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SOCIAL AND ECONOMIC BENEFITS OF GOOD LAND ADMINISTRATION

Introduction

1. The purpose of this paper is to draw the attention of the policy makers in the ECE region to the importance of a formal system of land tenure as the basis for economic activities. The paper was prepared by the Steering Group of the Meeting of Officials on Land Administration. Information about the activities of the Meeting of Officials on Land Administration is available on the ECE webpage <http://www.unece.org> (under Human Settlements or Operational Activities).

Land as a source of wealth and economic success

2. Throughout the world, governments seek social stability and sustainable economic performance for their countries and their people. Countries with different histories, cultures and environments share common aspirations for certainty and for growth. A framework of land and property laws that recognize the rights and duties of the individual, but also the shared concerns of the wider community, is essential if these aspirations are to be realized.

3. No country can sustain stability within its boundaries, or economic development within the wider world, unless it has a land rights policy that promotes internal confidence among its people, its commercial enterprises, and its government. Recognizing that land is a source of wealth lies at the heart of good government and effective public administration. States that prosper promote widespread and secured private ownership of land as a foundation of social and economic policy.

4. The inter-relationship of people and land is fundamental to human existence. It is worth summarizing what has been said by others about the relationship between man and the land on which he depends.

"Modern market economies generate growth because widespread formal property rights, registered in a system governed by legal rules, afford indisputable proof of ownership and protection from uncertainty and fraud so permitting massive low cost exchange, fostering specialization and greater productivity. It is law that defines the relationship of rights to people. Civilized living in market economies is not simply due to greater prosperity but to the order that formalized property rights bring." (Hernando de Soto 1993)

"Land is the place of all shelter, in the city, the town, the village and the home. It is the source of food, of materials for construction and manufacture, of coal, gas and oil, of springs and rivers and other essentials for life. Indestructible, immovable, it is the foundation of all human activity. Houses and factories, forests and farms, rivers, roads and railways, mines, quarries and reservoirs are all fashioned from the land. It offers endless opportunities for development and discovery. It is the ultimate source of wealth." (based on Sir Charles Fortescue Brickdale 1913)

5. For nations to unlock that wealth requires effective systems of land registration. Good land registration promotes an active land market and productive land use. It makes possible the security of tenure and the development of a mortgage market on which a functioning economy depends.

Social and economic benefits of securing rights in land

6. The following parties are interested in an effective land registration system:

(a) National government: in its administration, taxation, economic development, market information, and European harmonization;

(b) Local government: in spatial planning, land valuation, land use, land management and land information;

(c) Companies and citizens: in security of rights, social stability, access to housing through mortgage finance, market opportunities and potential for investments and development, mobility and property transfer.

7. The benefits of an effective land registration system are that it will:
- Guarantee ownership and security of tenure;
 - Be the basis for land and property taxation;
 - Provide security for credit;
 - Guarantee the result of judicial procedures relating to land rights, including rights of repossession of land;
 - Reduce land disputes;
 - Develop and monitor land markets;
 - Protect State lands;
 - Facilitate land reform;
 - Promote improvement of land and buildings;
 - Improve urban planning and infrastructure development;
 - Support environmental management;
 - Produce statistical data as a base for social and economic development.

Facilitating private land ownership and security of tenure

8. The societies which have created internal stability and a functioning market economy recognize the need for effective systems for registering private land rights and for inexpensive systems of land transfer. The privatization of land and the registration of tenure, whether freehold, leasehold, joint or group ownership, not only make possible the realization of personal wealth, however modest, but enable people to improve their land and property so maximizing its value and use.

9. Land ownership, registered in a guaranteed system, facilitates greater mobility, for those who need to move to alternative employment in a new region, or for those whose family circumstances have changed with the passage of time. It makes possible access to secured credit. The major wealth of families and people is their home, not only as a shelter, but also as a realizable financial asset. This provides the owner with choices: to sell and buy, to borrow against the collateral that the property represents in order to invest or develop, to make provision for future inheritance by his or her family.

Securing private rights in land

10. All modern constitutions accept and foster private rights and ownership of land. However, even in countries where private rights in land are extensive and well established, the State will retain the ultimate right of compulsory acquisition where the wider needs of the population are paramount. In societies which value individual freedoms and rights such an exercise by government of its reserve powers would only be effected under the law and accompanied with proper systems of financial compensation.

11. Subject only to these rarely exercised reserve powers, private ownership can be regarded as absolute. 'Ownership' can be indefinite (freehold) or for a term of years (leasehold). Land can be held by any legal entity, singly or jointly, in common, in group or corporate ownership or in trust.

