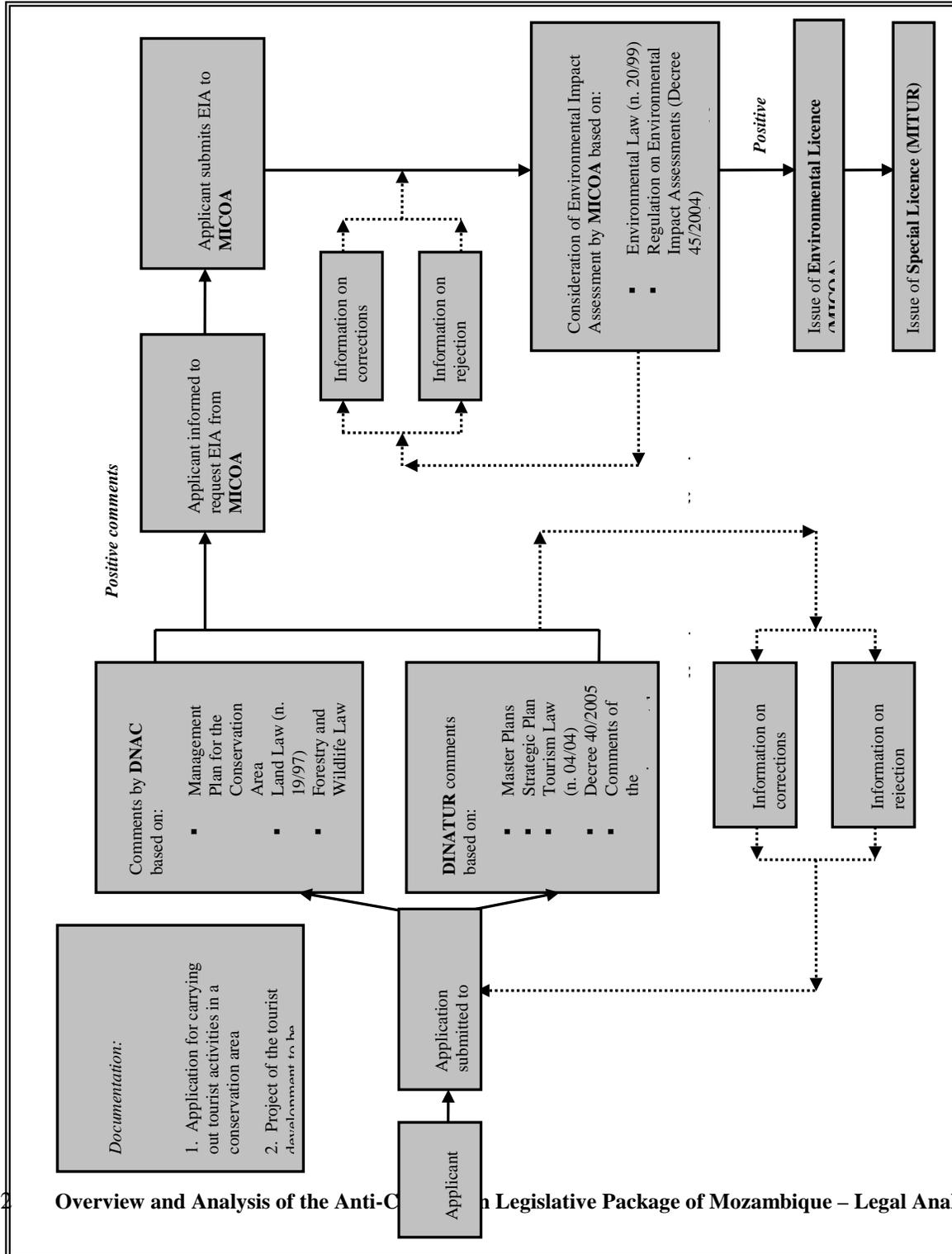
Park / Reserve	Direct concessions to PS	Two-tier concessions or co-ownership where communities have an equity in the implementing company	Two-tier concessions or co-ownership where communities do not have an equity interest
			<p>PS financial responsibilities, include: legal fees, concession fees¹⁵⁵; transport-related fees, and community development levy;</p> <p>PS empowerment/social responsibilities: EIA and preparation of a social bid (and contractual arrangements).</p>
Zinave National Park			<p>Tondo Lodge Assisted by an Italian NGO, an association congregating several local communities (Vuka Zinave) was granted a special license¹⁵⁶ and subsequently in negotiating an operational lease agreement with PS, which has a 5 years duration, renewable for 10 more;</p> <p>PS financial responsibilities, include: the payment of legal park fees and a structured and escalating rent.</p>

