

Summary Analysis of Mozambique's 2014 Conservation Law

(with full translation of Law in annex)

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Mozambique: Law No. 16/2014 of 20 June 2014, establishing the basic principles and rules on the protection, conservation and sustainable use of biological diversity within conservation areas.

Source: *Boletim da República, I Série, No. 50.*

Amends:

- Law No. 10/99 on Forest and Wildlife Act. - 07 July 1999
- Act No. 20/97 approving the Environment Act. - 01 October 1997

(Comments: Articles: 1, 10-12, 22 and 40 of Forest and Wildlife Act. Article 13 of Law of Environment.)

Abstract:

This Law, consisting of ten Chapters divided into 69 articles, establishes the basic principles and rules on the protection, conservation, restoration and sustainable use of biological diversity in conservation areas, as well as the integrated administration of these conservation areas to promote the sustainable development of the country. It applies to all values and natural resources existing in the national territory and in waters under national jurisdiction, including all public or private entities that directly or indirectly may influence the national system of conservation areas in the country. In addition, it regulates the management of conservation areas, protection zones, recovery and restoration of biological diversity, management of endangered species, resettlement and rates, and setting respective inspection and sanction regimes. The Law is divided as follows: General principles (Chap. I); Management of Conservation Areas (Chap. II); Protection Areas (Chap. III); Recuperation and restoration of biological diversity (Chap. IV); Endangered Flora and Fauna species (Chap. V); Resettlement (Chap. VI); Taxes (Chap. VII); Inspection (Chap. VIII); Offence and penalties (Chap. IX); Final provisions (Chap. X).

Main Aspects

The new law, building on the Conservation Policy of 2009 (Resolution 63/2009), introduces in our view four key innovations, briefly summarized in the following pages.

1. The law introduces a much wider range of categories for conservation areas, as well as consolidating this under one act. The ten categories are divided into Total Protection Areas and Areas for Sustainable Use, as follows:
 - a. Total Protection Areas (Art.14)
 1. Integral Nature Reserve (Art. 15)

Public. Designated for the preservation of nature, the maintenance of ecological processes, the functioning of ecosystems and of rare or endangered species

2. National Park (Art. 16)

Public. Designated for the propagation, protection, conservation, preservation and management of flora and wildlife, and for the protection of sites, landscapes or geological formations of particular scientific, cultural or aesthetic value, in the public interest and for public recreation, representative of the national heritage. People are permitted, under the controlled conditions provided for in the management plan, provided it does not constitute a threat to the preservation of natural resources and biological diversity

3. Cultural and Natural Monuments (Art. 17)

Public, Community or Private. Containing one or more elements with unusual or unique natural, aesthetic, geological, religious, historical or cultural value, in an area of less than 100 hectares, which due to its uniqueness and rarity, requires the preservation and maintenance of its integrity.

b. Areas for Sustainable Use (Art.18)

4. Special Reserve (Art. 19)

Public. Designated for the protection of a particular species of rare, endemic, endangered or declining fauna or flora, or with recognized cultural and economic value.

5. Environmental Protection Area (Art. 20)

Public. Managed in an integrated manner, where the interaction between human activity and nature endows the landscape with aesthetic qualities and offers important ecological services for its residents and its neighbors. NB An EPA can contain other categories of CA within its borders that provide higher degrees of protection. This is in fact very similar to what is commonly called a 'Biosphere Reserve' or a 'Protected Land/Seascape'.

6. Official Hunting Preserve ("*Coutada*") (Art. 21)

Public. Designated for hunting activities and the protection of species and ecosystems, in which the right to hunt is only recognized by means of the concession contract between the State and the operator.

7. Community Conservation Area (Art. 22)

Public in the name of the Community. Managed by one or more local communities who have the right to use and benefit from land, designated for the conservation of fauna and flora and the sustainable use of natural resources.

8. Sanctuary (Art. 23)

Public or private. Designated for the reproduction, shelter, food and research of certain species of fauna and flora.

9. Game Farm (Art. 24)

Private. Designated for the conservation of fauna and flora where the right to hunt is limited to the holder of the land use rights (DUAT) or to those who have

been authorized by that holder, provided that both require acquire the respective license issued by the competent authority.

10. Municipal Ecological Park (Art. 25)
Public (Municipality). Designated for the conservation of sensitive ecosystems within an urban/populated context.

While these categories generally follow the ones suggested in the 2009 Policy, they are not as closely aligned with the internationally standard IUCN categories as they were in the Policy itself, nor does the law provide a table to officially compare them. In our view however, the categories can be roughly compared thusly:

New category	IUCN
Integral Natural Reserve	I
National Park	II
Cultural and Natural Monument	III
Special Reserve	IV
Environmental Protection Area	V
Official Hunting Preserve ("Coutada")	VI
Community Conservation Area	VI
Sanctuary	IV
Game Farm	VI
Municipal Ecological Park	III, V

2. The second major innovation of the law is to grant CA management plans the same legal force as environmental management plans and the national territorial land plans (Art.43.2). This makes them obligatory for all sectors, giving them significantly more weight than previously, where the management plans were regularly ignored or even actively undermined by other governmental sectors.
3. Thirdly, the law criminalizes certain wildlife crimes, as well as raises significantly the fines on various infractions, a significant strengthening of the law. The new criminal offences are:
 - a. Imprisonment of up to two years and a correspondent fine for those who:
 1. carry out illegal activities using illegal firearms and mechanical traps;
 2. are repeat offenders.
 - b. Imprisonment from eight to twelve years and a correspondent fine for those who:
 1. set fire to and thereby destroys wholly or in part a forest, bush or grove;
 2. kill any animal of a protected species without a license;
 3. use fishing gear prohibited by law, particularly the use of explosives and poisonous, toxic or equivalent substances.

Note that the implementation of this may be difficult, especially given the very broadly stated criminal activities above, and it remains to be seen how this will be interpreted in practice.

4. Fourth, the law introduces some innovations regarding potential new funding sources. These include fees for access and the use of natural resources, for compensation of conservation efforts and for ecological services of the conservation area (Art.49).

Importantly, it also specifies that:

- a. The right to use and benefit from existing carbon stocks in a conservation area and its buffer zone belong to the entity that manages the conservation area, and they may be marketed in cooperation with other public or private entities. (Art. 11.3), and
- b. Public or private entities exploring natural resources in a conservation area or in its buffer zone, shall compensate for the impacts made in order to ensure there is no net loss of biodiversity (Art. 11.2).

This phrase, "No Net Loss" has a very specific meaning in international practice, and requires a full accounting for and full compensations for any damages done. While it is only applicable to restricted areas in and around the CAs, it is the first example of requiring full offsets of ecological impact in Mozambique.

The law will still need to develop regulations, theoretically within 180 days of publication (although this deadline is rarely complied with), and in certain cases an additional decree or diploma has been mentioned as a precondition for the relevant articles to come into force. Specifically, decrees will be needed to implement Articles 11 (Compensation mechanisms for conservation efforts) , 45 (Accountability for illegal impacts on fauna), and 46 (the list of protected species and those whose utilization is permitted - this decree already exists). A diploma will be needed for Articles 2 (Hunting modalities), 35 (Concessions for hunting activity), and 52 (Use and carrying of firearms).