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Working Party on Land Administration

LAND ADMINISTRATION REVIEW

GEORGIA

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Introduction

1. At its meeting in Madrid on 30 September 2000, the Bureau of the Working Party on Land Administration of the ECE Committee on Human Settlements considered the request of the delegation of Georgia to study the country's land reform, cadastre and land registration, and related rural and urban land management. Following a formal request by the Government of Georgia to the ECE secretariat, a team of international experts was established. It was composed of Mr. Joachim Thomas (Germany), Mr. Peter Laarakker (Netherlands), Mr. Gert Gundersen (Norway), Mr. Alexey Overchuk (Russian Federation), Mr. Jurg Kaufmann (Switzerland), Mr. Ted Beardsall (United Kingdom), Mr. David Palmer (Food and Agriculture Organization of the United Nations) and Mr. Guennadi Vinogradov (ECE secretariat). The programme of the mission was prepared by Georgia's land administration authorities in consultation with the ECE secretariat. The mission took place from 27 May to 1 June 2001 (see annex I).

I. GENERAL INFORMATION

Geography and resources

2. Georgia is situated in south-eastern Europe, bordering on the Black Sea, between the Russian Federation, Turkey, Armenia and Azerbaijan. Its land boundaries total 1,461 km: 164 km with Armenia, 322 km with Azerbaijan, 723 km with the Russian Federation and 252 km with Turkey. It has a 310-km-long coastline. Its land area totals 69,490 km². Its terrain is largely mountainous with the Great Caucasus Mountains in the north and the Lesser Caucasus Mountains in the south; the Kolkhida Lowland opens to the Black Sea in the west; the Mtkvari River Basin in the east; good soil in the river valley flood plains and the foothills of the Kolkhida Lowland.

3. Armenia's natural resources consist of forests, hydropower, manganese deposits, iron ore, copper, minor coal and oil deposits. Its subtropical and moderate continental climate and soil allow for large tea and citrus cultivation.

Population

4. Armenia has a population of 5,019,538 (July 2000 est.), down from 5,411,000 in 1995. The capital, Tbilisi, has a population of 1,253,000. The population's age structure is as follows:

0-14 years: 20 per cent (male 517,829; female 497,155);

15-64 years: 67 per cent (male 1,630,814; female 1,755,323);

65 years and over: 13 per cent (male 238,090; female 380,327) (2000 est.).

The population's growth rate is -0.62 per cent (2000 est.); the birth rate is 10.87 births/1,000 population (2000 est.) and the death rate 14.52 deaths/1,000 population (2000 est.). The net migration rate is -2.57 migrant(s)/1,000 population (2000 est.). In 1999 it was estimated that 60 per cent of the population lived below the poverty line.

Administrative units and economy

5. The country has two autonomous republics and it is divided into 9 regions and 67 districts (rayons). Georgia's economy has traditionally revolved around Black Sea tourism; the cultivation of citrus fruits, tea and grapes; manganese and copper mining; and a small industrial sector producing wine, metals, machinery, chemicals and textiles. The country imports the bulk of its energy, including natural gas and oil products. Its only sizable internal energy resource is hydropower. The Georgian economy suffers from large budget deficits due to a failure to collect taxes. Georgia privatized its energy distribution network in 1998 and since then has suffered from energy shortages. Georgia is pinning its hopes for long-term recovery on the development of an international transport corridor through the main Black Sea ports of Poti and Batumi. The growing trade deficit and continuing problems with tax evasion and corruption cloud the short-term economic picture. One positive aspect of the transition has been a greater access to consumer goods. However, consumption is clearly very uneven and many of those with expensive assets have very low incomes.

II. LAND REFORM AND LAND MARKET DEVELOPMENT

6. In Georgia, the first attempts to introduce rural sector reform can be traced back to the mid-1970s, when the Government started to experiment with leasing land to farmers. Due to political opposition to this idea, the experiment failed and no further developments took place until 1988, when large tracts of land in five rayons were transferred to farmers. At that time, however, those experiments had no legal significance since all land was State-owned.

7. By the early 1990s Georgia had 781 collective farms each with an average 1.800 hectares of productive farmland, and 255 workers and management staff. In the Soviet Union, Georgia was a major producer of fruits and vegetables, wine grapes and table grapes, citrus fruit and tea. About 90 per cent of farm products were sold outside Georgia.

8. Independence resulted in a loss of traditional farm markets in other republics of the former Soviet Union and led to the collapse of State and collective farms. That forced the Government, in January 1992, to start distributing land to all citizens of the country as the main way to fight poverty.

9. The Government fixed three categories of citizens eligible for the private ownership of land. Citizens who were directly involved in farming had the right to 1.25 hectares of land per family. People who lived in rural areas but were not involved in farming (working in education, public health, etc.) were entitled to 0.75 hectares; and people from urban areas could obtain 0.25 hectares. Land already owned by individuals (subsidiary household plots) prior to land distribution was included in the 1.25 hectares and so the real land parcels devolved to the population were often smaller than the fixed amount. These quotas did not mean that the land was provided in one parcel. On the contrary, each family was given four to five land parcels located in different areas. In some areas land distribution was complicated by the inability of the government to control the process and the lack of relevant rules and regulations.

10. The result of this massive transformation process was that 1,055,200 families – an estimated 4 million Georgian citizens – became owners of small land parcels, with an average of 0.9 hectares per household. With a total land area in Georgia of 6,949,400 hectares, 942,300 hectares, including 762,100 hectares of agricultural land, were transferred to private ownership (table 1); Some 1,318,000 hectares remained in State ownership and were rented out. Land used for research and training farm facilities and breeding farms also remained in State hands. The first stage of land reform was implemented without a legislative framework; it coincided with the political and economic crisis, the civil war and escalating crime in the country.

11. The Civil Code and the Law on Land Registration regulate transactions in Georgia. The transfer of land includes sale, inheritance, grants and alienation. Transactions become legal only after registration. The procedures regulating the transfer of ownership right to land from one party to another are clearly laid down in the law. The contracting parties have to draw up a contract, obtain an abstract from the registry and have it notarized. Following the payment of all relevant taxes and fees, the new owner can register the sales contract. Parliament has recently reduced the transfer fee to about US\$ 6 per land parcel, which is considered as a move to open up the land market to the general public that was avoiding paying the high fees involved by not officially registering transactions.

