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ENSURING SUCCESS IN LAND ADMINISTRATION PROJECTS IN COUNTRIES IN TRANSITION

Paper prepared by Mr. H. Onsrud (Norway), Chairman

Background

1. It is generally agreed that the process of re-establishing private landownership, and creating related legislation, registers and institutions in countries in transition is progressing more slowly than expected, and certainly more slowly than required to facilitate the development of market-oriented economies. Many international assistance projects have failed. There are few success stories. The slow progress and the low rate of success are probably largely the result of having underestimated the scale and the complexity of reintroducing landownership.

2. Experience clearly indicates, however, that there are some factors that repeatedly hamper the development of efficient land administration in the countries in transition. Thus, there is a need for developing and implementing a set of basic principles to help the recipient countries, the foreign donors or lenders and the consultants to carry out land administration projects more successfully.

3. The Meeting of Officials on Land Administration (now the Working Party on Land Administration) dealt with the issue at a meeting in Geneva in May 1997, and adopted an agenda for improved cooperation and coordination. The present report highlights the views of donors and lenders. It aims to stimulate discussion and move the agenda forward. Large parts of this paper are based on materials prepared by Mr. G. McGrath and Mr. T. MacNeill (Canada) and Mr. I. Ford (United States).

I. OBSTACLES

4. The obstacles to successful land administration projects are often political, legal, technical, institutional and financial. Some of the major ones are presented below.

Political/institutional obstacles

5. Some countries still lack political consensus on the basic principles of restitution of ownership and related legislation. Frequent changes in the law have seriously hampered progress in some countries. The rivalries and lack of cooperation between ministries and agencies hamper the land administration development in many countries in transition (this sometimes happens in western Europe too, but without such devastating effects).

6. In some cases there seems to be a lack of true political and administrative commitment to achieving results. Some countries in transition have applied a fragmented approach to land administration, leading to different solutions for urban and rural areas. The fragmentation is frequently reinforced by competing foreign interests (consultants, companies, aid agencies) seizing the opportunity to operate separately and without coordination.

7. Few countries in transition seem to have established a comprehensive long-term vision or a master plan for their land administration development to facilitate a step-by-step approach. Estimates of the total costs and time needed to complete land registration and restitution with formal registration of millions of plots are rare. Few countries in transition have agreed on a clear policy and given priority to meeting urgent needs in land administration, i.e. initially implement solutions which focus on securing ownership, transactions in land and mortgaging, rather than establishing comprehensive multi-purpose land information systems. Countries seeking accession to the European Union may be tempted to focus on rural areas in response to the EU requirements rather than on urban areas, although activities in urban areas could generate more economic growth.

8. In many countries in transition there is a general unwillingness to recognize that for projects institutional and managerial issues are more critical than technical aspects. Strong hierarchical management structures remaining from the socialist era can hinder the effective execution of land administration projects. Human resource issues (recruitment, training, salaries and career opportunities) are not adequately addressed.

Legal and technical obstacles

9. Many countries in transition have difficulty in producing legislation to coordinate the registration of technical information with the registration of legal land information, in a cadastre and in a land book respectively (or integrating the two registers, which is even better). While in general they have considerable expertise in geodetic surveying and mapping, less consideration is given to legal aspects (boundary law, transfer law, mortgage law and other land-related legislation).

10. There is an emerging private sector in the countries in transition which should be able to render valuable services to land administration development. However, a number of bottlenecks, which are currently hampering the improvement of governmental institutions, also affect emerging private consulting companies. The need to provide training to private sector partners may be underestimated, in particular regarding legal and managerial issues.

11. Traditionally, and as a result of actions by foreign companies wishing to sell equipment and services, there is a tendency in countries in transition to apply more precise surveying and mapping standards than required to meet basic needs. Those responsible for modernizing registers frequently show an interest in applying high technology without considering what the appropriate level of technology to work in the local environment would be. There are several examples of computers acquired for land administration projects becoming obsolete before they are put into operation.

Project implementation: obstacles associated with execution of projects and use of foreign experts

12. It should be stressed that the restitution of ownership rights, as currently in progress in the countries in transition, has never been carried out anywhere before. Thus, there are few experiences and experts available. Moreover, the local conditions, the history of landownership and related institutions, the culture and mentalities greatly influence the setting of parameters for land administration in any country, as well as the specific limitations on the use of foreign expertise.

13. Land administration, in an international perspective, is not a highly developed science. There is no common understanding of what a cadastre expert or a land book expert is or should be. The absence of lawyers as international experts is remarkable, the area is dominated by surveyors. However, this should not be interpreted as there being no benefit in using foreign experts. On the contrary, foreign experts may provide critical support, but the way they operate should be influenced by the above-mentioned general conditions.

14. A frequent problem in executing land administration projects in economies in transition seem to be that the basic conditions for the project when it comes to legislation, division of responsibilities between ministries

and agencies, etc. are not properly in place. It seems to be a general problem that pre-project studies fail to provide sufficient clarification on these basic issues.

15. Companies bidding for projects report that the time frames for completing them are frequently unrealistic, and that the client organizations, supported by international lenders/donors, are generally too ambitious in setting project goals with the funds available. Companies also report that the expertise required from foreign experts is not always relevant, especially given the limited availability of experts on the international market. Young candidates, who may provide excellent support, are frequently excluded in favour of experts with considerable consulting experience or with working experience in high-level positions.

