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PROGRAMME OF WORK 2008–2009

LAND REGISTRATION AND LAND MARKETS

**REPORT ON THE WORKSHOP ON THE LEGAL EMPOWERMENT
OF THE POOR IN THE UNECE REGION**

Note by the secretariat

Summary

The workshop was part of the Committee's Programme of Work for 2008-2009, as set out in document ECE/HBP/145, paragraph 31.

This note summarizes the main outcomes of the workshops and provides an overview of how the work of the Working Party on Land Administration is contributing to the legal empowerment of the poor on issues pertaining to land management and administration.

I. BACKGROUND

1. Work on the legal empowerment of the poor was launched in 2005 by a group of developing and industrialized countries that included Canada, Denmark, Egypt, Finland, Guatemala, Iceland, India, Norway, Sweden, South Africa, the United Kingdom of Great Britain and Northern Ireland and the United Republic of Tanzania, and had a mandate to complete its work in 2008.
2. The initiative was co-chaired by Madeleine Albright, former Secretary of State of the United States of America, and Peruvian economist Hernando de Soto. The Commission on Legal Empowerment of the Poor is the first global initiative to focus specifically on the linkages between exclusion, poverty and law. The secretariat of the initiative is hosted by the United Nations Development Programme (UNDP).
3. The Commission on Legal Empowerment of the Poor has promoted the principle that poverty can only be reduced if Governments give all citizens, especially the poor, a legitimate stake in the protections provided by the legal system, which should be not the privilege of the few but the right of all persons. Thus, the Commission sets out to explore how nations can reduce poverty through reforms that expand access to legal protection and opportunities for all.
4. One of the objectives of the Commission is to legally empower informal sector actors so that their informal contracts have the protection of the law, and that a safe, secure and equitable way is found for their integration with the mainstream economy. This is considered necessary for empowering them to derive due benefits from the growing national and global economy.
5. Work and recommendations of the Commission have also focused on the issue of property rights, examining how the poor can be legally empowered and their poverty reduced when they have fungible rights over property and other assets in a transparent and functional manner. Because capital has a tendency to concentrate, contributing to the economic exclusion of marginalized groups, legal systems that give the poor access to structured businesses, expanded markets, labour rights and secure tenure are required for their legal empowerment.
6. The Commission's recommendations are of relevance to the work of the UNECE Working Party on Land Administration (WPLA), as land administration issues are at the core of its work. Through its efforts to assist countries in the region upgrading land registration and cadastre, enhance security of tenure and promote access to land, WPLA fully embraces the Commission's recommendations and guidance.

II. SUMMARY OF THE DISCUSSION AND RECOMMENDATIONS

7. The workshop on the legal empowerment of the poor in the UNECE region was held on 9 and 10 April 2008 in Bergen, Norway. The workshop was organized and hosted by the Norwegian Mapping and Cadastre Authority under the aegis of UNECE.
8. The workshop in Bergen aimed at presenting the outcome of the Commission on the Legal Empowerment of the Poor as well as its relevance to, and strategies for, policy implementation in the region. The workshop aimed to:
 - (a) Identify the challenges faced by UNECE countries vis-à-vis upgrading and modernizing their land management and administration systems;

- (b) Better clarify a possible role for UNECE donor countries vis-à-vis land-related issues, to assist developing countries and countries in transition.

9. The workshop was attended by representatives of and participants from the following countries: Armenia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Egypt, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Italy, Kenya, Lithuania, the Netherlands, Norway, Poland, Romania, South Africa, Spain, Sweden, Tajikistan, Uganda, Ukraine, the United Kingdom, the United States and Zambia.

10. Representatives of the following international organizations were also present: UNECE, UN-Habitat¹, UNDP and the World Bank.

11. The workshop was opened by Norwegian authorities. Mr. Magnar Danielsen, Director, Cadastre and Land Registry Division, Norwegian Mapping and Cadastre Authority and Ms. Trude Drevland, Deputy Mayor of Bergen, welcomed participants in the meeting. Opening statements were also delivered by Mr. Peter Creuzer, Chairman of the WPLA Bureau and Director General of the Agency for Geoinformation, Land Development and Real Estate, Germany; Ms. Paola Deda, Secretary to the Committee on Housing and Land Management (CHLM), UNECE; and Mr. Morten Wasstøl, Political Adviser to the Norwegian Minister of the Environment and International Development.

12. Details on the workshop's session interventions and presenters are provided in the annex.

13. Workshop participants recognized that land is a critical resource for the sustenance of livelihoods and development, as it offers endless opportunities for wealth creation. They therefore assessed the extent to which the Commissions' recommendations were being taken into account and what further steps and practical actions should be taken to empower the poor vis-à-vis property rights and access to land. Examples were provided from case studies in and outside the UNECE region, including from Armenia, Tajikistan and Ukraine.