12. A functioning land market is a basis for economic growth and an indicator of land as a factor of production. This is the case when land can be sold, bought and rented and used as collateral for loans. A precondition for this is public registration. Furthermore, a countrywide land registration system is an important condition for land taxation and budgetary revenues. It is an important part of economic development. In 1998, local offices started with the initial registration (first title registration). By the end of 2000, registration offices had completed the initial registration of 1,163,000 agricultural land parcels, of which 1,000,000 have been granted registration certificates for their owners. The land market has practically started functioning. Registered secondary transactions and mortgages are given in table 2.

13. In rural areas the land market is particularly weak. Of 3,700 mortgages only 171 concern agricultural land; more than 90 per cent of mortgages are related to non-agricultural land. That depends, on the one hand, on the economic situation in general, and on the other on an inadequate credit system. Examples of private leasing do exist. Some private landowners being unhappy with their small holdings are seeking more land wherever possible. This is a positive development, which is becoming a part of the future land market, because at present land leasing from private persons is not yet common.

14. The development of the land market has also been hampered by the lack of clear land registration documents. This issue was addressed in the Executive Order of the President on Urgent Measures for the Initial Registration of Agricultural Landownership Rights and the Issuance of Registration Certificates to Citizens of Georgia of 16 May 1999. This Order approved the official form of registration documents. In 2000, land market development in the country was characterized by 4,456 land sales, 355 grants, 3,997 inheritances and 2,473 mortgage transactions.

Table 1. Agricultural land privatization, 1 January 2001

Type of land cover	Area, thousand hectares	Privatized land		Leased from the Government	
		Thousand hectares	per cent	Thousand hectares	per cent
Agricultural land – total	3019.7	762.1	25.3	939.6	31.1
Including:					
Arable land					
Allotments	792.9	434.1	54.7	257.5	32.5
Hayfields	269.3	182.5	67.7	31.7	11.8
Pastures	142.3	41.5	29.2	56.6	39.8
	1795.8	84.8	4.7	593.8	33.0

Table 2. Registered secondary transactions and mortgages

Secondary transactions	1999	2000
Sales	2,244	4,456
Inheritance	NA	3,997
Mortgages	993	2,473
Grants	NA	358
Total secondary registrations	3,237	11,284

III. LAND ADMINISTRATION FRAMEWORK

Legal framework

15. Under the Constitution (art. 21), property is considered inviolable. Universal rights include those to ownership, acquisition, transfer and inheritance, although the Constitution provides that such rights may be restricted for the purpose of public needs, provided that due process is exercised and appropriate compensation is paid.

16. The privatization of land, housing and enterprises is governed by a number of laws, decrees and resolutions. In addition to the Civil Code (1997), legislation includes:

- The Law on Agricultural Landownership (1996)
- The Law on the Privatization of State Property (1997)
- The Law on the declaration of private ownership of non-agricultural land in the use of physical and private legal persons (1998)
- The Law on the Administration and Disposal of State-owned Non-agricultural Land (1998)

17. Land registrations are governed by the Civil Code (1997) and the Law on Land Registration (1996), which provide that ownership rights are recognized only when those rights are registered. The Law on Land Parcel and Related Real Estate State Registration Fees (1999) sets fees for initial registration and subsequent transactions. Only registered rights can be officially sold, leased or used as collateral. The Presidential Order on Urgent Measures for the

Initial Registration of Agricultural Landownership Rights and the Issuance of Registration Certificates (No. 237, 1999) was issued to accelerate and simplify the requirements of the initial registration of agricultural land.

18. Land valuation is addressed in the Tax Code (1997), which provides for different base tax rates for agricultural and non-agricultural land. No specific law has yet been framed to address the consolidation of fragmented agricultural parcels and to promote rural development. As for urban areas, draft legislation has been prepared for condominiums, urban development, and land-use zoning for Tbilisi (the latter was already adopted by the municipal council of Tbilisi).

Institutional framework

19. The State Department for Land Management (SDLM) is the principal land administration agency. It is an autonomous agency established under Parliamentary Decree No. 488 (1996) and is managed by a chairman and six deputies. It has the following functions:

- Land registration and cadastre (the focus of most activities at present)
- Land valuation
- Land reform, land arrangement and estate dispute
- State control over land use and protection and land resources
- Land statistics
- Valuation

20. Its head office is responsible for developing State land management policies, designing and implementing programmes, and assisting in the preparation of legislation on land management issues as well as land-related dispute resolution. Decentralized regional and local offices manage land registration and cadastre operations and no land-use planning or inspection activities are carried out. The State scientific research institute “SakSakhMitsProekti” has been transferred to SDLM. At the local level, municipalities administer the disposal of State-owned land.

21. The Ministry of Agriculture within its mandate is responsible for agrarian reform. It has to formulate agrarian reform policies to be implemented by SDLM as part of its land reform.

22. The Ministry of Urban Development and Construction shares responsibility with SDLM for land-use planning and policy formulation. The Bureau of Technical Inventory (BTI) is subordinate to the Ministry and has records for real estate in urban areas.

23. The Department of Geodesy and Cartography regulates surveying and mapping activities conducted by State organizations and the private sector.

Donor assistance in land administration

24. There is considerable donor assistance to facilitate first title registration:

- Land Market Development Project of the United States Agency for International Development (USAID) (1997-2002). The funding of cadastral surveys and the

registration of 3 million agricultural parcels. About 1 million parcels had been registered by the end of 2000; the remaining 2 million are to be completed by 2002.

