

# World Bank Policy on Land Governance in Support of the Millennium Development Goals

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**Key words:** foreign development investment, governance, land acquisition, land administration, land development, land governance assessment framework, land management, land policy, land reform, Millennium Development Goals, tenure security, transparency

## SUMMARY

In any country, reform of land administration and management is a major investment of capital and human resources and requires strong and consistent leadership in order to achieve effective, sustainable outcomes. Such reforms require long-term commitment. Land and property are generally the major assets in any economy, and can often account for between half to three-quarters of national wealth. Land is a fundamental factor for agriculture production and is thus directly linked to food security. Land is one of the main sources of collateral, used to obtain credit from established financial institutions such as banks, as well as from informal providers of credit.

The Millennium Development Goals (MDG) commit the international community to an expanded vision for development, one that vigorously promotes human development as the key to sustaining social and economic progress in all countries, and recognizes the importance of creating a global partnership for development. The goals have been commonly accepted as a framework for measuring development progress with targets to be achieved by 2015. The many challenges to achieving the MDG, of particular relevance to the land sector, include poverty alleviation, food security, disasters, wars and conflicts, climate change, foreign direct investment (FDI) in land development through concessions and leases, responsible sustainable development, ensuring security of tenure and property rights, gender equity, human rights and social justice.

The World Bank views land governance as the single biggest challenge to land administration and management (LAM) reform. Increasingly, land, the most fundamental natural resource, is facing pressures of access for large-scale development for agribusiness, mining, forestry, infrastructure, hydro-power through FDI. The World Bank is a recognized key player in LAM reform, for more than thirty years. Over the past thirty years by the World Bank to reform land administration and management and the development of national spatial data infrastructures (NSDI). Cumulatively, funding from the World Bank has now exceeded several billion dollars in investment funding as well as analytical and technical support. The World Bank is working with key United Nations agencies in developing the global policy agenda. This paper discusses World Bank support for LAM reform and also its support for policy initiatives on land governance and land development investment. The recent areas of

policy work include the land governance assessment framework (LGAF) and agreed principles for responsible agri-investment in land.

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## **1. INTRODUCTION**

The World Bank, with the support of development partners and civil society organizations (CSO), are continuing to support the implementation of land administration and management projects throughout the world. From the World Bank side, specific support to the land sector has been provided for the past three decades. These projects have varying degrees of emphasis on social equity and economic development. In post-conflict countries, tenure security and access to land are major factors in providing long-term stability. There are many complexities, dimensions and themes associated with land administration. Securing land rights is particularly relevant to vulnerable groups such as the poor, women, orphans, displaced persons and ethnic minority groups, especially after disasters or conflicts. Fees and taxes on land are often a significant source of government revenue, particularly at the local level, and often underpin the sustainability of decentralization. In most societies, there are many competing demands on land including development, agriculture, pasture, forestry, industry, infrastructure, urbanization, biodiversity, customary rights, ecological and environmental protection. Most countries have great difficulty in balancing the needs of these competing demands.

Reform of land administration in any country is a long-term prospect requiring decades of sustained commitment. It is a major investment of capital and human resources and requires strong, consistent, transparent and accountable leadership, in order to achieve effective, sustainable outcomes. Dealing with each and every one of these can contribute to achieving the challenges of the Millennium Development Goals (MDG). Reform is often inhibited or even undermined by poor governance. Good land administration is often as much related to land administration issues as it is to the quality of the civil service, especially its transparency and accountability.

## **2. THE MILLENNIUM DEVELOPMENT GOALS**

The MDGs are eight international development goals that all 192 United Nations member states and at least 23 international organizations have agreed to achieve by the year 2015. They include reducing extreme poverty, reducing child mortality rates, fighting disease epidemics such as AIDS, and developing a global partnership for development. In 2001, recognizing the need to assist impoverished nations more aggressively, UN member states adopted the targets. The MDGs aim to spur development by improving social and economic conditions in the world's poorest countries. They derive from earlier international development targets, and were officially established at the Millennium Summit in 2000,

where all world leaders present adopted the United Nations Millennium Declaration, from which the eight goals were promoted.

The MDG commit the international community to an expanded vision for development, one that vigorously promotes human development as the key to sustaining social and economic progress in all countries, and recognizes the importance of creating a global partnership for development. The goals have been commonly accepted as a framework for measuring development progress. The MDG constructively challenges the entire global community. On the one hand, the MDG challenge poor countries to demonstrate good governance and commitment to poverty reduction. On the other hand the MDG also challenge the more wealthy countries to maintain their commitment to support economic and social development (World Bank 2002).

The MDG were developed out of the eight chapters of the United Nations Millennium Declaration, signed in September 2000. There are eight goals with 21 targets and a series of measurable indicators for each target. These are summarized in Table 1 below.

World Bank support for land reform projects is directly aligned to the MDGs, and especially with MDGs 1, 3, 7 and 8. Issues such as poverty reduction, tenure security, pro-poor land management, good governance, environmental sustainability, gender equality, the rights of vulnerable groups in society, exploitation of information communication technologies (ICT) are all key issues for land administration and management programs.

### **3. WORLD BANK SUPPORT FOR LAND PROJECTS**

Of all the development sectors supported by the World Bank, land is amongst the most challenging, complex and controversial, and it directly or indirectly, impacts the achievement of each of the eight MDG. However, it is also one of the most fundamental sectors, with land issues underpinning multiple other sectors including agriculture, water, mining, energy, infrastructure, housing, transportation and climate. Land issues are deeply rooted in countries' histories and cultures. At the most extreme, land issues have been identified as cause of civil and international wars, and even genocide. Furthermore, land issues are often highly politically sensitive, implying that attempts to address them need to be solidly grounded in empirical research, often building on carefully evaluated pilots. The risk matrix for all land-related interventions is indeed high, and such risks run far more deeply than reputational risks to donor institutions, as the lives and the livelihoods of individuals is very much affected. Over the past six years, with the world experiencing several of the most significant natural disasters in the history of mankind, the importance of land and property rights has been highlighted. This has presented new challenges for the World Bank to support.

The World Bank has been directly engaged in supporting the land sector for more than thirty years. This work can be broadly divided into four key areas: (a) support for policy development, (b) analytical and advisory (AAA) research or economic and sector work (ESW); (c) investment lending to support development and reconstruction; and (d) technical

assistance (TA). The Bank's strong analytical capacity and intellectual leadership have allowed its activities to draw on cutting edge research to show the importance of land issues for overall economic development and to help countries formulate and build consensus around national strategies to deal with land in a prioritized and well-sequenced manner. In some cases demand for the Bank's analytical work has been equal to or greater than that for Bank lending for land projects. Strong links to academic and civil society institutions in client countries and with development partners, continue to allow the Bank to translate analytical inputs into effective solutions to support development and reconstruction.

On the lending side, World Bank supported land administration projects generally seek to alleviate poverty and enhance economic growth by improving the security of land tenure and efficiency of land markets. This necessitates the development of an efficient land administration system that is based on clear and consistent policies and laws, gender-responsiveness and supported by an appropriate institutional structure. Lending projects may typically involve: (a) policy, legal and regulatory reform; (b) institutional reform; (c) systematic land registration (first time titling); (d) support for the development of subsequent land transactions; (e) land valuation; (f) improved service delivery for land agencies; and (g) capacity building for government, private sector and academe.

Currently, the World Bank is providing funding of around US\$ 1.5 billion for around forty-six projects which are classified as land administration and management (LAM) project towards policy-based lending, it is not surprising to find an increasing number of projects with land policy or land administration components (Bell, 2009). However, given that there is a very large number of broader natural resource management projects and urban development projects as well as development policy lending for infrastructure, where LAM is a component or sub-component, it could be expected that the real level of financial support is considerable higher than this, perhaps at least twice. In terms of policy, analytical and TA support to LAM, the World Bank is currently providing at least US \$3 million, in funding. However, the World Bank is also providing many times this amount in funding for land-related cross-sectoral analytical interventions globally (Bell, 2009). So potentially, the broader analytical support is at least ten times this amount.

For many stakeholders, the support for land administration provided by the World Bank, through funding, analytical support and technical advice, is often misconstrued by stakeholders that the World Bank is actually "implementing projects". Nothing could be further from the truth. The World Bank does not implement projects. It provides support for the aid-recipient countries themselves, to implement projects in accordance with the laws and policies of the respective countries. However, the World Bank works with the recipient country to establish an agreed project design and there are conditions set for the provision of support, which is laid down in the contracts for financing of Grants, Credits and Loans. These conditions generally require compliance with the World Bank's policies and guidelines for safeguards, procurement and financial management.

## 4. LAND GOVERNANCE

### 4.1 Governance.

Awareness of the importance of public institutions has increased attention in governance, broadly defined as ‘the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services’ (World Bank 2007a). Governance in the sense of the quality of institutional arrangements, adherence to the rule of law, and focus on accountability has long been shown to affect economic outcomes at the firm level (Caprio *et al.* 2007, Chhaochharia and Laeven 2009). In the public sector, spending in poorly governed countries has been shown to have little, if any, positive impact (Rajkumar and Swaroop 2008).

