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# UZBEKISTAN LAND REFORM ASSESSMENT

FINAL REPORT



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## **ACRONYMS AND ABBREVIATIONS**

ADB	Asian Development Bank
CER	Center for Economic Research
GOU	Government of Uzbekistan
NCGK	National Geodesic and Cartographic Center
RRA	Rural Restructuring Agency
USAID	United States Agency for International Development

## EXECUTIVE SUMMARY

This report contains an analysis of the existing legal, policy, and implementation framework related to land tenure and property rights reform in Uzbekistan. In particular, this report reviews the status of legislation and GOU policy impacting land rights, tenure security, and land reform including, where available, upcoming policy debates or legislation on land reform.

The current land tenure structure in Uzbekistan is an inheritance from the Soviet land policy system that imposed collectivization and a planned economy, based heavily on cotton production and which did not provide for private ownership of land. In Uzbekistan, property ownership rights exist against attachments to land only, and not to the land itself. For the purposes of this report, land tenure is defined as the relationship (rights, restrictions) between people and land.

The report's key findings include the following:

1. The legal foundation for all land tenure in Uzbekistan is contained in three key documents: a) the Constitution; b) the Land Code; and c) the Civil Code.
2. Rights associated with land appear to be distorted to accommodate the cotton and wheat industry and to maintain government control over one of the main production elements of the national economy.
3. In both theory and practice, land reform in Uzbekistan does not contemplate the privatization of land in the near future, but only enterprises, buildings, or moveables. However, the GOU has implemented a number of reforms that change the form of land holdings and provide a wider degree of rights to land users: a) conversion of the *kollektivnyes* to *shirkat* farms, which produced only marginal productivity results; and b) implementation of a continuing conversion of the *shirkat* farms to farms (hereinafter, "Farms"), expected to be completed by the end of 2006.
4. The tenure structure of Farms remains leasehold and is allocated by tender.
5. Theoretically, the lease is a right allowing great leeway on farm production. In practice, this is not the case.
6. Urban land use rights are lifelong and inheritable. Individual apartments and buildings may be owned; however, land remains in government ownership.
7. The overwhelming impediments to effective land tenure are: the contingent nature of leases; the non-tradability of leasehold rights; the inability to use lease rights to obtain credit; technical inputs tied to production which can impact leasehold rights; questionable due process; and lack of knowledge by farmers of legal rights and obligations.

Currently, only a few on-going donor programs impact land reform outside of this project, such as the USAID-financed Farmer to Farmer Program, implemented by Winrock International. Others include an Asian Development Bank-funded project with the State Committee for Land Resources, "Developing an

Integrated Cadastre System for Land Resources Management & Property Right Registration.” The goal of the project is to develop an integrated computerized cadastre system capable of land resources management and property right registration. A World Bank and Asian Development Bank (ADB) pilot project for farms is also underway.

The GOU launched a significant administration reform initiative in October 2004 that will greatly assist in the administration of land rights and policy. The three agencies previously responsible for land use and rights matters will be merged by the end of April 2005, thereby significantly reducing the bureaucracy and land administration inefficiencies that existed under the previous structure.

The principle recommendations contained in this report are as follows:

1. Leasehold interests can form the foundation for an effective real estate market if properly structured and secured. Lease rights should be made meaningful through fully transferable rights, including the right to sub-lease, mortgage, or otherwise transfer leasehold interests.
2. Lease contracts should not be terminated except in those clear instances where a leaseholder has apparently deliberately failed to comply with its terms, and such apparent failure must be subject to proof in the courts or other dispute resolution body.
3. Merge land rights with the rights to any building or structure located thereon.
4. Establish extension offices that would provide legal and business advice to leaseholders.
5. Implement a nationwide series of seminars for farmers and local administrations to support business planning and knowledge of legal rights and responsibilities.
6. Separate the registration and land use monitoring functions at the newly formed Goskomzemgeodescadastre.
7. Modify the quota percentages required for cotton and wheat so as to allow farmers a percentage whereby they may grow whatever crop they feel is in their interests.
8. Implement a training program for the judiciary regarding all issues that arise from tenure and leasehold questions.
9. Conduct an overall land policy review.