- Cadastre and Land Register Project of Kreditanstalt für Wiederaufbau (KfW) (2000-2006) . The funding of base mapping, cadastral surveys and the establishment of six regional centres.
- Agricultural Development Project of the World Bank and the International Fund for Agricultural Development (IFAD) (1997-2002, possibly extended to 2004). The funding of base mapping, cadastral surveying and registration, and the refurbishment of offices in two rayons.
- Land Management Project (1998-2002) by the United Nations Development Programme (UNDP) and the European Union (EU). The funding of cadastral surveying and registration in one district, software development and the refurbishment of 11 rayon offices. The EU is covering the Government's contribution under its Food Security Programme.
- German Technical Cooperation (Deutsche Gesellschaft für Technische Zusammenarbeit, GTZ) (2001-2002, possibly extended to 2004). The funding of cadastral surveying and registration in Tbilisi.
- Swedish International Development Cooperation Agency (SIDA) (2000-2002). The funding of capacity building by establishing a training centre to provide courses to SDLM employees on land legislation, land registration, land information system (LIS), cadastral surveys, valuation and taxation, credit marketing, and office management.

IV. LAND REGISTRATION AND CADASTRE

25. The SDLM chief registrar manages land cadastre and registration. This institution consists of a national office, 62 rayon offices and 7 urban offices. These offices are headed by a zone registrar, who is responsible for the operations and other registry activities in the zone. SDLM supervises the work of regional offices in order to manage the workload more efficiently. However, the division of responsibilities between rayon and regional offices has not been finalized. Under the law, ownership rights are not established until registration with SDLM has taken place. Private surveyors carry out the surveying work that is necessary prior to formal registration.

26. In rural areas, many international projects deal with the survey and registration of a large number of parcels (agricultural and non-agricultural). The registration process started slowly, largely because of the cumbersome procedures and a lack of capacity for the cadastral surveys. Presidential Order No. 237 was issued to simplify procedures and accelerate the registration of agricultural parcels in the USAID project. The issue of accuracy has been debated at great length, since various projects apply different procedures. It is admitted that closer cooperation between the projects would be helpful in establishing a common approach.

27. The situation in urban areas is very different. Systematic registration is limited to the recent GTZ project and little progress has been made through sporadic registration. Although most apartments have been privatized, in Tbilisi only 3 per cent of them have been registered. The Bureau of Technical Inventory (BTI) holds ownership registrations and other records for apartments and it appears that many people consider the BTI records to be sufficient to prove

ownership.

28. There is no fee for first registration. The registration fee for secondary registration was recently reduced from 26 lari to 7 lari because 26 lari ^{1/} was considered too dear in relation to the average income in Georgia. Cadastral and ownership information is used by SDLM to prepare tax-zoning records, which are then passed on to the tax authorities.

V. URBAN LAND MANAGEMENT

29. Under the Soviet system, there was a mixture of State and private ownership in urban areas. As in other countries in transition, free privatization of housing was regarded as a quick, populist sign of the new times. The policy and practice were in no way based on an overall vision of urban development or of the future of the housing stock and the housing sector per se.

30. Housing privatization was carried out without privatization of the land under the housing units and land adjacent to the housing properties. Urban land was generally State-owned. The Law on the Declaration of Private Ownership of Non-agricultural Land in the Use of Physical and Legal Persons of October 1998 deals mainly with the privatization of the land related to privatized commercial and industrial premises. The Law on the Administration and Disposal of State-owned Non-agricultural Land of 1998 establishes that urban land has to be privatized by public tender. The Law on the Privatization of Urban Land of 1999 is the latest regulation on the privatization of property in urban areas.

31. The privatization of urban land and property is under the responsibility of three governmental bodies: the State Department for Land Management (SDLM), the Ministry of Urban Development and Construction and the Ministry of State Property. The municipalities do not own land, but they are directly involved in the ongoing privatization of the State-owned land within their boundaries.

32. As the question of local self-government has not been finally resolved in Georgia, this further weakens the role of municipalities in the active management of land and spatial development in urban areas. The draft law on the capital of Georgia – Tbilisi attempts to define authority over and responsibility for land within the Tbilisi Mayor's Office. This law, however, is contradicted in core parts by the Law on Land Registration, by the Presidential Decree on the State Department for Land Management and by the Law on Local Self-Government and Government Bodies.

33. Neither the legal nor the institutional framework of Georgia is at present conducive to effective urban land management or sustainable urban development.

VI. RURAL LAND MANAGEMENT

34. In the Soviet period, the labour-intensive agricultural and food-producing sector produced a large share of gross domestic product (GDP) and played an important role in the national

^{1/} 1 US\$ = 2 lari

economy. It may regain this role, if steps are taken to establish effective private farms based on good land management principles and to secure markets for them.

35. Since big State and collective farms have disappeared as a result of the reforms, today there are only 200 to 300 joint-stock cooperatives operating on leased land. About 4 million people have got land and over half of them work on it. But not all of them can be farmers in the future. This results in extremely heavy land fragmentation and the loss of more than 20 per cent of productive farmland that now has to be used to build access roads or establish boundaries, agricultural enclosures and fences.

36. The rural physical infrastructure is desolate. It was built for large-scale farming in sovkhoses and kolkhoses; it is totally ineffective for current farming in small-scale structures. During the land reform, access to parcels was provided by new rural roads, but these are in a poor state. The irrigation system, also installed during the period of large-scale farming, is ill-adjusted to the new land tenure structures. Water management has collapsed and the former water users' associations are no longer active. Water management should be re-established with new landowners and the existing systems adapted to the new plots. Since 1998 some boards have become active again, but there is a lack of financing for urgent restoration. The technical infrastructure is in ruin. Large-scale farming has been transformed into an economy of "allotment farming". There is a serious lack of agricultural machinery and trailers, most of the farm equipment is worn out and farmers do not have access to financing to buy new machinery.

37. Land reform has been carried out without respect for modern land management practices. As a result one third of agricultural land (about 1 million hectares) is subject to erosion, of which 378,000 hectares are arable lands, 650,000 hectares are hayfields and pastures. Some 218,000 hectares (7.3 per cent of agricultural land) are salinized. Because of inadequate drainage- 109,000 hectares (3.6 per cent of agricultural land) are reverting to marshland. Another 175,000 hectares (5.9 per cent of agricultural land) are in danger of desertification because of a deficient irrigation system. For the above-mentioned reasons productivity is low. The restoration of productivity and the protection of soils require vast expenditure beyond the means of farmers alone. Some fruit gardens, tea plantations, etc. are not cultivated because there is no market for their produce.