In countries with weak governance and few political checks and balances, efficiency of public spending is significantly reduced (Keefer and Knack 2007). Consequently, if maximizing the effectiveness of outside resources on poverty and economic impact should, in addition to levels of poverty, focus resources on well governed countries or sectors (Collier and Dollar 2002, Collier and Dollar 2004). Together with evidence that, in practice aid flows may have little relationship to good governance, this has given rise to a large number of studies providing aggregate country-level indicators of governance that have, for example, been used to determine, for example, the size of foreign assistance. Although progress in this direction has thus far been limited, complementing such aggregate indicators with sector specific ones may be a precondition for more specific reforms that would then in turn help to improve aggregate indicators of governance (Johnson 2008). There are many reasons why donors seek to engage in providing development assistance to countries, including those which have poor governance track records. Some of this is to foster foreign direct investment (FDI) in such countries, especially to secure access to land and natural resources.

Therefore it is not surprising that some studies have found that aid flows may have no relationship to good governance (Busse and Groning 2009, Knack 2009), suggesting that there is still considerable scope for improvement. A commitment for focusing assistance on countries or sectors with good governance is one key trend that underlies the movement towards sector-wide support and greater responsibility of governments (Hout 2007). Therefore, it stands to reason, that governments with a record of transparency, accountability and responsiveness are far more likely to attract legitimate investment, provide high-quality public services and manage resources more cost-effectively than those which activities are opaque and not open to public scrutiny. Corruption may breed where government officials have discretion without accountability, especially in government agencies involved in provision of services to the public including land, health and education. Experience suggests that governments typically do not welcome public scrutiny. While there are many examples of governments opening themselves to the public through mechanisms such as freedom of information laws, and others have adopted well-publicized anti-corruption programs, sometimes under external pressure from donors, the record of “supply-side” reform has often had mixed results.

## 4.2 Land Governance

Good governance is increasingly recognized as critical to effective development and sustainability. Specifically for the land sector governance, a fully functioning land and property system is composed of four building blocks: (a) a system of rules that defines the bundle of rights and obligations between people and assets reflecting the multiplicity and diversity of property systems around the world; (b) a system of governance; (c) a functioning market for the registration, exchange of assets; and (d) an instrument of social policy. Each of these components can be dysfunctional, operating against the poor.

Previously, insufficient attention has been given in land-related development cooperation to the integration of good governance and safeguards in the design, implementation and impact monitoring of land administration and management projects. The emphasis has been on establishing first-time property rights and building capacity, especially within the civil service. Further emphasis has been in the areas of policy reform, institutional development and new technology. However, it is only more recently, as increasing attention to issues of accountability and transparency, and indeed corruption, which have been consistently raised by CSOs including NGOs, that attention has been turned to governance. Good governance is fundamental to achieving the benefits of the protection of property rights and the development of efficient and effective land and property markets. In addition, good governance is essential for the efficient and effective stewardship of the environment and natural resources.

## 4.3 Corruption.

Even in terms of standard indicators such as corruption, land has long been known to be one of the sectors most affected by bad governance, something that is not difficult to understand in light of the fact that land is not only a major asset but also that its values are likely to rise rapidly in many contexts of urbanization and economic development. The most authoritative survey of global corruption finds that, after the police and the court, land services are the most corrupt sector, ahead of other permits, education, health, tax authorities, or public utilities (Transparency International 2009). This survey found the levels of bribery across public sectors as follows: (a) land services, 15%; (b) police, 24%); (c) judiciary, 16%; (d) registry and permit services, 13%; (e) education, 9%; (f) health, 9%; (g) taxation, 7%; and (h) utilities, 7%.

Although individual amounts may be small, such petty corruption can add up to be large sums; in India the total amount of bribes paid annually by users of land administration services are estimated at \$700 million (Transparency International India 2005), equivalent to three quarters of India's total public spending on science, technology, and environment.

Large-scale and serious corruption associated with acquisition and disposal of public lands is more notorious in some contexts. For example, in Kenya "land grabbing" by public officials reached systemic proportions during 1980-2005 and was identified as "one of the most pronounced manifestations of corruption and moral decadence in our society." (Government of Kenya 2004, p.192). For private land, bad governance manifests itself in the difficulty of accessing land administration institutions to obtain land ownership information or transfer property. Together, large- and small-scale corruption will reduce the perceived integrity and

(because of high transaction cost) completeness of land registries, thereby undermining the very essence of land administration systems.

Beyond the negative element of reducing opportunity for corruption and bribery, good land governance is also critical as a precondition for sustainable economic development in a number of respects:

- . First, those who have only insecure or short-term land rights are unlikely to invest their full effort to make long-term improvements attached to the land and may instead be forced to expend significant resources to defend the rights to their land, without producing benefits for the broader economy. Land rights are particularly important for women (especially in case of inheritance or divorce) and for other traditionally disadvantaged groups such as migrants or herders.
- Second, if property rights are poorly defined or cannot be enforced at low cost, it will also be much harder to transfer such land between different uses. Secure land tenure facilitates transfer of land at low cost through rentals and sales, improving the allocation of land. Without secure rights, landowners are less willing to rent out their land, something that may impede their ability and willingness to engage in nonagricultural employment or rural-urban migration, reducing the scope for structural change and reduce the productivity of land use in both rural and urban areas. Third, setting up or expanding a business requires physical space, i.e. land. Non-transparent, corrupt, or simply inefficient systems of land administration constitute a major bottleneck that makes it more costly for small and would-be entrepreneurs to transform good ideas into economically viable enterprises. The World Bank investment climate surveys indicate that access to land was the main obstacle to conducting and expanding business by 57% of the enterprises interviewed in Ethiopia as well as 35% in Bangladesh and about 25% each in Tanzania and Kenya. Also, to the extent that easily transferable land titles can be used as collateral, their availability will reduce the cost of accessing credit for entrepreneurs, thus increasing opportunities for gainful employment and contributing to innovation and the development of financial systems.
- Finally, with economic development, increased demand for land, together with public investment in infrastructure and roads tends to increase land values. In many cases, lack of well-functioning mechanisms to tax land implies that the scope for society, in particular local governments, to benefit from land value increases is limited and instead much of the gains end up with private individuals and may fuel speculation or end up as bribes. If land institutions function properly, land taxation provides a simple, yet efficient tool to increase effective decentralization and foster local government accountability.

#### **4.4 Impacts of Land Governance**

The need for good land governance is reinforced by three broad global trends. Increased and more volatile commodity prices, population growth, and the resulting increased demand for rural and urban land make it more important to define and protect land resources as a precondition for the ability to broadly share the benefits from such opportunities. Climate

change is likely to have particularly pernicious effects on areas traditionally considered to be hazardous or marginal. Adequate land use planning together with land-information based geo-spatial tools to manage disasters can help mitigate or adaptation to these effects. Finally, global programs to provide resources for environmental services and, for example, reduced deforestation, are likely to affect behavior at the local level and thus accomplish their objectives only if local land rights are recognized and resources are transferred effectively to right holders.

The effects of weak land governance will be particularly harmful for the poor in developing countries for whom land is a primary means to generate a livelihood, a key vehicle to invest, accumulate wealth, and transfer it between generations, and key part of their identity. All over the world, land and real estate are a main component of household wealth. Because land comprises such a large share of the asset portfolio of the poor, giving secure property rights to land they already use can increase the wealth of poor people who are not able to afford the (official and unofficial) fees needed to deal with the formal system. It also implies that improved land governance has great potential to benefit the poor directly and indirectly.

It is very significant that recognition of the importance of good land governance at the political level, for example by the African Union whose Heads of State agreed in 2009 to a framework and guidelines for land policy in Africa which, among others, calls implying for development of benchmarks to measure countries performance against (African Union 2009). This has led an increasing number of countries to implement far-reaching programs to improve land tenure, often with significant support by multi-lateral and bilateral institutions.

**4.5 Land Governance Assessment Framework**

The FAO, in partnership with other UN institutions and the World Bank has developed a land governance assessment framework (LGAF), as shown below. The LGAF is seen as providing an important technical input into land governance reform agenda.

