

## **Negotiation objectives in relation to political governance concerns**

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Political inclusivity, electoral reform and the fight against corruption are G19 concerns that relate directly to some Underlying Principles of GBS and cooperation in general and are therefore of critical importance to the process of restoring confidence.

The purpose of this document is to identify technically feasible, short term objectives to rebuild confidence in relation to the Government's commitment to political underlying principles. The document is meant to serve as a reference framework for G19 members for the preparation of forthcoming negotiations with Government.

The possible achievements outlined below can all be committed by Mid-March 2010 and can all be implemented within one year. Where possible more specific possible targets in terms of deadlines are indicated. For some short term achievements external funding may be required (for example technical assistance for legal reforms, public consultations or to guarantee the functioning of the APRM oversight body).

### *I. POLITICAL INCLUSIVITY AND ELECTORAL REFORM*

#### **I.1. Electoral reform**

➤ *Rationale*

Problems related to the recent elections (in particular in relation to the limitation of voter choice) triggered the G19 to communicate a possible breach of GBS Underlying Principles to the Government. In that context, while fully acknowledging that Government is not the only actor that can be held responsible for a successful electoral reform, it is nevertheless clear that Government can take constructive legal initiatives that can help rebuilding the partners' confidence that Government remains committed to the underlying principle of credible and democratic political processes.

➤ *What can be achieved?*

The need to proceed with electoral reform is generally accepted by Government, but having received the recommendations from the Constitutional Council, observation missions and the APRM report, and bearing in mind the pitfalls of previous electoral reforms it seems reasonable that the Government does not only accept the need for reform, but actively promotes or participates in a reform process that includes all stakeholders and that produces a broad consensus on key issues such as:

- An electoral system that produces municipal, provincial and national assemblies that have a stronger link between the electorate and deputies.
- A National Elections Commission that is widely perceived to be professional and politically neutral through improved selection procedures of the members and through increased transparency in its decision-making.
- A realistic complaint and appeal procedure that effectively and timely responds to grievances.
- This should result in a clear, coherent and transparent electoral act elaborated along the above-mentioned criteria to be submitted for approval by Parliament during its second ordinary session this year (October 2010) or alternatively its

first session of next year (February 2011). Donor partners will be afforded an opportunity for consultation and expert comment.

## **I.2. Party-State connections**

### ➤ *Rationale*

The Peer Review report (APRM), political economy analysis commissioned by G19 partners (USAID, Netherlands, Sweden), civil society reports and opposition parties all observe a trend towards an increasingly symbiotic relationship between ruling party and state apparatus. Such overlapping relation tends to result in patterns of exclusion (or forced inclusion) and bias in the provision of services by the public administration. It endangers the neutrality of the State and can therefore constitute a potential threat to the basic constitutional principle of equality of all citizens. The fact that GBS allows an unprecedented increase in the supply of public services creates a risk that external support is instrumentalised for the strengthening of one particular political force in the country.

### ➤ *What can be achieved?*

The fact that Government did not comment to this concern in its reply of 5 February may indicate that the feasibility of a getting a “quick win” on this point is not obvious. Yet, GoM could by December 2010 implement two initiatives proposed in the current APRM Action Plan:

- The explicit prohibition on party related activities in State institutions
- The elimination of party cells in public institutions

Short term commitments could also be made regarding the transparency in political party financing. Article 19 of the law on political parties (Law 7/1991) requires political parties to annually publish income and expenditures, but this article has never been enforced. The party that forms the Government could lead in the enforcement of this article by publishing its 2009 income and expenditures by April 2010.

## **I.3. Political inclusivity**

### ➤ *Rationale*

Again this is a point that influences the perception of the degree to which Government is committed to the political underlying principle of credible democratic processes. Just as the previous point this was also not addressed in the GoM response. In a backward looking paragraph GoM presents the elimination of the 5% threshold to enter Parliament (2007) as a demonstration of commitment to political inclusion. That is certainly correct but the measure was not taken forward in further adjustments to the organisation and functioning of the Parliament. As a result 8 opposition deputies seem discriminated in exercising their constitutional rights as parliamentarians as they can not participate in any of the 9 Parliamentary Commissions, have only limited speaking time in plenary sessions (1,5 minute), have no office space within the Parliament and receive no funding for parliamentary activities and research. It also needs to be noted that a 9-member bancada, UD, existed in the first multi-party legislature (94-99), when the 5% threshold was still valid.