38. Nowadays, the Georgian rural agricultural sector is at subsistence level; it is producing food for self-consumption with a small surplus sold in markets and at roadside stalls. The small size of land parcels is sufficient for personal consumption but not large enough to provide a living from the land. Land surrounding former State farms and other industrial complexes has been abandoned and this has led to further fragmentation.

39. Most of the State cooperatives have been abandoned and are unlikely to be restarted without major capital investment. This is unfortunate, as there could have been a future in converting former State cooperatives to private cooperatives run by former workers as new landowners on a partnership basis.

40. International advisers and the authorities at the ministries have made proposals for land consolidation. Land consolidation is seen as a measure to reduce fragmentation by reallocating

parcels and rearranging holdings so as to improve agricultural production. A pilot project on land consolidation is under consideration, but it is not clear who is responsible for land consolidation measures.

VII. CONCLUSIONS AND RECOMMENDATIONS

A. Land reform

41. The scale of land privatization and distribution has involved almost all the families in the country. Access to land was provided to both rural and urban populations. However, the resultant change in farm structures and the loss of markets have led to a dramatic drop in farm production.

Privatization of rural land

42. Although the Government has carried out a massive land privatization campaign in rural areas, a significant amount of land remains in State ownership. The Government proposes to privatize this land, expecting to gain extra revenue for the State budget and increase farm efficiency. However, due to inefficient farming and the lack of markets for farm products, rural land in Georgia has a very low value. The Government should not expect to gain considerable income from the sale of rural land.

Recommendations

43. Given the economic situation in the rural sector the Government would do better to concentrate on measures that would increase the value of land and provide it with stable and continued income flows through the leasing of land to private individuals and companies. At least until the rural sector has recovered the Government should not try to gain considerable income from such leases.

44. The Government should also remember that any sale of land to farmers is likely to decrease investment in agriculture, as farmers would have to use their scarce resources to buy land rather than to invest in developing the farming sector. Unless the decision is taken to distribute rural land to farmers free of charge, it would be advisable to postpone any decisions on farm land privatization until such time as the farming sector is in a better economic position.

45. A clear and transparent rural land privatization policy is essential. It should identify: (i) what land can be privatized and what land should remain in public ownership; (ii) procedures that would cut the red tape and facilitate land transfer.

46. To prevent further damage to rural infrastructure and the environment any future land privatization should be based solely on land management programmes.

47. Most of the State-owned land is located in mountainous areas with a significant natural value. Measures taken should maintain and protect such areas in the public interest.

Division of landownership

48. So far land reform has been characterized by the lack of a clear division of ownership in land between central and local levels of government and private individuals.

Recommendation

49. Steps need to be taken to identify and register State land. This will facilitate future land privatization and help to prevent possible land disputes as well as provide a database for land administration and taxation purposes.

Regional and cultural differences

50. Vast tracts of land are located in territories that are not controlled by the central government. The Government of Georgia does not recognize any regulations on the legal status of land adopted by separatists currently controlling these areas.

51. Some population groups in Georgia (mountainous areas) do not have a tradition of private landownership. Although landownership in such areas is still in the hands of the State, these groups are mostly characterized by community land-use practices. Land privatization in these areas may lead to conflicts and the loss of local cultures and the original way of life.

Recommendation

52. At this stage the Government should avoid land privatization in areas with customary land-use practices. At least until the people living in those areas start to understand the benefits of private ownership rights, regulations should be developed to protect customary land-use rights, as a basis for their traditional way of life. The protection of customary land-use rights demands that they be reflected in the land cadastre.

Forests

53. Forest areas are still in State hands. The Government is considering privatizing about 10 per cent of all forestland. There is the risk that only valuable forests will be purchased and less valuable forests will remain in State ownership and become a burden on the budget.

Recommendation

54. Forest areas should either be completely privatized or left in State ownership and under the economic management of forest agencies. If it is decided to privatize forestland, actual privatization should be postponed until such time as more capital for investment is available in the country.

Comprehensive land policy for rural areas

55. Georgia's economy is heavily dependent on the agricultural sector. Its economic recovery

largely depends on: (i) an increase in farm production; and (ii) recovered access to traditional markets. These challenges cannot be met until a comprehensive land policy is developed for rural areas.

Recommendation

56. The Government should focus on creating a favourable environment for the development of farms and agricultural enterprises as well as on creating non-agricultural jobs and opportunities in rural areas. The complexity of the farm sector implies that such a programme cannot be limited strictly to land-related issues. The success of the land reform will depend on an integrated cross-sectoral approach that should at least include:

- (i) An agrarian credit programme;
- (ii) The development of rural infrastructure;
- (iii) The support of supply and marketing for farm cooperatives;
- (iv) The establishment of extension services;
- (v) Policies on the privatization of rural land; and
- (vi) Land management and land consolidation. The cultural diversity in many parts of the country requires that such policies take regional differences into account.

Rural land management

57. Structural changes in the rural sector over the past 10 years have completely ignored the benefits of land management practices. This has resulted in enormous structural weaknesses in Georgia's agriculture, which can only be remedied through the reintroduction of land management as a tool for the planning and organization of land use.

Recommendation

58. Land management instruments, including legal and organizational measures, should be created and implemented in the interest of a future-oriented rural development strategy.

Agrarian tourism

59. Georgia has the potential for agrarian tourism that would increase income in the rural sector.

Recommendation

60. Although tourism can only be viewed as a long-term strategy, the development strategy for rural areas should still include it.

Land consolidation

61. Land reform in Georgia has resulted in an unprecedented level of land fragmentation and the establishment of an extremely large number of small, inefficient farms incapable of attaining commercial production levels. The rural infrastructure was designed to support large Soviet-style

farms. Ten years into the reform that infrastructure has largely deteriorated and is not able to adapt to new demands. Many local experts now view this issue as a major impediment to the development of agriculture.

62. Although the Government is attempting to address the issue of land consolidation through planning new consolidation concepts in the Kakheti region there are those who believe that land consolidation will become feasible only when Georgia regains access to markets. There is also a clear lack of understanding of the role of authorities in the land consolidation process. The current economic situation does not allow the allocation of adequate budgetary resources for land consolidation.