**Table 1: - LGAF Dimensions ordered by Thematic Areas**

<b>THEMATIC AREA 1. LEGAL AND INSTITUTIONAL FRAMEWORK</b>	
<b>LGI-1. Recognition of a continuum of rights: The law recognizes a range of rights held by individuals as well as groups (including secondary rights as well as rights held by minorities and women)</b>	
1 i	Existing legal framework recognizes rights held by most of the rural population, either through customary or statutory tenure regimes.
ii	Existing legal framework recognizes rights held by most of the urban population, either through customary or statutory tenure regimes.
iii	The tenure of most groups in rural areas is formally recognized and clear regulations exist regarding groups’ internal organization and legal representation
iv	Group tenure in informal urban areas is formally recognized and clear regulations exist regarding the internal organization and legal representation of groups.
v	The law provides opportunities for those holding land under customary, group, or collective tenure to fully or partially individualize land ownership/use. Procedures for doing so are affordable, clearly specified, safeguarded, and followed in practice.
<b>LGI-2. Enforcement of rights: The rights recognized by law are enforced (including secondary rights as well as rights by minorities and women)</b>	
2 i	Most communal lands have boundaries demarcated and surveyed/mapped and communal rights registered.

- ii Most individual properties in rural areas are formally registered.
- iii Most individual properties in urban areas are formally registered.
- iv A high percentage of land registered to physical persons is registered in the name of women either individually or jointly.
- v Common property under condominiums is recognized and there are clear provisions in the law to establish arrangements for the management and maintenance of this common property.
- vi Loss of rights as a result of land use change outside the expropriation process, compensation in cash or in kind is paid such that these people have comparable assets and can continue to maintain prior social and economic status.

**LGI-3. Mechanisms for recognition of rights: The formal definition and assignment of rights, and process of recording of rights accords with actual practice or, where it does not, provides affordable avenues for establishing such consistency in a non-discriminatory manner**

- 3 i Non-documentary forms of evidence are used alone to obtain full recognition of claims to property when other forms of evidence are not available.
- ii Legislation exists to formally recognize long-term, unchallenged possession and this applies to both public and private land although different rules may apply.
- iii The costs for first time sporadic registration for a typical urban property is low compared to the property value.
- iv There are no informal fees that need to be paid to effect first registration.
- v The requirements for formalizing housing in urban areas are clear, straight-forward, affordable and implemented consistently in a transparent manner.
- vi There is a clear, practical process for the formal recognition of possession and this process is implemented effectively, consistently and transparently.

**LGI-4. Restrictions on rights: Land rights are not conditional on adherence to unrealistic standards.**

- 4 i There are a series of regulations regarding urban land use, ownership and transferability that are for the most part justified on the basis of overall public interest and that are enforced.
- ii There are a series of regulations regarding rural land use, ownership and transferability that are for the most part justified on the basis of overall public interest and that are enforced.

**LGI-5. Clarity of mandates and practice: Institutional mandates concerning the regulation and management of the land sector are clearly defined, duplication of responsibilities is avoided and information is shared as needed.**

- 5 i There is a clear separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy.
- ii The mandated responsibilities exercised by the authorities dealing with land administration issues are clearly defined and non-overlapping with those of other land sector agencies.
- iii Assignment of land-related responsibilities between the different levels of government is clear and non-overlapping.
- iv Information related to rights in land is available to other institutions that need this information at reasonable cost and is readily accessible, largely due to the fact that land information is maintained in a uniform way.

**LGI-6. Equity and non-discrimination in the decision-making process: Policies are formulated through a legitimate decision-making process that draws on inputs from all concerned. The legal framework is non-discriminatory and institutions to enforce property rights are equally accessible to all**

- 6 i A comprehensive policy exists or can be inferred by the existing legislation. Land policy decisions that affect sections of the community are based on consultation with those affected and their feedback on the resulting policy is sought and incorporated in the resulting policy.
- ii Land policies incorporate equity objectives that are regularly and meaningfully monitored and their impact on equity issues is compared to that of other policy instruments.
- iii Implementation of land policy is costed, expected benefits identified and compared to cost, and there are a sufficient budget, resources and institutional capacity for implementation.
- iv Land institutions report on land policy implementation in a regular, meaningful, and comprehensive way with reports being publicly accessible.

## **THEMATIC AREA 2. LAND USE PLANNING, MANAGEMENT, AND TAXATION**

**LGI-7. Transparency of land use restrictions: Changes in land use and management regulations are made in a transparent fashion and provide significant benefits for society in general rather than just for specific groups.**

- 7 i In urban areas, public input is sought in preparing and amending changes in land use plans and the public responses are explicitly referenced in the report prepared by the public body responsible for preparing the new public plans. This report is publicly accessible.
- ii In rural areas, public input is sought in preparing and amending land use plans and the public responses are explicitly referenced in the report prepared by the public body responsible for preparing the new public plans. This report is publicly accessible.
- iii Mechanisms to allow the public to capture significant share of the gains from changing land use are regularly used and applied transparently based on clear regulation.
- iv Most land that has had a change in land use assignment in the past 3 years has changed to the destined use.

**LGI-8. Efficiency in the land use planning process: Land use plans and regulations are justified, effectively implemented, do not drive large parts of the population into informality, and are able to cope with population growth.**

- 8 i In the largest city in the country urban development is controlled effectively by a hierarchy of regional/detailed land use plans that are kept up-to-date.
- ii In the four major cities urban development is controlled effectively by a hierarchy of regional/detailed land use plans that are kept up-to-date.
- iii In the largest city in the country, the urban planning process/authority is able to cope with the increasing demand for serviced units/land as evidenced by the fact that almost all new dwellings are formal.
- iv Existing requirements for residential plot sizes are met in most plots.
- v The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is low

**LGI-9. Speed and predictability of enforcement of restricted land uses: Development permits are granted promptly and predictably.**

- 9 i Requirements to obtain a building permit are technically justified, affordable, and clearly disseminated.
- ii All applications for building permits receive a decision in a short period.

**LGI-10. Transparency of valuations: Valuations for tax purposes are based on clear principles, applied uniformly, updated regularly, and publicly accessible**

- 10i The assessment of land/property values for tax purposes is based on market prices with minimal differences between recorded values and market prices across different uses and types of users and valuation rolls are regularly updated.
- ii There is a policy that valuation rolls be publicly accessible and this policy is effective for all properties that are considered for taxation.

**LGI-11. Collection efficiency: Resources from land and property taxes are collected and the yield from land taxes exceeds the cost of collection**

- 11 i There are limited exemptions to the payment of land/property taxes, and the exemptions that exist are clearly based on equity or efficiency grounds and applied in a transparent and consistent manner.
- ii Most property holders liable for land/property tax are listed on the tax roll.
- iii Most assessed property taxes are collected.
- iv The amount of property taxes collected exceeds the cost of staff in charge of collection by a factor of more than 5.

## **THEMATIC AREA 3. MANAGEMENT OF PUBLIC LAND**

**LGI-12. Identification of public land and clear management: Public land ownership is justified, inventoried under clear management responsibilities, and relevant information is publicly accessible**

- 12 i Public land ownership is justified by the provision of public goods at the appropriate level of government and such land is managed in a transparent and effective way.
- ii The majority of public land is clearly identified on the ground or on maps.

	<ul style="list-style-type: none"> <li>iii The management responsibility for different types of public land is unambiguously assigned.</li> <li>iv There are adequate budgets and human resources that ensure responsible management of public lands.</li> <li>v All the information in the public land inventory is accessible to the public.</li> <li>vi Key information for land concessions is recorded and publicly accessible.</li> </ul> <p><b>LGI-13. Justification and time-efficiency of expropriation processes: The state expropriates land only for overall public interest and this is done efficiently</b></p> <ul style="list-style-type: none"> <li>13 i A minimal amount of land expropriated in the past 3 years is used for private purposes.</li> <li>ii The majority of land that has been expropriated in the past 3 years has been transferred to its destined use.</li> </ul> <p><b>LGI-14. Transparency and fairness of expropriation procedures: Expropriation procedures are clear and transparent and compensation in kind or at market values is paid fairly and expeditiously</b></p> <ul style="list-style-type: none"> <li>14 i Where property is expropriated, fair compensation, in kind or in cash, is paid so that the displaced households have comparable assets and can continue to maintain prior social and economic status.</li> <li>ii Fair compensation, in kind or in cash, is paid to all those with rights in expropriated land regardless of the registration status.</li> <li>iii Most expropriated land owners receive compensation within one year.</li> <li>iv Independent avenues to lodge a complaint against expropriation exist and are easily accessible.</li> <li>v A first instance decision has been reached for the majority of complaints about expropriation lodged during the last 3 years.</li> </ul> <p><b>LGI-15. Transparent process and economic benefit: Transfer of public land to private use follows a clear, transparent, and competitive process and payments are collected and audited.</b></p> <ul style="list-style-type: none"> <li>15 i Most public land disposed of in the past 3 years is through sale or lease through public auction or open tender process.</li> <li>ii A majority of the total agreed payments are collected from private parties on the lease of public lands.</li> <li>iii All types of public land are generally divested at market prices in a transparent process irrespective of the investor's status (e.g. domestic or foreign).</li> </ul>
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#### **THEMATIC AREA 4. PUBLIC PROVISION OF LAND INFORMATION**