¹⁵⁵ The legislation under which the QNP is established allows park administration to propose additional fees for tourism within the park

¹⁵⁶ For 5.5 ha

D.5 SPECIAL LICENSE

Figure 14: Granting of Special License



D.6 REQUESTS FOR PROPOSALS

An outline of Niassa Reserve standard RFP is presented in the box below:

Box 7: Example of Request for Proposals

1. EXECUTIVE SUMMARY

- ⇒ Proponent ID – details of already established Mozambique SPV or Commercial Name Registration if to be incorporated upon execution of contract.
- ⇒ Sponsors details (shareholders)
- ⇒ Number of years in business, specifying locations
- ⇒ Overview of the company's activities and previous experience
- ⇒ Commercial products that will be developed as basis for generating revenues
- ⇒ Analysis of the market that will be targeted
- ⇒ Summary of the conservation strategy that will be implemented
- ⇒ Summary of any social strategy that will be undertaken
- ⇒ Staffing summary
- ⇒ Training summary

2. CORPORATE

Special Purpose Vehicle (SPV)

- ⇒ Summarize the precise nature and place of registration of the entity that is submitting the bid with relevant statutory documents e.g. Certificate of Incorporation or Commercial Name Registration
- ⇒ If this operator vehicle is (or will be) part of a corporate group, summarize the nature of that group and its operations and the precise relationship of the operator vehicle to the other entities within the group

Partners / Shareholders

- ⇒ Specify who is / will be the principal partners or shareholders and present qualifications and experience
- ⇒ Specify what management processes / mechanisms will be used to ensure ongoing compliance

3. GOVERNANCE, MANAGEMENT & EMPLOYEE STRUCTURES

Governance

- ⇒ Summarize the key governance mechanisms / structures that will be used to manage overall decision making within the operations

Management & Employee Structure

- ⇒ Summarize the proposed management and employee structure that will be used to manage the operations.

4. COMMERCIAL OPERATIONS

Commercial Product Development

- ⇒ Summarize and rationalize the range of commercial products that will be developed as the basis for generating revenues within the area.
- ⇒ Describe and provide illustrative supporting plans / sketches of all associated infrastructure development requirements.
- ⇒ Summarize where and when these products will be made operational within the area.

Operational Capacity

- ⇒ Overall annual operating capacity of each of the commercial products developed within the contractual period within the area during the beginning of the contractual period, as appropriate to the product

Management Activities

- ⇒ Summarize the key management activities that will be required to manage the commercial operations

Ethics

- ⇒ Summarize the ethical framework that will govern the operation of commercial activities within the area together with the management tools that will be used to apply and monitor this framework

Environmental Impact Management

- ⇒ Summarize what measures that will be taken to ensure that all operations within the area – commercial or otherwise, minimize / eliminate any negative environmental impact that they might have. Specific reference should be include but not necessarily restricted to: Construction materials and methods; Water management; Waste management; Methods of power and energy generation

5. MARKETING

Core Product Attributes

- ⇒ Provide an analysis of the core competitive attributes of your proposed product offering

Markets

- ⇒ Provide an analysis of what markets, by both geography and segment, that will be targeted

Pricing Policy

- ⇒ Provide an analysis of the pricing policy that will be deployed by the operation supported by a clear explanation

Marketing & Sales Tools / Infrastructure

- ⇒ An analysis of what marketing and sales tools / infrastructure will be developed / used by the operation, supported by a clear explanation

Marketing & Sales Activities

- ⇒ Provide an analysis of the marketing and sales activities through which the tools (see above) will be deployed by the operation, supported by a clear explanation

Marketing / Sales Partnerships

- ⇒ Summarize and rationalise any third party marketing and / or partnerships that will be entered into to optimize the business and financial performance of the operation

6. CONSERVATION DEVELOPMENT & SECURITY

Conservation Development

⇒ Summarize and rationalize the core components of the anticipated conservation strategy that will be implemented by the operator within the area

Security

⇒ Summarize and rationalize the core components of the anticipated general security management strategy that will be implemented by the operator within the area

Staffing

⇒ Summarize the anticipated human resource structure (if any) that will be specifically recruited for the management of conservation development and security activities within the area

⇒ Summarize how these resources will be recruited, trained, managed and equipped to fulfil this work

⇒ Summarize how these resources will interact with the tourism operations within the area