Recommendations

63. Land consolidation should be started as an enforced, legally regulated measure before Georgia regains access to markets.

64. Given the importance of land consolidation for the development of Georgia's economy, a special land consolidation act needs to be drafted and passed by Parliament. Such an act should concentrate on the economic motivations that would drive smallholders towards land consolidation.

65. Donor support is needed to develop legal regulations governing land consolidation as well as for a limited number of pilot projects that should be implemented in different parts of the country. Proposed projects should target areas and sectors that have shown some signs of market activity and where the local population has expressed an interest in them.

66. A special national authority should be established to administer land consolidation procedures. It should have branch offices in all regions of the country.

Privatization of urban land

67. The existence of three State organizations, as well as municipalities, responsible for different aspects of urban privatization (see chap. V), the lack of valid urban development plans and the non-involvement of the municipalities in the privatization processes create particular problems for sustainable urban development in Georgia.

68. Due to the lack of any kind of relevant urban master plan, development plans or zoning regulations, the privatization of urban land is not related to the future use of the privatized plots. The privatization price therefore has no connection with the future commercial profit potential. Nor do privatization agreements contractually oblige the buyer to participate financially in the infrastructure (roads, water, sewage, parking, etc.) construction needed to support the future development of privatized land. From this viewpoint, the privatization of urban land can be considered an unfair distribution of future economic obligations and benefits between the new private owner (the winner) and the municipality (the loser). This is seen as a threat to sustainable urban development in Georgia.

69. Municipalities do not own the land within their boundaries. The present privatization of State land does not include the transfer of land to the municipalities. Vital urban development requires public sector development projects such as schools, hospitals, technical infrastructure, social housing, etc. Municipal ownership of necessary land would facilitate quick decisions on the implementation of these projects and lower costs. In the present situation, municipal ownership of land can be secured only by a deliberate transfer of the requisite State-owned land to the municipalities.

70. It is not clear who is responsible for deciding the future use of plots of land in urban areas. The situation needs urgent clarification. Financing for major repairs to and the renovation and upgrading of privatized, multi-unit housing is generally only possible if loans can be secured in the financial market. Such loans can only be obtained if the homeowners' association can provide financial security. No bank will accept this security unless the land under and adjacent to the building(s) belongs to the co-ownership. The same argument applies to land under privatized commercial property. Again, the ownership of land and buildings cannot be separated.

Recommendations

71. The institutional structure responsible for the privatization of urban land urgently needs clarification and simplification. It is strongly recommended that the Ministry of State Property should be given overall responsibility for this privatization process.

72. The ideal situation would be a general moratorium on the further privatization of urban land, e.g. for a two-year period, while urban development plans and policies are drafted and approved. Since this is not considered a realistic option today the following actions are recommended:

(a) The urban areas where development pressures are strong, or are expected to become strong in the short term, should be quickly identified. This concerns in particular the central and historical areas of Tbilisi;

(b) A limited, two-year moratorium on the privatization of land for future development should be declared in these identified areas;

(c) In these areas, priority should be given to providing quick, simplified development plans before the end of the moratorium;

(d) The minimum sales price and other conditions for land privatized after this period should take into account the planned land use and infrastructure requirements.

73. The biggest municipalities should, in cooperation with the Ministry of Urban Development and Construction and the Ministry of State Property, draw up a list of areas required for, or to be held in reserve for, public sector development projects. Agreed land for such purposes should be transferred from the State to the municipalities free of charge. The deadline for this process should be one year.

74. Municipalities should not be allowed to sell any land transferred for public purposes in this way to private developers within a five-year period.

75. Transfer of the ownership of land under or adjacent to privatized housing should be speeded up. Land that functionally belongs to the housing complexes, i.e. play and green areas, garages and parking space, etc., should be included. Such areas should be transferred free of charge.

76. The ownership of land under already-privatized commercial property should be quickly transferred to the commercial owners free of charge.

Comprehensive urban land policy

77. Sustainable urban development, where due regard is given to social, economic and historic/cultural elements, depends on a number of factors: the legal framework; institutional structures; and economic development. In Georgia, as in all countries in transition, one of these central factors, economic development, is crucially dependent on legal and institutional conditions. In both of these areas Georgia is today facing serious problems in its efforts to secure a comprehensive urban land policy, aiming at sustainable urban growth and development. The further privatization of urban land and the development of urban housing are core elements of comprehensive urban land policies.

78. Institutional responsibilities and structures also cause major bottlenecks with regard to comprehensive, transparent land-use policies within the urban areas. This is true also of the capital city, Tbilisi. The Law on Tbilisi only goes part of the way towards clarifying the rights and responsibilities involved in comprehensive urban policies for the capital. Its provisions splitting responsibility between the State and the municipality, and the practical involvement of State bodies in land-use issues in the city, are not conducive to effective and transparent urban land use and development.

79. One positive trend is that a property market is emerging in Tbilisi. Prices for land, buildings and property units exist and are becoming publicly available. A private real-estate sector is emerging. This private sector development needs to be strengthened and further developed.

Recommendations

80. Comprehensive development of urban areas can take place only within a simplified institutional framework. A law on urban development should be drafted and passed. The law should be based on the principle of municipal autonomy in the approval and control of land use, development plans and projects within the urban areas. The State should retain powers to ensure that clearly defined, national interests are not threatened by locally approved plans. The law should also contain clear, time-limited appeal procedures against locally approved plans. Who can appeal and on what grounds should be clearly defined.

81. State responsibility for legal tools regulating spatial urban planning and development should be clearly placed with the Ministry of Urban Development and Construction.

82. The State Department for Land Management should have no power or authority over land use and/or construction issues within urban areas.

83. The Ministry of Urban Development and Construction should urgently prepare guidelines on land-use planning and zoning for urban municipalities. Such guidelines should reflect the urgent need for land-use plans. International assistance and resources should be sought for the development and dissemination of such guidelines.