	<p><b>LGI-16. Completeness: The land registry provides information on different private tenure categories in a way that is geographically complete and searchable by parcel as well as by right holder and can be obtained expeditiously by all interested parties</b></p> <ul style="list-style-type: none"> <li>16 i Most records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre.</li> <li>ii Relevant private encumbrances are recorded consistently and in a reliable fashion and can be verified at low cost by any interested party.</li> <li>iii Relevant public restrictions or charges are recorded consistently and in a reliable fashion and can be verified at a low cost by any interested party.</li> <li>iv The records in the registry can be searched by both right holder name and parcel.</li> <li>v Copies or extracts of documents recording rights in property can be obtained by anyone who pays the necessary formal fee, if any.</li> <li>vi Copies or extracts of documents recording rights in property can generally be obtained within 1 day of request.</li> </ul> <p><b>LGI-17. Reliability: Registry information is updated, sufficient to make meaningful inferences on ownership</b></p> <ul style="list-style-type: none"> <li>17 i There are meaningful published service standards, and the registry actively monitors its performance against these standards.</li> <li>ii Most ownership information in the registry/cadastre is up-to-date.</li> </ul> <p><b>LGI-18. Cost-effectiveness and sustainability: Land administration services are provided in a cost-effective manner.</b></p> <ul style="list-style-type: none"> <li>18 i The cost for registering a property transfer is minimal compared to the property value.</li> <li>ii The total fees collected by the registry exceed the total registry operating costs.</li> <li>iii There is significant investment in capital in the system to record rights in land so that the system is</li> </ul>
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sustainable but still accessible by the poor.	
<b>LGI-19. Transparency: Fees are determined and collected in a transparent manner</b>	
19 i	A clear schedule of fees for different services is publicly accessible and receipts are issued for all transactions.
ii	Mechanisms to detect and deal with illegal staff behavior exist in all registry offices and all cases are promptly dealt with.
<b>THEMATIC AREA 5. DISPUTE RESOLUTION AND CONFLICT MANAGEMENT</b>	
<b>LGI-20. Assignment of responsibility: Responsibility for conflict management at different levels is clearly assigned, in line with actual practice, relevant bodies are competent in applicable legal matters, and decisions can be appealed against.</b>	
20 i	Institutions for providing a first instance of conflict resolution are accessible at the local level in the majority of communities.
ii	There is an informal or community-based system that resolves disputes in an equitable manner and decisions made by this system have some recognition in the formal judicial or administrative dispute resolution system.
iii	There are no parallel avenues for conflict resolution or, if parallel avenues exist, responsibilities are clearly assigned and widely known and explicit rules for shifting from one to the other are in place to minimize the scope for forum shopping.
iv	A process and mechanism exist to appeal rulings on land cases at reasonable cost with disputes resolved in a timely manner.
<b>LGI-21. Low level of pending conflict: The share of land affected by pending conflicts is low and decreasing</b>	
21 i	Land disputes in the formal court system are low compared to the total number of court cases.
ii	A decision in a land-related conflict is reached in the first instance court within 1 year in the majority of cases.
iii	Long-standing land conflicts are a small proportion of the total pending land dispute court cases.

Initially piloting of the LGAF has been undertaken across a range of countries in different regions during 2008-09. Although it is unrealistic to expect the LGAF to be useful for provide cross-country comparisons, it was expected that the use of an identical structure for a very heterogeneous set of countries would allow to identify good practice that could potentially be transferred across countries as well as areas which, because they are problematic in a number of instances, would warrant more analytical efforts.

- *Rights recognition and enforcement:* Conceptually, recognition of individual rights poses few problems. All that needs to be considered is to develop cost-effective mechanisms for first-time and subsequent registration so as to ensure that registries remain current and to make sure that rights are non-overlapping and can be enforced.
- *Institutional and policy framework:* Conflicts of interest or discretionary behavior arising from the fact that institutional responsibilities are either not clearly assigned or overlap are one of the most significant challenges to good land governance. Their consequences will be particularly deleterious if avenues for appeal and accountability are either missing or very costly. While the country-specific nature of land administration systems may limit transferability of solutions, broad concepts are certainly applicable. Another interesting result is that there is very little policy monitoring and improving the way in which this is done can be a major benefit from the LGAF application.

- *Land use planning and taxation:* Tendencies to quickly convert, high plot size standards, lack of participatory plans that can actually be implemented, together with the rapid expansion of urban areas all imply that this will be a growing challenge. Good practice in terms of efficient models of taxation in Ethiopia and Indonesia where local governments derive major part of their revenue from land taxes despite the fact that these may be far below potential.
- *Public land management:* In light of generally weak procedures for expropriation (compensation slow and only for registered occupants, few avenues for appeal, private sector use), and ways of divestiture of state land assets that transfer significant rents to private individuals, the case of Peru where expropriation is tightly regulated and state land, even if requested by a private investor, has to be auctioned off with fixed time limits and in a very transparent process is of great interest. The fact that this did not constrain growth suggests that private sector players will adjust to clear rules of the game.
- *Land information:* Low-cost updating, link between graphical and textual data, sharing with others to help build a nation's spatial data infrastructure (urban and rural).
- *Dispute resolution:* Use of local courts that are recognized by the formal system is best practice although ways to ensure accountability and consistent decision-making will need to be found.

If applied in a way that draws on existing expertise and broad participation by relevant stakeholders (including governments) from the beginning, the LGAF can not only help to broaden the range of issues to be covered in such analysis but also the relevance of the resulting analysis and the credibility of resulting recommendations for policy or further study. In all of the countries studied, the LGAF was useful as a diagnostic tool to identify gaps in policy and the way in which institutions function or responsibilities between institutions are assigned. The benefit of having a framework to identify issues in a way that can be compared across countries is that good practice that has been identified in one setting can help to identify possible options for policy reform in another and in particular illustrate ways in which elsewhere solutions to seemingly difficult policy areas have been identified, something that can also help to gain momentum for policy reform.

A second use of, to monitor discrete (rule-based) indicators for policy reform, follows immediately and can provide an excellent opportunity for a broad-based coalition of actors (including NGOs, the private sector, and academics) to monitor to what extent recommendations are followed through. While application of the LGAF can provide a useful snapshot of the land sector, it would provide more value added if there were a country-based follow up on the extent to which recommendations are actually implemented. This is particularly relevant in countries where, at this point, the LGAF is useful more as a diagnostic tool to identify and prioritize areas of concern as compared to pointing to best practice that can be copied elsewhere.

Finally, and possibly most importantly, the LGAF points towards a number of quantitative indicators which, together with the initial diagnostic, are essential to continually monitor land governance. Key variables include: (a) the coverage of the land administration system and the

registration of different types of transfers, especially for women; (b) receipts of land tax revenue; (c) the total area of public or private land that is mapped with information publicly available; (d) the number of expropriations and the modalities of compensation (including delay in payment receipts); and (e) the number of conflicts of different types entering the formal system. The fact that each of these indicators is related to one or more core areas of the land administration system suggests that collection and publication of these indicators on a regular basis, and to accommodate wide variations of these indicators over space in a way that can be easily disaggregated, should be a routine in any land administration system.

## **5. LAND DEVELOPMENT INVESTMENT**

### **5.1 Agri-business Investment.**

Many studies show that investment to increase productivity of owner-operated smallholder agriculture has a very large impact on growth and poverty reduction. Yet even when investments seem to hold promise of raising productivity and welfare and are consistent with existing strategies for economic development and poverty reduction, it is important to also ensure that they respect the rights of existing users of land, water and other resources, that they protect and improve livelihoods at the household and community level, and that they do no harm to the environment.

A host of factors has recently prompted a sharp increase in investment involving significant use of agricultural land, water, grassland, and forested areas in developing and emerging countries. These include the 2008 price spike in food and fuel prices, a desire by countries dependent on food imports to secure food supplies in the face of uncertainty and market volatility, speculation on land and commodity price increases, search for alternative energy sources, and possibly anticipation of payments for carbon sequestration. The range of actors includes agro-enterprises in agri-food, biofuels, and extractive industries, private equity and other financial institutions, government-linked companies including sovereign funds, and individual entrepreneurs. Yet figures reported in the press and even by governments are often unreliable, partly because of data quality issues, partly because initial expectations have often not materialized, and partly because many transfers of resource rights are negotiated in private, which causes still further suspicion and speculation. Nevertheless, it is true that some countries have been confronted with informal requests amounting to more than half their cultivable land area, and other countries are actively seeking major investments as well, so the phenomenon seems to have traction.

Private investment in the agricultural sector offers significant potential to complement public resources. Many countries with reasonably functioning markets have derived significant benefits from it in terms of better access to capital, technology and skills, generation of employment, and productivity increases. Moreover, new technology, the emergence of value chains, demands for traceability, the need to adhere to rigorous standards, and consumer demands arguably favor greater scale and integration. Some large investments have managed to achieve broad-based benefits via contract farming, other outgrower arrangements, and joint

ventures with local communities, by leasing rather than acquiring the land or by formulating innovative schemes for sharing both risks and rewards.