## **I.0 INTRODUCTION**

This report presents the findings, conclusions, and recommendations of an assessment that was carried out over a period of approximately 11 working days, between 21 March and 5 April, 2005 in Uzbekistan. The consultant worked closely with Gairat Nazarov, resident lawyer on the project and Alexander Samborsky, the local consultant, and was provided with relevant laws, Presidential decrees, and regulations, as listed in Annex B. In addition, field trips were conducted to Syrdarya and Keles regions to assess, to the extent possible, the environment on the ground by talking with local officials from the cadastre and land resources departments, as well as with individual farmers.

This analysis covers the following items contained in the consultant's scope of work:

1. Analysis of the existing legal, policy, and implementation framework related to land tenure and property rights reform.
2. Analysis of laws and procedures impacting farmers in establishing their land and leasehold rights and the security of such rights.
3. Identification of a local NGO committed to land tenure reform and civil rights.

In addition, on April 4, 2005 the consultant prepared and presented a review of the preliminary findings and recommendations to relevant government stakeholders prior to departure. The objective of the presentation was to elicit feedback, comments, and suggestions that can be incorporated into the final report. The attendees were aware of the principle issues discussed, particularly since most of them had attended two seminars presented earlier by the legal advisor to the ADB Lahmeyer project. Nevertheless, many agreed with the conclusions, which are incorporated in this report, and appeared prepared to discuss the next steps to land reform in general and tenure in particular.

Based on discussions with other donor programs, government officials, and private farmers, and after review of laws and regulations provided to the consultant, this analysis covers the historical and current status of land reform, including the development of land rights, and the current thinking of those Uzbek officials available for consultation and responsible for implementation of reforms.

In particular, this report reviews the status of legislation and GOU policy impacting land rights, tenure security, and land reform including, where available, upcoming policy debates or legislation on land reform. The assessment also references the land rights position of women.

The principal impediments to land reform are identified and discussed in order of significance, together with suggestions on land policy issues and the possible interventions that can assist in removing these impediments while also providing for public discussion and comment.

The research for this report was aimed at assessing land tenure rules, land use rights, and their practical application and to provide recommendations for future initiatives. The research consisted of reviewing background studies, laws, regulations, discussions with land administration officials, agricultural institute professionals, donor project professionals, and local farmers. Although the research was limited in duration, the findings and conclusions were based on the uniform comments elicited from those interviewed and, therefore, reasonably reflect the land tenure situation in Uzbekistan.

This report is divided into four sections beyond this introduction. Section 2 provides a broad background to the development of land reform in Uzbekistan; Section 3 sets forth the findings and conclusions based on interviews, laws and regulations, and previous donor funded reports; Section 4 lists possible non-

governmental organizations that could be vehicles for promoting reform; and, Section 5 contains recommendations to deepen land reform.

The report contains the following annexes:

1. Annex A: List of dates of meetings and interviews, along with names and positions of those contacted and their contact information.
2. Annex B: List of relevant laws, regulations, decrees, and departmental instructions, indicating those that have been compiled and translated into English.
3. Annex C: A summary of relevant activities on land and registration activities of donors, international organizations, state institutions, Uzbek and international NGOs activity.
4. Annex D: A preliminary list of individuals potentially to be invited to participate in the follow-on activity described in Section 5 of the TOR, should it be implemented.
5. Annex E: Participants in presentation of preliminary findings.

## 2.0 BACKGROUND

Any review of legal reforms regarding land tenure and associated rights cannot be viewed in a vacuum. It is necessary to holistically approach legal and legislative reform regarding land rights and incorporate economic and social considerations. Legal issues, and how they are addressed, form an integral part of overall land policies established by the government.

The research for this report was aimed at land tenure rules, land use rights, and their practical application. Furthermore, land tenure reform is only a component of overall land reform, as tenure refers to how rights to land relate to holders of those rights, while land reform can include access to land, environmental concerns, land administrations, etc., all of which are components of an integrated land policy. Land tenure is an interdisciplinary term with multiple meanings depending on the object to which it applies. Land tenure rights attach to land, immovable property, real estate, real property or other forms of land holdings. In Uzbekistan, property ownership rights exist against attachments to land only and not to the land itself. For the purposes of this report, land tenure is defined as the relationship between people and land.