84. To accelerate the development of the property market, make property transactions more transparent and overcome present artificially low property transaction prices, it is recommended that:

- (a) Real-estate agents should be publicly certified;
- (b) Agents should be legally responsible for controlling all documents required to complete a property transaction and for recording the correct transaction price;
- (c) Notaries should be legally obliged to record the correct transaction prices in all notarized property transactions;
- (d) The stamp duty for property transactions should be reduced. A fee of 0.5-0.75 per cent of the purchase price should be considered.

Land market

85. The land market has started to function. Most transactions take place in the capital; the land market in rural areas remains inactive. Low rural land prices mean that land cannot yet be considered an effective factor to generate investment in the rural sector.

Recommendations

86. Information and education campaigns targeted at the general population have to be developed and implemented to develop understanding of the benefits and functions of the land market.

87. Donor support has to be continued in the farm credit sector. At this stage this is the only possible way to develop and maintain rural land mortgage mechanisms.

Land leasing

88. Land rent is decreasing. Rents are somewhat lower than land tax. An exception seems to be the land market in vineyard regions where private companies/enterprises are trying to remedy the land fragmentation by voluntary exchange and purchase in order to reach an effective grape production. This may be viewed as a sign for the future general development of the land market in the country.

89. The rental market is very complicated. In some regions there is no rental market. Leasing of State-owned land is mostly based on land tax levels. In subletting the rent is sometimes 5 to 10 times the land tax. There seems to be considerable ignorance on leasing matters.

Recommendation

90. Strong and economically feasible leasing regulations need to be developed and enforced to ensure the proper management of public land.

B. Legal framework

91. A weak or non-existent legal base hindered land administration after independence. After the adoption of the new Constitution in 1995, great progress was made in the development of land-related legislation. However, much of this has been very ad hoc: there are still gaps that need to be filled and legislation is often drafted to meet the needs of individual projects. The long term requires a sustainable legal framework.

Land code

92. A systematic approach to preparing land-related legislation has not been possible because of the need to meet the immediate requirements of the land reform and land registration programmes. In the long term, the absence of a comprehensive land code is likely to cause problems in the creation of conditions for the rational use and protection of land and the promotion of investments through land markets.

Recommendation

93. A land code should be drafted to unify legislation that covers land regulations.

94. Although at this point it is difficult to make a definitive recommendation as to whether the land code should be a direct action law or a framework law, the Government should identify the main legislative needs of land issues and develop an outline programme to identify the main pieces of legislation that will need to be adopted within the next two to five years.

95. To help develop a land code, the Government should seek international assistance to study international experience.

Law on State land management

96. Georgia is committed to privatization and it has successfully transferred much land and other property to private hands. However, the State will always remain the holder of some land – since, for various reasons, some land will not be transferred to private ownership. At present, there is no legislation dealing with this land.

Recommendation

97. A law should be drafted to ensure the effective management of land that remains in State ownership. The law should also describe those cases where the State has the right to dispose of or to buy land. The law should establish a national agency or a publicly owned, profit-making company that will manage publicly owned land on behalf of the Government. To prevent the

misuse of funds and secure financing for special line items in the State budget (including environmental protection and the improvement of land quality, education, health care, etc.) it is also recommended that this law should specifically address the spending of revenues generated through the management of public lands.

98. The Government should decide what land should remain in the public domain based on their value to the public.

Law on municipal self-government

99. The question of self-government is being strongly debated in Georgia. Although the question of local self-government raises a number of important issues, we shall concentrate here on the need for clear and efficient political/administrative structures in order to secure efficient land use and management, particularly in urban areas.

100. Whilst it is necessary to maintain State and government powers and control over land use and management, clear and simple administrative structures could contribute significantly to the identification of priority issues, efficient decision-making, and the effective implementation of policy decisions at regional and local levels. Sustainable land use and development require local decisions.

Recommendation

101. The Government should consider preparing a law on local self-government, which could be based on the following principles:

(a) The division of responsibilities and the rights of State, the region, and municipality should be clearly set out. The principle of the decentralization of powers to the lowest possible level should be accepted;

(b) The rayon should become a democratic, self-governed political/administrative body;

(c) State powers should be decentralized to an appointed regional governor at region level who should exercise clearly defined functions on behalf of the State;

(d) Municipalities should function as local, democratic self-government. Their powers and obligations should be clearly defined with regard to the State/regional governor, and rayon self-government.

Law on privately owned, multi-flat housing

102. The privatization of housing has been a central element in the Government's privatization policy since 1992. At present approximately 90 per cent of the housing stock in Georgia is privatized and some 450,000 families live in multi-storey privatized housing. Properly managed and maintained privatized housing is vital to the short- and medium-term housing situation in Georgia and to the development of a properly functioning property market.

103. Although the Civil Code includes the concept of private ownership of flats in multi-storey buildings and contains some very important regulations for such ownership, e.g. the obligation to

create homeowners' associations (HOA), Parliament has not yet passed a separate law on the private ownership of multi-flat housing. It is unrealistic to assume that the limited regulations on this type of housing contained in the Civil Code will be sufficient to regulate this major, and very important, part of Georgia's housing stock.

104. Private ownership of multi-flat buildings can operate efficiently only if the owners of the units are themselves aware of, take responsibility for, and are able to manage the rights and obligations deriving from this type of ownership. As this is a new and unknown type of ownership in Georgia, the large number of flat owners urgently requires information and assistance.

105. The efficient operation and management of privately owned, multi-flat housing depends on an available private sector market for property management, maintenance, repair and renovation services. Such markets are developing slowly in Georgia. Government and municipal assistance is required to accelerate this market development.

Recommendation

106. As a matter of priority, Parliament should pass a special act on the private ownership of units in multi-flat buildings. Information on the structure and contents of such an act can be found in the draft UNECE guidelines on condominium ownership of housing with special reference to countries in transition.

107. A public awareness campaign on the private ownership of multi-flat housing should be undertaken. Such a campaign should include assistance to, and training of, owners in the proper and efficient operation of homeowners' associations.

108. The Government and the larger cities should encourage private sector professional support for homeowners' associations. Talks should be held with existing national/local associations, e.g. estate managers, construction companies, to this end.