16. Companies report that, generally, profit margins on land administration projects in countries in transition are very small, and that bids need to be cut down to the basics to have any chance in the selection process. Activities that could contribute to the success of a project but are not specifically outlined in the tender documents are therefore omitted from the bid. In particular, there is no time to build consensus with the client organization and to learn the local conditions properly. Unless specified in the tender documents, there are limited opportunities for team building among the experts frequently brought in from several countries or with the staff of the client organization.

17. Companies report that the selection process is not always transparent and the selection criteria not always relevant. There is little feedback to those who fail to win the projects. It may be that, in the selection of consultants, price is considered to be more important than technical competence. Even if there are good general guidelines for procurement of goods and services, as is the case for example for projects financed by World Bank loans, the guidelines are used differently in different countries.

18. There is room for improving the overall procurement processes in land administration projects, including the tender specifications, the pre-qualification process, the evaluation of the bids and the final contracting. The client organizations tend to be weak, in particular when it comes to management and payment. There are frequently long delays in getting decisions on issues that affect progress of the project and on payment. Corruption is a problem in several countries.

II. AGENDA FOR IMPROVEMENT

19. Lenders, donors and governments of countries in transition must coordinate their efforts to ensure that all critical legal, technical, institutional and financial issues relevant to the establishment of cadastres and land books are sorted out before major investments are made in system design, hardware and software procurement, data collection, etc.

20. Donors and lenders must establish clearly which principles, laws and institutional arrangements should be put in place by the country in

transition as a condition for releasing funds for system development, procurement of hardware, instruments and other goods, surveying, mapping, data conversion, etc.

21. Lenders, donors and governments of countries in transition must give due consideration to priorities stemming from restitution and the subsequent registration of land rights.

22. The guiding principle for the coordinated approach must be an agreed land administration master plan for each country in transition, which would clarify the ultimate goals, the priorities and the sequence of projects to be implemented, the division of responsibilities between agencies and the cooperation between them. The master plan should include estimates of the total costs and the total time needed to complete the re-establishing of private ownership and to fully establish the related systems, institutions, etc. A national committee to monitor the progress of the implementation of the master plan should be set up. Donors and lenders must, at the outset, as a condition for financial support, ensure that the master plan is agreed and adopted by all ministries, agencies and other parties involved in land administration in the country, and that the national committee monitoring its implementation is in place.

23. Even when the distribution of responsibilities among governmental institutions is satisfactory, it should be a conditional of a loan or grant that high-level inter-agency working groups are established to ensure that disputes between the agencies do not hamper the general development and the execution of concrete projects. Performance indicators for such groups should be established and commitment to these should be considered a condition for further financial assistance.

24. Lenders, donors and governments of countries in transition should give due consideration to applying appropriate technology for registers, boundary surveys etc., by clarifying the local conditions and limitations for ongoing maintenance. They should also duly consider meeting urgent needs: securing ownership and other rights in land, facilitating efficient land buying and selling, and facilitating financing with land as collateral. Lenders and donors should insist that these three basic needs are met before funds are made available for more sophisticated systems and more precise surveying and maps than needed to solve the priorities. It should be recognized that meeting these three needs, as well as taxation, land-use planning and land management, do not require very high geodetic precision in surveying and mapping of boundaries. The three needs should also be met by allowing ad hoc registration of properties as an alternative to systematic registration of all properties.

25. Lenders, donors and governments of countries in transition should mobilize the existing human resources of governmental institutions, private sector and academic institutions to successfully carry out large-scale cadastral modernization and land registration programmes, and identify the need for training.

26. The capacity of the leading agency with which the lender or donor, and subsequently foreign consultants, will work is a critical issue. The agency chosen must have sufficient administrative, technical and financial capacity. The need for recruitment, training, financial compensation and career opportunities for personnel in the local project teams should be identified and agreed with the relevant government before funds from donors and lenders are released.

27. The benefit of developing private sector capabilities in the recipient country should always be considered, and training of private local consultants (surveyors, etc.) should be considered as an integrated part of land administration projects and specified in tender documents.

28. Partnership between foreign and local consultants should be encouraged by lenders and donors, as well as by the government. To ensure that projects are well coordinated there should be continuous contact between all lenders and donors in a country in transition. Formal meetings should be held at least annually. Representatives of the government and consultants working on projects should also take part in the meetings of donors and lenders. In addition, to ensure coordination of projects, a major agenda item for these meetings should be progress in the implementation of the land administration master plan. The degree of success in implementing the master plan should be an important factor for future international assistance.

29. Donors, lenders and governments should ensure that tender documents (terms of reference, etc.) allocate sufficient time at the outset of projects for learning about the local background and current conditions, and for team building within the group of foreign and local consultants, and with the client organization.

30. The procurement services should be realistic in terms of the type of competence that they require from foreign and local consultants, including those providing advice on cadaster and land books. Although a specialist, for example, in information technology, surveying and mapping, can provide advice on specific technical issues, the need for advisers with broader, general knowledge should be recognized. Such broader competence should include knowledge about technical, legal, institutional and financial issues, as well as about the use of land information in various sectors of society. Strict requirements from donors, lenders and governments that foreign and local experts should have considerable practical experience should also be re-examined to allow more younger experts to participate in land administration projects.

31. Donors, lenders and governments should ensure a fair and transparent selection process for consultants. The ranking of the technical proposals should be made public before the financial bids are opened and evaluated. Bidders who do not win should be given feedback.