7. SOCIAL DEVELOPMENT

Strategy

⇒ Summarize and rationalize your proposed strategy for local community liaison and development as relevant to the operation of the area

Personnel

⇒ Summarize what personnel (if any) will be recruited and dedicated to community liaison and development work on behalf of the operator

⇒ Summarize how these resources will be recruited, trained, managed and equipped to fulfill this work. Summarize how these resources will interact with the tourism operations within the area

Community as an equity partner (lender or shareholder)

⇒ Summarize the approach regarding implementation of applicable community powers and rights (preferential lender or minority shareholder)

Community as a recipient of social programmes

⇒ Summarize possible commercial linkages with local / community entrepreneurs and service / goods providers

8. MANAGEMENT RELATED INFRASTRUCTURE DEVELOPMENT

Infrastructure

⇒ Specific to the tourism operations and others required to facilitating the general management and use of the area (roads, airfields, security posts etc.)

Related Equipment

⇒ Summarize the principal equipment resources (vehicles, boats, aircraft, plant, communication and IT facilities etc.) that will be deployed

9. OTHER MANAGEMENT ISSUES

Risk Management

⇒ Summarize the range of potential risks that may impact the operation and performance of the business and most appropriate mitigation measures

With the protected area authority

⇒ Summarize how and in what areas the operator will coordinate and work with the protected area authority to contribute to the overall objectives for the management of the protected area

With other organizations

⇒ Summarize your proposals

10. PERFORMANCE MANAGEMENT & REPORTING

Key Performance Indicators

⇒ Summarize what financial and non- financial key performance indicators (KPIs) will be relevant to the management of the business and the area

Reporting

⇒ Summarize your proposals for how these KPIs will be monitored and reported upon both for internal management purposes and in terms of reporting to the protected area authority

11. FINANCIALS

Cash Flow Forecast

⇒ The forecast should clearly distinguish between CAPITAL development expenditure (CAPEX) and OPERATING income and expenditure cash flows (OPEX), between different revenue stream types – to the extent that there are more than one and should clearly highlight the total investment capital that will be required

Investment Capital

⇒ Provide a summary of from where and how the investment amounts required (as indicated in the cash flow forecast) will be sourced

⇒ Summarize the basis upon which the financing will be made available to the operation i.e. invested as equity / preference shares / shareholders loans / secured or unsecured third part loans etc. Full details of any securities that will be provided for any third party secured loans must be provided

12. FEE PROPOSAL

⇒ Detail proposal regarding the components of the “concession fee”:

- .1 Fixed and variable fee (rent)
- .2 Conservation management contribution
- .3 Community responsibility fee

⇒ All fee proposals made should specifically articulate how the fee structure will be adjusted for inflation over the life of the contractual period

Source: Adapted from SRN, 2007, MSR, 2010

D.7 EXPRESSION OF INTEREST

The EoI for the tendering of Ponta Chemucane partnership can be accessed on ..\PUBLIC%20DOCS\Annex%20D6_EoI.pdf.

E TEMPLATES

E.1 SPECIAL LICENSE

Special License form can be accessed on legal diploma Modelo de Licença Especial included in Annex B.1 Mozambique Legislation.

E.2 DUAT

All forms currently required for the application of Land Use and Development Rights can be accessed on http://www.tourisminvest.org/mozambique/downloads/Process%20Guides/Land,%20special%20license,%20EIA/Quadro_Legal_para.pdf

E.3 CONTRACTS

CO-MANAGEMENT

Current examples can be accessed on ..\PUBLIC DOCS\Annex E3\Co-Management_PT_Gorongosa.pdf.

CONCESSION

Direct Concessions

Current examples can be accessed on ..\PUBLIC DOCS\Annex E3\Direct PS Concession_ENG_Niassa_master.pdf

Two-tier Concessions

Current examples can be accessed on <..\PUBLIC DOCS\Annex E3\Community Concession ENG Chemucane in the MSR.pdf>

HUNTING

Current examples can be accessed on <..\PUBLIC DOCS\Annex E3\Hunting Concession Contract PT.pdf>

BUSINESS PARTNERSHIP AGREEMENTS (COMMUNITY – PRIVATE PARTNERSHIPS)

Current examples can be accessed on. <PUBLIC DOCS\Annex E3\Community Private Partnership Concession ENG Chemucane in MSR RFP.pdf>.. and <PUBLIC DOCS\Annex E3\Community Private Partnership Special License ENG Covane in Zinave.pdf>