14. Participants reviewed a number of land administration tools as well as their importance for and roles in empowering the poor and promoting good governance. For instance, it was recognized that community-based, community-led and community-focused organizational processes do empower slum dwellers. Collaboration with grassroots, professional and government agencies to build support for housing microfinance programmes to support research and implementation of policy initiatives were other examples of direct ways to better the situation of informal settlements and their inhabitants. Among the relevant activities in this context, community mapping, building information archives and providing education and training to the urban poor were also important.

15. Further examples included the third-party arbitration courts (TPACs) mechanism. TPACs highlighted was specifically for its cost-effectiveness (fees were considerably lower than those of formal courts); speed (disputes are usually settled within two weeks; never longer than two months); flexibility (disputing parties may nominate judges); and the fact that TPAC practitioners and judges need not necessarily be lawyers, but can simply be specialists in the subject matter of the dispute.

16. In general, it was noted that TPACs across the Commonwealth of Independent States region were reducing overall costs of delivering legal information and consultations as well as

¹ United Nations Human Settlements Programme.

providing access to justice for poor men and women in remote areas. They also gave people the confidence to claim and defend their constitutional rights to land and property.

17. Land titling programmes have been also widely promoted by Governments and international agencies in developing countries as a means of increasing tenure security, improving access to formal credit and stimulating investment in home improvements, and strengthening urban land and housing markets. However, workshop participants stressed that there was limited empirical evidence to support these claims.

18. Regarding informal and illegal settlements, the workshop highlighted that the search for policy solutions to address informal settlements is multifaceted and multidimensional. Solutions range from legalization and inclusion of informal settlements in regulatory urban plans to provision of essential social and technical infrastructures as well as resettlement programmes in social housing. While these solutions illustrate the different aspects of the policy continuum, they also imply significant political will and financial commitment on the part of central and local public institutions. The workshop underlined that the issue of informal settlements was an important element of the programme of CHLM and WPLA work, as the two bodies are currently developing a study on informal settlements in the UNECE region.

19. Better land administration and planning systems with specific methods and techniques to prevent informal settlements formation are required. The diversity of countries in the region, coupled with the variety of informal settlements, requires contextually sensitive approaches with contribution by specific players, both on an individual and institutional level.

20. Several challenges still face countries in Eastern Europe, Caucasus and Central Asia and South-Eastern Europe regarding land administration. These countries experienced profound changes in land use and land ownership structure, changes aiming to turn land into a major source of sustainable social and economic development for local communities. Yet against the background of irrefutable gains and achievements, major challenges still remain that, if not addressed, could produce adverse outcomes.

21. One such challenge is corruption in the form of bribery, fraud, favouritism, nepotism and clientelism. Poor land administration and cadastre systems add to the problems of managing urban development without a clear and transparent system of land tenure and property rights. WPLA is planning to address the issue of corruption as part of its work programme in the coming months.

22. From a legal perspective, people are often unaware that their rights are being violated, and there is a lack of reliable information on land rights and registration. A highly controlled environment often exists in which local officials can coerce landowners and in general poor citizens cannot afford legal assistance.

23. Legal aid programmes should be established with the aims of: (a) making available reliable information and/or correcting misinformation and consulting citizens on specific problems; (b) assisting in negotiating out-of-court settlements based on the law; and (c) representing clients in court when needed. It is important to make citizens aware of their rights; help them realize that their rights matter; develop and implement model solutions to common problems and correct clear violations of the law.

24. The workshop also reviewed the essential factors influencing the development of the real property market in the UNECE region, including a more stable political situation, urban development programmes, new legislation, issuance of ownership certificates and increased

awareness of the real estate sector. However, regulations and a better understanding of the market are still needed.

25. The workshop also highlighted that it is also necessary to expand and identify innovative mechanisms to provide credit to households as well as to review and make more flexible the regulatory framework for managing urban land and housing markets. In addition, the housing problem necessitates a comprehensive plan, one that addresses education and employment solutions.

26. The workshop benefited from presentations addressing specific situations and specific challenges for women, and also minorities such as the Roma. The workshop also addressed issues related to Islamic law.

27. Women should be involved in land reform and land administration projects. For women's rights to land to be upheld there is a need to curtail the constraints that undermine women's land rights and ensure that the laws and policies that pave the way for formalizing land or property rights are inclusive of the needs of vulnerable members of society, especially women in societies where they have a disadvantage status.