On the other hand, where rights are not well defined, governance is weak, or those affected lack voice, there is evidence that such investment can carry considerable risks of different types. Risks include displacement of local populations, undermining or negating of existing rights, increased corruption, reduced food security, environmental damage in the project area and beyond, loss of livelihoods or opportunity for land access by the vulnerable, nutritional deprivation, social polarization and political instability. Moreover, many large farming ventures attempted in the past have proven unsuccessful. Sometimes mistaken beliefs in economies of scale in agricultural production rather than value addition and better linkages to markets have saddled several countries with subsidy-dependent large farm sectors that provided few economic or social benefits.

Agreement was reached in September-October of 2009 among the main international agencies (World Bank, FAO, UNCTAD, and IFAD) that a set of principles for responsible agricultural investment involving significant acquisition of resource rights is warranted, and that the seven principles contained herein are essentially the right ones (although certain details will continue to be refined). These principles are based on preliminary evidence from this ongoing work, as well as the accumulated experience of a broad set of informed observers and partners within and outside the World Bank Group, including FAO, IFAD, and UNCTAD. Considerable consultation has also occurred with all other relevant international agencies.

**Table 3:** Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources

**RESPECTING LAND AND RESOURCE RIGHTS**

**Principle 1: Existing rights to land and associated natural resources are recognized and respected.**

Existing use or ownership rights to land, whether statutory or customary, primary or secondary, formal or informal, group or individual, should be respected. This requires: (i) the identification of all rights holders; (ii) legal recognition of all rights and uses, together with options for their demarcation and registration or recording; (iii) negotiation with land holders/users, based on informed and free choice, in order to identify the types of rights to be transferred and modalities for doing so; (iv) fair and prompt payment for all acquired rights; and (v) independent avenues for resolving disputes or grievances. While a countrywide systematic identification and registration of rights is desirable in the long run, countries with limited resources may do well to initially focus efforts on areas with high agro-ecological and infrastructure potential and expand from there.

Many investments requiring access to land on a large-scale focus on areas that outsiders have often considered to be ‘empty’ or ‘marginal’. Yet it is important to recognize that there are few areas truly ‘unoccupied’ or “unclaimed”, and that frequently land classified as such is in fact subject to long-standing rights of use, access and management based on custom. Failure to recognize such rights, including secondary ones, will deprive locals of key resources on which their wealth and livelihoods depend. Lands that have been abandoned by internally displaced persons or which could be used by them pose particular challenges. It is important that efforts to make land available to investors not undermine current or future livelihood opportunities for those displaced involuntarily.

Recognition of rights to land and associated natural resources, together with the power to negotiate their uses, can greatly empower local communities and such recognition should be viewed as a precondition for direct negotiation with investors. Specific attention to land rights by herders, women, and indigenous groups that have often been neglected in past attempts is critical to achieving a fair, inclusive outcome.

## **ENSURING FOOD SECURITY**

### **Principle 2: *Investments do not jeopardize food security but rather strengthen it.***

Whenever there are potential adverse effects on any of aspect of food security (availability, access, utilization or stability), policy-makers should make provisions for the local or directly affected populations certain such that: (i) equivalent access to food is assured; (ii) opportunities for outgrower involvement and off-farm employment are expanded to protect livelihoods and raise incomes; (iii) dietary preferences are taken into account if the mix of products grown may change; and (iv) strategies to reduce potential instability of supply are adopted. Moreover, whenever the proposed project is large enough to affect food security at the national level, project design and approval should also consider these four kinds of aggregate impact.

## **ENSURING TRANSPARENCY, GOOD GOVERNANCE, AND A PROPER ENABLING ENVIRONMENT**

### **Principle 3: *Processes for accessing land and other resources and then making associated investments are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment.***

Lack of transparency creates distrust and deprives relevant actors of the possibility to resolve minor problems before they escalate into large conflicts. On the other hand, greater transparency will also reduce transaction costs for all involved, thus benefiting host countries and investors alike through more efficient competition. Clarity in the regulations governing investment incentives and the way in which they are applied also makes it more likely that host countries can attract investors who will make tangible contributions to long-term development.

To create a proper enabling environment, policies, laws, and regulations affecting the investment climate should be benchmarked against and brought into line with globally accepted best practices, even as institutions responsible for implementing them are strengthened. Specific steps worth mentioning in this regard include: (i) ensuring that all relevant information, including land potential and availability, core elements of prospective investments, and resource flows or tax revenues, be publicly available; (ii) helping institutions that handle investment selection, land transfers and incentives to follow principles of good governance, develop the capacity to operate efficiently and transparently, and be regularly audited; and (iii) making sure that an independent system to monitor progress towards a better investment climate is in place.

## **CONSULTATION AND PARTICIPATION**

### **Principle 4: *All those materially affected are consulted, and agreements from consultations are recorded and enforced.***

Sustainability of investments and realization of synergies from allocation of public assets to major projects as well as provision of complementary public goods by the investor require that such investments be designed in a participatory manner, consistent with local people's vision of development. Even in countries that already require local consultations as a precondition for project approval, the impact of such requirements is often limited by a lack of clarity on process, the nature and recording of outcomes, and ways to enforce agreements reached in the course of consultations.

To make consultative processes more effective: (i) definitional and procedural requirements in terms of who represents land holders and what is a quorum for local attendance need to be clarified; (ii) the content of agreements reached in such consultations (e.g. by providing model agreements/contracts) should be documented and signed off by all parties; and (iii) methods for enforcement and sanctions for non-compliance should be specified. Incentives to adopt such a process can be greatly enhanced if taxes to be paid by investors are clearly specified, independently monitored, and accrue at least in part to local governments responsible for making available local public goods.

## **RESPONSIBLE AGRO-ENTERPRISE INVESTING**

**Principle 5:** *Investors ensure that projects respect the rule of law, reflect industry best practice, are viable economically, and result in durable shared value.*

As key players in this sensitive arena, investors have a special responsibility to apply high standards in the design and execution of their projects. Economic viability, which in turn rests on technical feasibility, is a precondition for the generation of benefits that can then be distributed among shareholders and cooperating stakeholders. Fairly assessing likely viability, and then taking steps to make sure it is achieved, are both in the interest of all involved, not just the private investor. Where the resources in question are publicly owned, or if other public assets such as tax breaks and complementary infrastructure are being offered as incentives, cognizant governmental agencies have an obligation to carefully check the feasibility analysis to ensure that host countries, affected communities, and local stakeholders are all likely to benefit. National or regional bodies may have to assist states, provinces or municipalities that are technically unable to review major projects proposed within their jurisdiction. On the recipient country side there is also a need to integrate the proposed enterprise into broader strategies.

As far as the investors are concerned, aside from conducting proper due diligence and project analysis, they should be expected to: (i) comply with laws, regulations, and policies applicable in the host country (and ideally with all relevant international treaties and conventions); (ii) adhere to global best practices for transparency, accountability and corporate responsibility in all sensitive areas; and (iii) strive not only to increase shareholder value but also to generate significant and tangible benefits for the project area, affected communities, and host country.

## **SOCIAL SUSTAINABILITY**

**Principle 6:** *Investments generate desirable social and distributional impacts and do not increase vulnerability*

Even economically viable and sustainable projects may have undesirable social consequences if they involve uncompensated displacement or if benefits bypass vulnerable groups or are captured by local elites. A thorough understanding of cultural context, sources of vulnerability, potential for conflict, and livelihood and food security strategies, can help identify design options to reduce risks and maximize positive impacts at the project level.

Social sustainability can be enhanced if: (i) relevant social issues and risks, as well as strategies to mitigate these and increase social benefits, are identified during project preparation and adequately addressed by government and investors; (ii) the interests of vulnerable groups and women are considered explicitly; and (iii) generation of local employment, transfer of technology, and direct or indirect (e.g. via taxes) provision of local public goods is part of project design.

## **ENVIRONMENTAL SUSTAINABILITY**

**Principle 7:** *Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.*

Despite the potential importance of possible negative impacts on availability or quality of key natural and environmental resources outside the immediate project area or beyond the project's lifespan, investors have little incentive to take such impacts into account. Thus, regulation at the level (i.e. either local, national, or global) where externalities arise will be desirable to ensure that such goods, which may include local access to forest products, water, or soil quality, are not jeopardized. This will need to include impacts on natural resources that may be located far from the project site, such as river basin impacts or social dislocation resulting from the project causing deforestation elsewhere. Capacity to monitor will be particularly important due to the fact that such effects will materialize only in the course of project implementation and investors may renege on previous agreements.

Investors and government need to collaborate to ensure that: (i) independent environmental impact analysis to identify potential loss of public goods, such as biodiversity or forests, is conducted prior to approval; (ii) preference be given to reclaiming or increasing productivity on areas already used rather than clear new land;

(iii) the most appropriate production system is selected to enhance the efficiency of resource utilization while preserving the future availability of current resources; (iv) good practices in agriculture, processing and manufacture are followed; (v) provision of desirable ecosystem services is encouraged; and (vi) negative impacts are addressed through regularly monitored environmental management plans and compensated where appropriate.