109. The larger cities and towns should encourage the establishment of independent homeowners' associations. At national level the interests of these associations could be coordinated by the existing Association for the Protection of Landowners' Rights (APLR).

Law on spatial planning and physical development

110. The legal basis for spatial planning, physical development, and construction in Georgia is weak on the first two elements and strong on the last one. Passing laws on spatial planning and physical development should be an urgent priority for the Government and for Parliament. Without such tools and the resultant specific plans, sustainable urban development is not possible. Pure economic pressure for new development without a legal and planning framework would seriously threaten the very large cultural and historic values in Georgia's urban environment.

111. The old master plans dating from the Soviet period are not relevant to the

social/economic issues of present and future Georgia. In any case, at the beginning of 2001 most of these plans were formally rescinded.

112. At present there is neither the competent personnel nor the economic resources to carry out fast, full-scale master planning for all urban areas where it is required. Even Tbilisi, with its newly established Department for Master Planning, where no master plan is in force, lacks the resources for a master-planning project. New fast planning procedures and products, which adequately address the most urgent urban development issues, are essential. Focus should be on both the administrative structure and content of spatial planning and development control.

Recommendation

113. A new law on spatial planning and development control should be given political priority.

114. Nobody outside the local authority/Parliament should have any power to decide land-use issues. In particular, authorities responsible for privatization or cadastral registration should have no power on land-use decisions.

115. Power to control that land use in proposed projects is in accordance with approved land-use plans should rest solely with the local authority's planning department.

116. The ongoing privatization of urban property and development pressures following market development demand that:

(a) The Government, in cooperation with the main municipalities, should establish a list of priority geographic areas where a large number of development proposals exist or are expected, and where national/rayon/local authorities grant high priority to new private and/or public development projects;

(b) These geographic areas should be given priority in the allocation of international, national and local resources for planning purposes;

(c) Spatial/development plans for these priority areas should be simplified land-use plans with short written instructions concerning building regulations and infrastructures;

(d) The plans should be approved at local authority level, if need be, with final approval by the relevant parliamentary committee;

(e) International financial and expert assistance should be sought to speed up the above.

C. Institutional framework

117. The State Department for Land Management (SDLM) has made significant progress in the execution of first registration and its system is designed to take care of secondary transactions. Support from donor organizations has contributed greatly to this progress. However, because projects have been donor-driven, their implementation has followed several different approaches and standards. While SDLM management is aware and in charge of all developments, it has not yet prepared a clear, comprehensive and well-communicated strategy for the design and management of all future developments. SDLM should give high priority to the preparation of such as strategy, which could address the following issues:

Responsibilities of SDLM

118. The responsibilities of SDLM are wide-ranging and include legal-technical functions (land registration, cadastre, land valuation) and functions of a more political nature (land reform, land allocation, alienation, change of land use, and State control over land use and protection). In particular, its responsibility for the alienation and allocation of land as well as for the registration of rights to that land means that there are no checks and balances within the system.

119. It has been proposed to transfer the land registration function to the Ministry of Justice, while leaving the cadastral function with SDLM. Separating these functions would, however, increase the difficulty of coordinating the two landownership information systems. It would make the process more difficult, and possibly more costly, for citizens as they would have to deal with two agencies instead of one.

120. The licensing process for land surveyors is restricted to a test of technical surveying competence by the Department of Geodesy and Cartography and does not include legal aspects usually associated with cadastral surveying.

Recommendation

121. SDLM should remain responsible for registration and cadastre functions and should continue to integrate these two fundamental elements of ownership and parcel information. One of its institutional strengths at present is that it is responsible for both land registration and the cadastre, a combination which ensures that the registration and cadastral systems function efficiently and effectively.

122. SDLM should be given responsibility for the BTI land records, which are required for first registration so as to simplify registration and reduce costs.

123. SDLM should continue to be responsible for land valuation and should design modern valuation methodologies that take land market valuations into account. A land valuation system has the same information requirements as land registration and cadastre systems and by retaining this function SDLM should be able to make the operations more efficient.

124. SDLM should be responsible for the setting of clear, simple cadastral standards for the surveying profession and for surveyors' working procedures.

125. The SDLM functions of a more political nature (relating to the disposal of land, etc.) should be transferred to another, more appropriate body (or bodies) to prevent potential conflicts with the land registration and cadastre functions. A review should be conducted to determine the most suitable agency for carrying out these functions.

126. The name of the agency should be changed to reflect the functions proposed for it.

Organizational issues

127. Local offices have a high workload because they are involved with first registration. In future, their workloads will be lower when their activities shift to the registration of subsequent transactions. Most subsequent transactions will occur at local offices in urban areas. The workload of many rural local offices will be low and in some cases may fall below the critical mass necessary for an efficient office. At the same time, services should continue to be accessible to citizens. Proposals have been made to turn 11 offices into regional centres but the relationship between offices and the functions that they would carry out have not been defined. This uncertainty, if prolonged, is likely to have a negative impact on the organization as a whole.

128. Donor-funded projects are progressing successfully and have allowed SDLM to acquire considerable knowledge of computer-based approaches. Technical coordination, however, has been inadequate and the various projects have developed systems using different hardware and software. Failure to standardize information and communication technology would increase operating costs as SDLM would have to maintain more than one software system.

Recommendation

129. SDLM should, as soon as possible, take the final decision on the future structure of its regional organization. The decision should be based on an analysis of the minimum level of service that citizens should receive from local offices and their accessibility (i.e. how far would citizens be expected to travel to the nearest office) as well as the resources required to provide such a service.

130. SDLM should, as soon as possible, take the final decision on the distribution of responsibilities between local offices and regional offices. The decision should be based on an analysis that takes into consideration the “front-office/back-office” concept (i.e. the front office is where the customer goes and the back office is where the work gets done). For some services, the local office might serve as front and back offices. For other services, the local office will serve as the front office with the regional office being the back office.

131. SDLM should develop an information and communication technology plan to guide future developments. Because information and communication technology already has an important role in SDLM operations, it is recommended that this function in the agency should be at deputy level. This office should be responsible for the information and communication technology sub-strategy within the SDLM overall development strategy and the coordination of all information and communication technology activities in donor-funded projects. It is further recommended that SDLM should, as soon as possible, take the final decision on standardizing software used in local offices.