28. In general, the workshop highlighted the benefits of good land administration and agreed that these benefits far outweigh the costs. Good land administration has emerged as a powerful tool, one that is essential for the wealth of a country. Moreover, sustainable land management and good land administration are key elements in the sustainable development equation.

Annex

PROGRAMME FOR THE WORKSHOP ON THE LEGAL EMPOWERMENT OF THE POOR IN THE UNECE REGION

Session 1: Outcomes of the Commission

Chair: Ms. Mona Elisabeth Brøther, Ambassador/Senior Adviser, Norwegian Ministry of Foreign Affairs.

Keynote speech: Mr. Olav Kjørven, Assistant Director-General, UNDP, and Director, UNDP Energy and Environment Group.

“Is this the best we can do? A critique of the recommendations of the Property Working Group”. Ms. Liz Alden Wily, Independent Land Tenure and Natural Resources Analyst, and member of the CLEP Working Group 2.

Session 2: The work of the Commission and Its Relevance to the UNECE region, part 1

Chair: Mr. Peter Creuzer, Director General, Agency for Geo-information, Land Development and Real Estate, Germany, and Chairman of the WPLA Bureau.

“Mobilizing the grassroots”. Ms. Sheela Patel, Society for the Promotion of Area Resource Centres (SPARC), India.

“The social and economic benefits that flow from good land administration: a reassessment”. Mr. Peter F. Dale, Professor Emeritus, University College, London, and Honorary President, FIG (International Federation of Surveyors).

Session 2 – The work of the Commission and Its Relevance to the UNECE Region, part 2

““What’s mine is mine?” The right to property as a human right”. Mr. Darren Thorne, Program Legal Counsel, International Development Law Organization, Italy.

“Fighting corruption in land administration”. Mr. Paul van der Molen, Director, Kadaster International, the Netherlands, and Professor, International Institute for Geo-Information Science and Earth Observation.

Session 3: The formal land sector working for all

Chair: Mr. Sergei Shavrov, Director, National Cadastre Agency, Belarus, and member of the WPLA Bureau; (second part) Mr. Helge Onsrud, Director, Centre for Property Rights and Development, Norwegian Mapping and Cadastre Authority.

“The challenge of informal settlements in the UNECE region”. Ms. Sasha Tsenkova, Professor, International Development & Planning, University of Calgary, Canada, and Ms. Chryssy Potsiou, FIG Commission 3 chair, and Lecturer, National Technical University of Athens.

“Global Land Tool Network”. Ms. Clarissa Augustinus, Chief, Land and Tenure Section, Shelter Branch, UN-Habitat, Kenya.

“Land reform in Ukraine: gains and drawbacks”. Mr. Maksym Fedorchenko, Director Centre for Land Reform Policy, Ukraine

“Efficient land administration as an important tool for poverty reduction in Armenia”. Mr. Mikayel Pashayan, Head, International Cooperation Department, State Committee of the Real Property Cadastre, Armenia.

“Empowering women through land”. Ms. Nsama Nsemiwe, Campbell University, Zambia.

“Minorities and their access to land – the case of the Romany”. Mr. Theodoros Alexandridis, Staff Attorney, European Roma Rights Centre, Budapest.

“Property rights of internally displaced persons and refugees in Europe”. Mr. Pål Nesse, Head of Advocacy, Norwegian Refugee Council.

“Economic and social impacts of titling in urban and peri-urban areas: international experience and case Studies of Senegal and South Africa”. Mr. Geoffrey Payne, International Consultant, United Kingdom.

Session 4: Some Legal Challenges

Chair: Ms. Margrét Hauksdóttir, Deputy Director General, Land Registry of Iceland, and member of the WPLA Bureau.

“Legal aid to land and real property owners”. Mr. Stevan Dobrilovic, Attorney at Law, Economic Development Consultant, United States.

“Free legal aid services to poor citizens who want to register real property rights in the Republic of Croatia”. Mr. Tomislav Penić, Legal Specialist, Real Property Registration and Cadastre Project, Ministry of Justice, Croatia.

“How reliable are our implementation tools? Experience with protecting land rights and resolving disputes in transitional economies”. Ms. Angelika Brustinov, International Consultant, Switzerland.

“Islamic land law and legal entitlement of the poor”. Mr. Robert Home, Professor of Land Management, Anglia Law School, Anglia Ruskin University, United Kingdom.

Concluding Session: Implementation of Land Policies in the UNECE Region

Chair: Mr. Peter Creuzer.

“Road map for implementation of reforms: report from CLEP Working Group 5”. Ms. Mona Elisabeth Brøther.