Agreement has also been reached among the same entities that a consultative process begun separately by the various agencies on this theme should now be expanded and carried out jointly. Commentary, suggestions, research and analytical input should be elicited from a broad swath of stakeholders (multilateral and bilateral donor agencies, civil society organizations organized thematically or geographically, all major investor categories (whether private or government-linked)). Moreover, to the extent possible, the process should generate support from all major countries from which investment initiatives are emanating and toward which such initiatives are directed. Making such a process as inclusive as possible will be critical to incorporate existing experience, generate buy-in, and ensure convergence on principles that are acceptable to the relevant stakeholders and can thus be implemented on the ground. The details of the requisite consultative process are now being worked out.

Following this, the principles will then need to be translated into actions for investors, governments, donors and international agencies, at different levels. While the scale and scope of the phenomenon may be new, and the economic context uniquely challenging, a large body of evidence and best practice can be drawn upon to assist in areas where action is required. Three areas that are likely to be of particular importance include: (a) analysis to identify ways in which agricultural investment can be used to best contribute to national strategies for development and poverty reduction and how incentives for different actors can be structured to achieve this; (b) legal, regulatory, and institutional changes required from governments and ways in which they can most effectively strengthen their capacity to secure land rights, enforce rules, and empower local stakeholders; and (c) ways for the private sector to incorporate social and environmental concerns specific to this type of investments in project identification and implementation.

Publicizing good practice on how to address specific principles will be important to demonstrate that compliance is not only possible but in many cases serves stakeholders' long-term interests. Civil society can have a major role in helping to improve transparency, build stakeholders' capacity at the local level, and help those affected to make their concerns heard. Provision of assistance to identify priority areas for improvement and foster synergies, as well as options for making incremental progress towards meeting them would be important.

To ensure that agreement on principles, guidelines, governance frameworks and perhaps eventually codes of good or best practice is not just an empty declaration of intent, independent monitoring of the extent to which they are adhered to will be critical. The impact in terms of changed behavior of simply making information on performance or compliance public is evident from recent initiatives such as the World Bank's 'Doing Business Indicators' program, which regularly publicizes information on performance within and across countries. Investing firms and supporting governments are likely to be equally concerned about their

reputation. Civil society can have an important role in helping local people to get heard, thereby strengthening investors' and source countries' resolve to agree on and move towards implementation of verifiable standards of responsible performance. And of course, recipient countries want to make sure that approved investments are succeeding.

## **5.2 Broader Demands for Accessing Land for Development Investment**

The international demand for land by foreign investors, which some writers have provocatively described by some authors as a form of "neo-colonialism", continues to expand throughout all regions of the developing world, and has extended well beyond agribusiness investment. Developing countries, in many cases with weak governance, are often only too willing to surrender large tracts of their respective states to international investors for a wide range of developments including agribusiness, forestry for timber and paper, mining and extractive industries, tourism, hydro-power, manufacturing and other purposes including residential development. One of the lingering impacts of the food price crisis of 2007-2008 was the proliferation of the acquisition of agricultural land by foreign investors. Of course, not only was this driven by the needs of food production, but also by demand for grain crops to produce biofuels. Many investors have also continued to increase their demands for oil and other minerals to ensure long-term supplies for their own countries.

Development activities, especially those requiring access to land, often present fertile ground for mismanagement and corruption. Typically weak governance, with inappropriate institutional arrangements, and inadequate capacity to deal with land concessions, provides the ingredients for land development abuses, including evictions of legal and informal land occupants. Many countries experiencing the demand for access to land from foreign investors have significant policy and regulatory gaps in land policies to effectively manage investments. Also, it is often noted that these countries experience severe capacity constraints for the processing of applications, enforcing of safeguards and monitoring social and environmental impacts. The lack of transparency and accountability encourages rent seeking and undermining of good governance.

In addition, the lack of a complete, reliable documented inventory of state and private land will often allow public officials to give away state assets with no records of the transactions, or grab land from its rightful owners. Hence the need for building and maintaining the cadastre has been given great prominence in World Bank supported projects and is on the agenda for many other donors.

Decentralization may often present local authorities with a pool of resources that can be manipulated for individual gain. Access to information in land offices can be restricted to those willing to pay "facilitation fees". Negotiations with potential investors often entail additional payments to ensure the deal goes through. In all cases once these practices have been put in place there is great reluctance to curtail them as the vested interests see benefits in their perpetuation. At the same time potential investors can be unwilling (or uninformed) participants in these relationships. The development and dissemination of clear procedures for land and resource development activities should lead to consistent and transparent implementation of government policies.

A large part of the institutional problems associated with the demand for land and natural resources for development is directly related to civil service capacity to effectively address these issues. There are a number of specific, key areas where additional capacity development needs must be focused. These may relate to:

- Project Screening, viz. How do governments attract appropriate investment interest? How do governments evaluate these initial expressions of interest and then encourage these investors to pursue the development of more formal proposals? How do governments support investors in focusing their proposals that are in the best interests of the country?
- Evaluation of proposals, viz. How do governments evaluate land concession proposals? Are they financially sound and is the business plan realistic? Does the proposed investment produce economic benefits? Is the proposal environmentally sustainable and socially responsible? .
- Public Disclosure, viz. How does government disclose proposed investments to the public, to industry, and to all relevant agencies within government? How do people have an opportunity to raise objections to investments and how are these addressed?
- Project Monitoring and Supervision, viz. How does government monitor the implementation of the development, including ensuring that the investor is in compliance with laws, regulations, safeguards relates to the investment? How does it ensure that the required reporting takes place and that relevant taxes, concession fees, etc. are paid to the government?
- Project Documentation, viz. How are records of project (proposals as well as awarded projects) kept? How are these records accessed, updated, and used for verification of project performance?

Understandably, many investors may look for the easiest, cheapest, least regulated place to invest. Therefore it is often the case that those developing countries, whose major asset is land, and where governance, institutional arrangements and capacity are weakest will be targeted. One example of a worst case scenario was revealed by a World Bank social impact analysis in Columbia, in 2008 where it was reported: *“Various studies indicate that in many cases the expansion of palm cultivation has been conducted with serious human rights violations, including forced displacement, massacres, threats, land confiscation and murders”*. (Byerlee, 2009).

It is also alarming to note that investors are often able to do things in the countries they invest in, that they would not be able to do in their own home countries. Could not the governments from which the investments emanate, and where the investors may have their primary businesses registered, be encouraged to take steps to better regulate the conduct of their citizens abroad, as has been done in other areas such as human trafficking, pedophilia and even copyright? Perhaps the donor and diplomatic representatives for those countries from

which investments emanate, could play a greater role in monitoring and encouraging responsible behavior.

The 7 Key Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources are generally applicable to all forms of investment requiring access to land including both foreign direct investment (FDI) and domestic investment.

### **5.3 Land Acquisition**

Acquisition of use or ownership rights to large areas of land for production of agricultural commodities, forest, or provision of environmental amenities by large investors has recently attracted considerable interest. A combination of higher and more volatile global commodity prices, demand for bio-fuels, population growth and urbanization, as well as globalization and overall economic development are likely to imply that such investments will be of great importance in the future. In many contexts, large-scale acquisitions of land highlights renewed interest in plantation-based agriculture that is fuelled by skepticism regarding the effectiveness of market mechanisms to guarantee access to basic food supplies and the belief that large scale production can help modernize the agricultural sector. A wave of press reports illustrates the magnitude of these trends and recent Bank documents refer to tens of millions of hectares being considered for potential acquisition for agricultural production or other forms of natural-resource based use other than mining.

Recognizing that land acquisition and agro-enterprise issues are interconnected, the World Bank is currently adopting a dual-pronged approach in response to this phenomenon: (a) dialogue with governments to define principles, provide guidance, and assess the magnitude of ongoing trends through empirical research; and (b) a definition of issues, best practices, decision tools, guidelines and codes of practice for governments and investors in land-extensive agriculture. With regards to dialogue, the World Bank has initiated a global study on large-scale land acquisition for agriculture and natural resource-based use. The study will take a phased approach, with the first phase assessing country-level policy frameworks and documenting projects proposed or implemented in the last five years. If merited, a second phase will involve more in-depth economic and social analysis of one or more projects from the country-level project inventory. The initial phase of the work has received funding of almost US\$ 0.5 million, and covers fifteen countries, and from East Asia the countries selected include Indonesia, Cambodia, Laos and Thailand. Progress to date includes:

- Country-level inventories & policy framework. Work is being undertaken in these 15 countries to provide descriptions of the policy framework in a comparable format and an inventory of land acquisitions either for the entire country or a region chosen to be representative of broader trends.
- Economic and social analysis. Pilot in-depth analysis of social impacts and economic parameters of specific cases of large-scale land acquisition is ongoing in a joint effort with other units of the Bank. Results (to include draft manuals of good practice in both areas) will provide a basis for expanding to other countries
- Development of key principles for agribusiness investment.