12. Registered owners may have other rights attached to their land over adjacent land, such as rights of way or for services. Their land might be subject to short-term tenancies or may be burdened by rights for the benefit of their neighbours. Others, neither in possession nor occupying neighbouring land, may have rights over the property, such as an earlier owner who, at the time of sale, imposed a restriction on the use of the land. Significantly, a creditor or a bank may register a notice or a mortgage to ensure that any debt or moneys owed are repaid before the owner sells the property. In some jurisdictions other claims over the land, or the assets of the owner, can be recorded on the register of the property by individuals, public agencies or by the Courts to protect their potential or actual interests.

13. In this way the land register safeguards the interests of owners but also those who may have legitimate claims on the land. It ensures the effective functioning of a society where the prime source of personal, corporate or government wealth is land and property.

Recording public rights in land

14. For the wider benefit of society, government will maintain public rights which can affect privately owned land. Land registers and other public land records will ensure that this information can be quickly and widely accessed. In its ownership of land, public authorities stand in no different position from other private owners. Appropriate recording and publication of public restrictions on use of land and buildings are important for the implementation and sustainability of land-use plans.

Developing a secure financial sector

15. A system of compulsory registration of private land rights facilitates a far more crucial feature of a successful economy. Land registration makes possible quick and sure procedures for creating and securing mortgages. The evolution of a flourishing financial sector, providing loans for development and investment, comes about where land rights are guaranteed. This is because banks and lending institutions can secure their total loan and investment business; by individual mortgage registration, across the many separate properties of a large population of private owners and businesses. Access to mortgage finance makes possible the development and diversification of large and small businesses, so promoting commercial responsiveness to internal and overseas demand. It increases the scope for inward investment. Importantly, it generates employment opportunities that might otherwise be constrained or non-existent. For the homeowner, access to finance makes it possible to improve and develop existing property, so increasing the value of the national housing stock.

Providing a basis for land taxation

16. One of the essential features of maintaining national land records is to enable national governments to establish an efficient and equitable basis for raising taxes from those who own or occupy land and property. Such systems generate public income to provide essential public services for the

benefit of the community. Maintaining authoritative information on land use and the attributes of land for all individual land parcels is an important feature of land administration systems, not just as a basis for assessing the value of land but in the wider spheres of land policy and land management, particularly for agriculture and the environment. Associating land use and valuation information with other components of an integrated and accessible land administration system contributes to sound decision-making for the benefit of all.

Providing a basis for land management

17. Appropriate land information is vital for land management, whether that be for developing sustainable agriculture, managing the rapid growth of cities, or protecting the environment, to mention only a few examples. Geographic information systems (GIS) are becoming very useful tools for handling information on the current land use as well as for monitoring changes in land use. Thus such information systems should combine data from different sources, including topographic maps and satellite images. Data about ownership and parcel boundaries are always of fundamental importance in land information systems.

The land registration laws

18. The foundation of any system of social order is the framework of laws which reflect the Constitution of the country, governs the administrative process and expresses the rights and obligations of the citizen. In the case of land laws relating to land registration, the following indicates what has to be done by those who draft and enact legislation:

- Define legal forms of land tenure;
- Distinguish between real and personal property (immovable and movable property);
- Distinguish between ownership, possession and use of land;
- Indicate registrable rights less than ownership (such as a mortgage);
- Define how rights can mature;
- Establish, within the public sector, an independent, self-financing land registry institution with clear statutory powers;
- Establish administrative systems for land transfer and mortgage registration;
- Ensure quick and simple creation of mortgages and distraint;
- Coordinate legislation relating to urban planning, land use and the recording of information on the land register;
- Ensure that rights registered are guaranteed by the State;
- Ensure clarity of ministerial responsibility and authority;
- Specify the administrative role of the agencies responsible for national mapping, land valuation and land use.

19. Whatever approach is appropriate, effective land management, productive land reform, and a functioning land market are dependent on accessible land information based on national mapping maintained to specified standards of accuracy.

Financing land registration systems

20. One aim of any functioning land registration system is that it should be self-financing. The continuing investment and running costs of maintaining the land registration system and providing services should be wholly covered by fees paid by those who use those services. This cannot always be realistically achieved in the early years of development of a new system.

21. It is important here that governments in countries in transition accept that such funding during these early years is a real investment in the development of the wider economy. Registered titles are the bankable assets of the country. They progressively draw in investment and build the confidence of businesses and individuals to participate in the development and economy of the country.