### ➤ *What can be achieved?*

- Following the changes made in 2007, it would be a clear sign of commitment to credible democratic processes, and thus a strong confidence building measure, if the necessary adjustments to current parliamentary regulations can

be made, allowing all deputies to exercise their constitutional rights to the fullest possible. This can be done during the forthcoming session of the Parliament (possibly even before mid-March).

- It would also be important that the announced revision of Law 5/2003 (Law on Local State Bodies) does not go in the direction of limiting the competencies of the District Consultative Councils. In its letter Government stated that this revision is foreseen in the proposed PES 2010. In practice this means that a proposal must be sent to Parliament before October 2010.

## II. THE FIGHT AGAINST CORRUPTION

### ➤ *Rationale*

More decisive action to fight corruption is another element that can restore confidence between Government and partners as it is also directly related to the Government's perceived commitment to the underlying principles of fighting corruption and upholding probity in public life. Legal reform that can better equip public institutions to prevent and penalize corrupt behaviour was committed to by Government in March 2009 in the framework of a preceding confidence-rebuilding exercise around good governance. While the Government did not meet the December 2009 deadline there has been progress: consultations on required changes were held in July 2009 and drafting of new legislation is ongoing (new anti-corruption law; new law on witness and whistleblower protection;...).

### ➤ *What can be achieved?*

Getting Government commitment to these reforms would be no step forward as that has been achieved already. What has not yet been achieved is:

- A clear calendar for the submission of laws to Parliament. Technically this is feasible to do by the second Parliamentary session of 2010 (start October 2010). The legislation will guarantee increased transparency on the distinction between private interests and public office through among others a declaration of assets for senior public office holders that is public and verifiable. If negotiations would prove such objective to be too ambitious in the short term G19 partners could settle the intermediate step of at least a verifiable declaration of assets/interests (this could be for example through an annual report by the Constitutional Council on the compliance with existing legislation). Donor partners will be afforded an opportunity for consultation and expert comment prior to approval of legal reforms.
- A clear commitment from Government to take measures to enforce legislation (this should be visible in the state budget and planning instruments, in particular in a strengthening of the GCCC competencies and human and financial resources). Increasing resources for the GCCC could still be initiated in the 2010 budget, and should be even more prominent in the 2011 budget to be submitted for Parliamentary approval by 30 September 2010.

## III. THE APRM ACTION PLAN

### ➤ *Rationale*

In many ways the APRM Report and its ensuing Action Plan have great potential. The process and documents are nationally owned and do address critically (yet with varying

quality) issues that are directly related to G19 concerns. The APRM covers most of the issues mentioned under chapter 1 and 2 as well as economic governance concerns. Getting a good APRM Action Plan approved and integrated in the planning and budget instruments is a short term goal that may constitute the best guarantee to monitor the Government's commitment to Underlying Principles in the medium term.

➤ *What can be achieved?*

- An approved Plan of Action addressing the Mozambique Peer Review recommendations and issues of special attention. This means that the existing draft Plan of Action needs significant improvement: some weaknesses and challenges of the Report are not reflected in the Plan of Action, it needs to be more realistic in terms of costing and objectives, it needs clear actions and results, and clear responsibilities for individual actions in order to provide accountability. The APRM Plan of Action needs to be integrated in GoM's 5-year plan as previously committed by GoM. That means that adjustments to the APRM Plan of Action would need to be done during the coming weeks as the GoM's 5-year plan will go to Parliament for approval during its forthcoming session. There is a serious challenge in terms of calendar here.
- The continued functioning of an inclusive and representative oversight body for the APRM process, comprising of civil society organisations. This will become even more important than before when the APRM Secretariat is integrated in MPD.