## **6. OTHER PRIORITIES FOR LAND GOVERNANCE REFORM**

### **6.1 Gender Mainstreaming**

Gender Mainstreaming is “the process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in any area and at all levels. It is a strategy for making women’s and men’s concerns and experiences an integral dimension of the design, implementation, monitoring, and evaluation of the policies and programs in all political, economic and societal spheres so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal is to achieve gender equality.” (United Nations, ECOSOC, 1997).

Although the importance of gender has been identified as a fundamental issue for land administration, especially in terms of protecting the rights of women in land property, it was not always included with the same rigor as is currently done.

### **6.2 Institutional and Policy Reform**

The general experience in World Bank support projects has been that a pre-requisite for effective implementation of land administration reform has been the establishment of a single national (or jurisdictional) land agency which brings together the many public sector functions concerning land administration, including land registration, surveying, valuation and administration of state land. For many countries, the lack of a single agency, with sole responsibility for these functions, has been the major obstacle to reform. Governments require consistent policy advice, and the reform agenda may be thwarted by many government agencies competing for “turf” and providing conflicting advice to the government. Experience shows that good governance is required in order for the single land agency model to work as best practice. Of course, without good governance, the single land agency model can compound the inherent problems that the country faces. Furthermore, unless there is need for strong political will for reform in the land sector, in order for success.

A further institutional issue for effective implementation of land administration reform is land custodianship. Government agencies such as Forestry generally have large tracts of state land under their control. Too often, these agencies act as absolute owners of the state land rather than managing the use of the land on behalf of the state. In many countries, laws, sub-decrees and regulations are not harmonized and there is poor public administration and management of land, which lacks transparency and accountability. The responsibilities of custodian agencies should not conflict with the single national land agency which has overall responsibility for the public administration of land.

The national importance of state land is increasing. It is a finite resource and governments require an accurate and complete inventory of state land to ensure that it is managed as a public asset. Increasingly, governments around the world are approaching state land as an

asset which has to be managed appropriately. For many agencies, the pressure on the public purse is driving approaches to generate a financial return from these assets to defray the costs of management, in whole or part. In generating a return on state land assets, it is important that governments do not adopt short-term revenue-generating approaches that are synonymous with a “fire sale”. Once the state land is alienated and sold to private land interests, the asset is lost. Pressures to generate revenue may lead to state land of high social, environmental or heritage value being sold and lost. Thus priority must be given to good policy development for land concession management to ensure that all development is sustainable, responsible, accountable and transparent. However, there may often be blurred dividing lines between state land and private land, and also the customary land areas. Collectively, these require a comprehensive approach to the overall public administration of all land.

Land valuation and property taxation are key areas of policy development in the land sector. These areas are of significant importance for collection of revenue that will deliver services to the public. The need for standards development, regulation setting and policy, accompanied by testing and piloting is also a long-term engagement.

The increasing trends towards e-commerce and e-governance are often seemed to be limited by laws and regulations that only recognize hardcopy documents and records. Typically the law lags well behind technology. Therefore, there is an increasing need for the land policy reform agenda to address ICT. One example in the East Asia Region of moving ahead in this area has been in Thailand. In terms of the legal status of digital data, the Electronic Transactions Act 2001 came into effect in 2002. This Act is based on the United Nations Commission on International Trade Law Model Laws. It provides for legal effect and enforceability of electronic data, for requirements for documents to be in writing to be satisfied by electronic data, for electronic data to be regarded as original data and for the admissibility of electronic data as evidence in legal proceedings. In Vietnam, a policy study under the Vietnam Land Administration Project (VLAP) will commence shortly into “Developing a legal framework for land information and solutions to national information infrastructures”.

### **6.3 Capacity Building**

There is no doubt that one of the direct benefits from World Bank support land administration projects has been the development of capacity, that has resulted from project implementation. Capacity in key areas of land administration including land surveying, land registration, service delivery and service delivery standards, land records management, policy development, public awareness and education. In many cases, the Bank’s support through lending and analytical studies has been complemented by technical assistance provided by donor partners.

The role of education and training in building capacity to support land administration and management reform is well established through World Bank funded land administration projects in East Asia. For more than ten years the Bank, together with its development partners, has been supporting the establishment of new higher education programs and in

some cases strengthening established programs. The Thailand Land Titling Project was the first World Bank funded project in the region to include capacity building of higher education, and has been assessed as being remarkably successful. Advances in ICT have played a significant role in the development of teaching and research methods in developed countries. However, this has further increased the gap in standards between rich and poor nations. Land administration higher education in developing countries is hampered by limited financial resources, difficulty in attracting academic staff and poor facilities. There is often a heavy reliance on support from land administration projects. In addition to building the overall capacity in land administration and management, a further objective has been to build the capacity of the education institutions themselves and encourage professional institutions with private sector participation.

Increasing emphasis is being placed on supporting private sector capacity development. The establishment or strengthening of professional and industry associations has generally demonstrated to be one useful means of developing the private sector. In addition, the Bank has been encouraging the provision of short professional development training courses, which is especially important for knowledge-sharing and maintaining competency. Some projects are now outsourcing some requirements of the project such as surveying and mapping, which can further serve to develop private sector capacity.

#### **6.4 Sustainability of Land Administration Systems.**

For the investment in a land administration project to be considered successful, it should be expected that the developments by the end of donor engagement are sustainable. Sustainability has many elements including: (a) capacity; (b) budget; (c) good governance, transparency and accountability; (d) security of land records from loss, destruction and fraud; (e) reliable and consistent delivery of services which are accessible, government commitment and public confidence; to name but a few.

As mentioned above, there should be sufficient capacity in the public sector and hopefully also private sector. Land administration agencies should have sufficient recurrent budget to maintain their operations and have access to additional investment budgets to undertake the necessary developments and improvements to maintain their efficiency and effectiveness. Whilst in many developed countries there are examples of land administration agencies which are self-funded, from land registration and other fees they collect, it should never be forgotten that it has taken a very long time to achieve such a status, and much longer than the duration of on one or more phases of land administration project implementation.

The Thailand land titling program is one example of a successful program that has long been sustained after the donor support had finished in 2002. The Thai Department of Lands (DoL) has continued to implement the program, under government funding. A recent technical review undertaken by the World Bank, noted that the land registration in Thailand now generates around ten times its operating costs per annum through fees collected for land transactions and enquiries, although DoL remains an on-budget agency and all revenue is returned to the Treasury. In Thailand, the majority of all land transfers are generally completed in less than three hours. DoL is soon expected to embark on a major computerization program to improve service delivery and records management, and has

already tested its new systems at fifty office sites to demonstrate it can achieve completion of transactions in a maximum of forty minutes.

## **6.5 Utilization of ICT and Development of NSDI**

Rapid advancements in ICT, construction of optic fiber networks, and improved telecommunication infrastructure across East Asia is connecting rural and urban populations. The foundations are being laid for a host of e-government services and the building of NSDI's that will reach beyond cities and into the rural provinces. Improving tenure security and access to land is central to alleviating poverty and advancing rural livelihoods. A suite of innovative technologies and solutions are available to providing East Asia's poorest rural and remote communities access to land and property services. In Thailand, the Cabinet recently approved that National ICT Strategic Master Plan 2009-2012, identifying the NSDI and land information from land registration as being one of the key pillars.

Increasingly, land administration systems are investing on integration of different ICT platforms. For example, survey and legal data are recorded electronically in the field, with plans, maps, records and title certificates also generated digitally. The outputs may be held in a relational database, with a GIS spatial system providing indexing and supporting records management, as well as access for land office transaction processing and management. Computerized workflow systems may be used to better manage and monitor land office business applications with land offices having access through an intranet browser tools. The digital cadastral database (DCDB) supports the government's better collection of land taxes, with a reliable valuation system that is using computer-assisted mass appraisal GIS software. The public of course, may have internet access to core services, with the potential to lead to electronic or online conveyancing (e-conveyancing). But in order to fully realize the benefits of these technologies, the land registration system itself needs to be "in order", containing reliable data, and focused on holding a complete inventory of land parcels, both state and private. The public must also have confidence in the government's land administration system, so they undertake all of their transactions within the formal system. Surveyors are more frequently using total stations and GPS equipment. In some cases, governments see the establishment of CORS as being fundamental to the geodetic system, accessible by both the public and private sectors.