Management issues

132. The project-driven approach to land administration has resulted in the introduction of different norms and procedures in offices. It is possible that such differences will result in uneven

service and product quality. A lack of adequate quality control could result in the system not being transparent, which could be the basis for corruption. A well-functioning land administration system requires more than a sound legal basis and adequate resources: it requires the trust of citizens and this trust must be deserved over a long period of good functioning.

Recommendation

133. SDLM norms and procedures should be standardized and clearly documented to help staff deliver quality products and services. Documents describing the norms and procedures should be periodically reviewed and updated to ensure that they remain relevant. It is further recommended that quality control tests should be introduced to monitor and evaluate the quality of products and services.

134. SDLM should continue to design and implement procedures to ensure the transparency of registration and cadastre operations. Personnel in all offices should carry out their operations uniformly and without bias.

Financial issues

135. SDLM will have to ensure that it has a stable financial base to carry on operations after the end of donor funding for first registration projects. The instability of the present SDLM budget has resulted in long periods when staff have not been paid. New costs will arise in the future: computers and software paid for by donors will need to be replaced or upgraded in a few years' time. If there are no funds to replace computers when they break down, the registration and cadastre system will collapse.

136. A model of self-financing is being tested in the World Bank/IFAD project but this has not yet been addressed at national level. The reduction of fees for secondary registration, from 26 to 7 lari, was well motivated in attempting to make services more affordable to citizens, but the decision was not analysed within the context of long-term financial stability.

Recommendations

137. SDLM should develop a financial plan to ensure that it has the necessary funds and support to carry out its functions. The plan should cover the long-term financial stability of the agency and consider how the required level of services is to be funded (e.g. directly by the Government, by user fees, etc.). In particular, it should study the introduction of self-financing for SDLM in order to deal with the problems of uncertainty and under-investment, and to promote longer-term planning. Self-financing could be achieved by linking a suitable level of fee retention to the number of registrations completed (or total fee income). The income stream to the Ministry of Finance would be better safeguarded against the possibility of a collapse of the registration system.

Human resources and capacity building

138. SDLM has trained its staff through donor projects. Once the first registration projects are

completed, the emphasis of SDLM operations will shift to subsequent transactions. Personnel at all levels must have the requisite skills to ensure that SDLM operates as a modern land administration agency.

139. There is but limited information and knowledge about modern land consolidation and rural development among Georgian experts.

Recommendations

140. SDLM should prepare a human resource development plan to ensure that its personnel have the skills needed to carry out their functions. The plan should build on the training that has been provided through donor projects at the decentralized operational level. The plan should also address the requirements for senior management.

141. Awareness and understanding of the potential and limitations of land consolidation procedures should be improved through workshops and, if possible, study tours to selected European countries (for example Germany, Poland, Hungary, Czech Republic, Netherlands). This education component should also involve politicians responsible for corresponding legislative activities and Georgian experts involved in the preparation of laws and regulations.

142. Post-graduate studies on rural development and land consolidation at the university of Georgia in cooperation with foreign universities and through short courses should be promoted.

143. On-the-job training in selected European countries for employees involved in land consolidation projects should be provided through cooperation/partnership with an established land consolidation agency and/or in consultation with international experts.

Public awareness

144. Public awareness of the need for land registration and cadastre is high in project areas but ordinary citizens appear to have little understanding of these needs. For example, in urban areas without systematic registration, there appears to be little public awareness that BTI does not provide a legal registration function. However, people continue to deal with BTI for residential transactions because they are used to doing so.

145. There is also a lack of public awareness and understanding of integrated rural development. But that is an essential precondition if successful land consolidation and land development projects are to attract the active participation of citizens.

Recommendations

146. SDLM should develop a public awareness and communication plan to ensure that citizens are aware of its services.

147. An information and communication campaign should be initiated for specific groups (mayors of villages, municipal officers and experts in agricultural extension) to inform them

professionally of the aims, methods and executing procedures of land consolidation and rural development.

148. Farmers, landowners, lessors and citizens should be briefed by brochures, flyers, newsletters, posters, information events and meetings as well as workshops on the challenges and opportunities of land consolidation.

149. After the first pilot projects, steps and results are to be reported, and related experiences published. The campaign should include mass-media components.

Annex I

PROGRAMME OF THE MISSION

Saturday, 26 May 2001	Arrival in Tbilisi
Sunday, 27 May 2001	Organizational meeting of the international experts
	Study tours in Tbilisi and Mtskheta
Monday, 28 May 2001	Meeting with the Chair of the State Department for Land Management, Mr. Zurab Gegechkori
	Meeting with the Minister for Urban Development and Construction, Mr. Merab Chkhenkeli
	Meeting with the Resident Representative of UNDP in Georgia, Mr. Marco Borsotti
	Meeting in the Parliament
	Meeting with World Bank representatives
	Meeting with USAID representatives
	Meeting with EU representatives
Tuesday, 29 May 2001	Meeting with the Minister for Agriculture and Food, Mr. David Kirvalidze
	Meeting with the Finance Minister, Mr. Zurab Nogaideli
	Meeting with the Mayor of Tbilisi, Mr. Ivane Zodelava
	Workshop at the State Department for Land Management with representatives of land cadastre and registration projects of international donor organizations
Wednesday, 30 May 2001	Meeting at the Ministry of Urban Development and Construction
	Workshop at the Ministry of Urban Development and Construction (session 1)
	Workshop on Rural and Agricultural Land Development (Ministry of Agriculture and the State Department for Land Management) (session 2)
Thursday, 31 May 2001	Meeting at the Tbilisi Municipal Offices of Land Management and Architecture and Urban Planning (Mr. Zaza Zirakishvili , Deputy Chairman; Mr. Mamuka Chkhaidze , Chief Architect)
	Visit to the district and municipality of Gori (municipal office; registration office)
Friday, 1 June 2001	Meeting at the UNDP office
	General discussion among the international experts on the conclusions of the review and final clarification by the Georgian experts
Saturday, 2 June 2001	Departure

Annex II

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