Through the nurturing of LIS pilot programs and innovative ICT applications to land information, the Bank's goals are to promote the development of national inventories of land ownership and land use records to support development of robust systems of land administration. Efforts towards building multipurpose LIS of key national datasets for NSDI are focused on maturing the core building blocks of appropriate institutional frameworks, technical standards, identifying fundamental national datasets, building the enabling technical ICT infrastructure, and enhancing the available skills base through training and education programs. Strengthening land administration systems through building NSDI may support improving tenure, promoting social stability and reducing conflict, stimulating agricultural and rural productivity, encouraging land improvement and more sustainable resource management. A better cadastre, underpinning the NSDI provides a more complete and

reliable basis for taxation collection and better managing state assets. Through better access to land information, transparency may be increased and there may be enhanced public disclosure of land-related matters such as land use plans and development proposals. However, the author stresses “may” in all of these benefits, as it all depends on whether good governance prevails with laws being appropriately enforced and civil servants acting ethically and in the public good.

Duplication of data capture is frequently encountered in land administration projects. For example in the management of land concessions, different agencies are all too frequently embarking on maintaining their own individual digital cadastral databases, perhaps due to a lack of protocols for data sharing, unclear institutional mandates or even organizational rivalry. Data should only be captured once, and the maintenance of data should be the responsibility of the designated custodian agency. NSDI, which encompasses not only the data, but the official designation of custodians, and the official protocols for data sharing will improve the overall efficiency of data collection and maintenance and enable government decision-making to be more consistent drawing on the authoritative data sets, with advice from the designated responsible agency.

The “World Development Report 2010” in the chapter “Managing Land and Water to Feed Nine Billion People and Protect Natural Systems” stresses the importance of accurate and timely data, especially from remote sensing and other geographic information, and the application of ICT, advising that: *“One reason that policy makers have found it so difficult to curb the overexploitation of land and water and their related ecosystems is that neither the managers nor the users of the resources have accurate and timely information.”* The Report further advises that: *“Research and development will be necessary to take full advantage of these new information technologies”* and also *“More reliable information can empower communities and change the governance of natural resources”*. Although the term “NSDI” has not been used specifically in the Report, it most certainly makes a strong case for investment in NSDI.

For land professionals, especially surveyors and spatial information scientists, it is especially that their engagement in land administration, and governance reform, is based on prudent and balanced application of new technologies and appropriate levels of spatial accuracies. Over-engineered data bases, requiring unnecessary data fields and unnecessary high levels of spatial accuracy, are costly to develop and maintain. These professionals must also recognize the broader social, cultural, political, economic and financial factors that shape the cadastres and NSDIs. The focus of thinking and investment should be on good governance and completeness, reliability, fitness-for-use and cost-effectiveness of land-related data rather than spatial accuracy. FIG has a very prominent role to play at both global and regional levels in shaping the thinking of land professionals to ensure sound investment in modern technologies.

## **7. RE-VISITING “CADASTRE 2014” - CONCLUDING REMARKS**

The publication of “Cadastre 2014 A Vision for a Future Cadastral, System” in July 1998 has no doubt been the most significant publication released by FIG, in influencing dialogue and

thinking about cadastral reform. Arguably no other document on this topic has been so widely accessed, quoted and misquoted, dissected and re-packaged, applauded and, criticized, utilized and even abused. In spite all of this, the document has still held up as the centerpiece of cadastral reform dialogue. Indeed, the true strength of “Cadastre 2014” has been its success in raising awareness and encouraging debate on what is truly presented in a non-prescriptive and thought-provoking manner. However, there are examples of “Cadastre 2014” being taken as prescriptive gospel, especially in some developing countries. Of course at the time of the preparation of “Cadastre 2014”, the MDG had not even been conceived. Thus any future steps that FIG may take with “Cadastre 2014” should be cognizant of the broader cross-sectoral global agenda. Also, “Cadastre 2014”, does not explicitly refer to land governance as an issue, but throughout it addresses many of the themes of land governance. So it is particular significant that FIG is now giving such strong emphasis to land governance. On balance, the successes and strengths of “Cadastre 2014” would seem to outweigh its limitations. However, it is very much in need of re-visiting in the light of so many issues and advances in technology over the past sixteen years.

It is auspicious that its genesis was at the XX FIG Congress in 1994 in Melbourne, Australia. Under FIG Commission 7, it set the very ambitious task of developing a vision for a modern cadastre twenty years into the future. The projected date of 2014 is just one year short of the target date of 2015 set for achievement of the MDG. Arising from the joint FIG-World Bank Conference held in Washington DC in March 2009, it is pleasing to see a new FIG Policy Statement, “Land Governance in Support of The Millennium Development Goals A New Agenda for Land Professionals”, FIG Publication 45, being released in at the FIG XXIV Congress, again in Australia, in Sydney. A further launch in the Northern Hemisphere will occur again in Washington D.C. in late April 2010. This important Policy Statement is seen as providing the critical strategic framework for re-visiting FIG’s new vision for the Cadastre, over the ensuing twenty years.

The World Bank looks forward to continuing to work with FIG’s revising the Cadastral vision and ongoing collaboration and dialogue.

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**BIOGRAPHICAL NOTES**

**Klaus Deininger** is a Lead Economist in the Agricultural and Rural Development of the Development Economics Group of the World Bank. His areas of research focus on income and asset inequality and its relationship to poverty reduction and growth; access to land, land markets and land reform and their impact on household welfare and agricultural productivity; land tenure and its impact on investment, including environmental sustainability; and capacity building (including then use of quantitative and qualitative methods) for analysis and evaluation, mainly in the Africa, Central America and South Asia Regions. He is a German national with PhD in applied Economics from the University of Berlin and an MA in theology from the University of Bonn.

**Keith Clifford Bell** joined the World Bank in 2003, after a long career spanning more than 25 years in the public and private sectors in Australia, working in land administration and the geospatial sciences. He has served as the Surveyor-General of the Australian State of Victoria, General Manager of Land in the Australian Capital Territory, Director of National Mapping for the Australian Government and Chief Executive Officer of the Australian New Zealand Land Information Council (ANZLIC). His career has also included more than thirty years of service with the Australian Army, in both regular and reserve capacities. Keith is a licensed surveyor and professional engineer, with doctoral and masters degrees, as well as higher degrees in business administration and human resource management. Within the World Bank, he works in the East Asia Region’s land sector, and also supports other regions including the Middle East and North Africa. He also has extensive field experience in post-disaster, and post-conflict environments dealing with emergency response and reconstruction.

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**Table 1: Millennium Development Goals**

<b>Goal 1: Eradicate extreme poverty and hunger</b>	
	<b>Target 1A:</b> Halve the proportion of people living on less than \$1 a day
	<b>Target 1B:</b> Achieve Employment for Women, Men, and Young People
	<b>Target 1C:</b> Halve the proportion of people who suffer from hunger
<b>Goal 2: Achieve universal primary education:</b>	
	<b>Target 2A:</b> By 2015, all children can complete a full course of primary schooling, girls and boys
<b>Goal 3: Promote gender equality and empower women:</b>	
	<b>Target 3A:</b> Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015
<b>Goal 4: Reduce child mortality:</b>	
	<b>Target 4A:</b> Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate
<b>Goal 5: Improve maternal health:</b>	
	<b>Target 5A:</b> Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio
	<b>Target 5B:</b> Achieve, by 2015, universal access to reproductive health
<b>Goal 6: Combat HIV/AIDS, malaria, and other diseases:</b>	
	<b>Target 6A:</b> Have halted by 2015 and begun to reverse the spread of HIV/AIDS
	<b>Target 6B:</b> Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it
	<b>Target 6C:</b> Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases
<b>Goal 7: Ensure environmental sustainability:</b>	
	<b>Target 7A:</b> Integrate the principles of sustainable development into country policies and programs; reverse loss of environmental resources
	<b>Target 7B:</b> Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss <i>Proportion of land area covered by forest ; CO<sub>2</sub> emissions, total, per capita and per \$1 GDP (PPP) ; Consumption of ozone-depleting substances ; Proportion of fish stocks within safe biological limits ; Proportion of total water resources used ; Proportion of terrestrial and marine areas protected ; Proportion of species threatened with extinction</i>
	<b>Target 7C:</b> Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation (for more information see the entry on water supply)
	<b>Target 7D:</b> By 2020, to have achieved a significant improvement in the lives of at least 100 million slum-dwellers

<b>Goal 8: Develop a global partnership for development:</b>	
	<b>Target 8A:</b> Develop further an open, rule-based, predictable, non-discriminatory trading and financial system; Includes a commitment to good governance, development, and poverty reduction – both nationally and internationally
	<b>Target 8B:</b> Address the Special Needs of the Least Developed Countries (LDC) ; Includes: tariff and quota free access for LDC exports; enhanced program of debt relief for HIPC and cancellation of official bilateral debt; and more generous ODA (Overseas Development Assistance) for countries committed to poverty reduction
	<b>Target 8C:</b> Address the special needs of landlocked developing countries and small island developing States; Through the Program of Action for the Sustainable Development of Small Island Developing States and the outcome of the twenty-second special session of the General Assembly
	<b>Target 8D:</b> Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term