In this regard, legislation governing land<sup>1</sup> tenure in Uzbekistan is not modeled after laws in market-oriented economies and, indeed, is not very similar to most of the legislation promulgated in the majority of the countries of Eastern and Central Europe or of the states that comprised the former Soviet Union. Rather, Uzbekistan's legislation governs land use, to which rights associated with land are subordinated. The legal rights that are attached to real property depend on the particular land use that is permitted. In the Uzbek system, all land is owned by the state, and various lesser rights are granted to users of the land in accordance with government interests and policies. Furthermore, those rights that are granted are highly contingent and subject to divestiture based on numerous factors that tend to be discretionary and, as a consequence, open to abuse.

Urban real estate is subject to significant restrictions, although not to the extent of those impacting agricultural land. The Land Code stipulates several tenure types, including ownership of underlying land, which is restricted to foreign embassies and, it seems, their respective staff. Apartments also are subject to ownership rights.

The land use rights that exist in the urban areas are lifelong inheritable possession, permanent use right and the lease. Use rights to a particular parcel can be cancelled in the event the stipulated land use is constantly violated. In addition, the strong divisions between land and permanent structures attached to land are memorialized in the Land Code.

The government of Uzbekistan (GOU) has promulgated numerous decrees and regulations and has enacted legislation, principally the Land Code, directed at reforming land relations and use on a step-by-step basis.<sup>2</sup> One objective of this report is to provide recommendations for further deepening of reforms in line with the government's concern regarding farm productivity, soil improvement, and conservation. This report will focus on recent reforms impacting land tenure and administration. Since the current system is essentially one governing land use, a brief outline of land policy considerations will also be provided, so that a comprehensive framework can be developed in the future, utilizing generally accepted world wide standards for land reform.

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<sup>1</sup> Land and real property are used interchangeably in this report and include both land and buildings unless otherwise noted in context.

<sup>2</sup> The 'step-by-step' approach is the announced GOU methodology for introducing reform.

The GOU appears to emphasize land use above tenure concepts for economic reasons, and the vast majority of rights associated with land are less than ownership. However, the definition of “land” is an important basis for how land is treated for land policy and reform considerations, in light of the necessity for defining the object to which rights attach. In that regard, there appears to be an inconsistency in the definition of ‘real estate’ within the two key laws impacting land tenure, the Land Code and the Civil Code. The Land Code is not literally consistent with the Civil Code, in that it does not specifically include those items set forth in the Civil Code as follows: the Civil Code stipulates that real property consists of four parts: 1) the land plot; 2) permanent construction; 3) permanent trees; and 4) underground construction. This concept is often argued among experts, and the discussions revolve around whether the component parts mentioned above are part of the whole, or if they should be considered four distinct forms of real estate. The latter position would make it somewhat more consistent with the Land Code and appears to be the accepted principal that supports the separation of land and buildings, whereas a unified model would be consistent with market economies. At this time, the debate is not a significant factor, as the Land Code is considered the governing statute regarding land tenure.

As indicated in Annex C, numerous donor interventions have been or are currently being implemented that deal with different aspects of real property reform. Furthermore, there has been an array of reports and recommendations provided by donors and consultants that outline the issues and impediments to the development of a real property market and improvement of farm productivity. These reports all contain similar, and in most cases, the same findings and recommendations regarding land reform in Uzbekistan, as further detailed within this report. Indeed, the most recent report expected to be issued by Lahmayer International in mid-April suggests that no further reports on this topic need to be prepared. Many of the previous reports prepared over the past eight years have been reviewed by the consultant and each arrives at virtually the same conclusions and same recommendations that are made in this report.

The principal concern of many donor interventions regarding real property reform concerns agricultural land, for the simple reason that agriculture is by far the dominant sector of the Uzbek economy and is considered a strategic resource by the GOU. This sector stress is then tightly focused on the land use issues affecting two key crops: cotton and grain. Because of the emphasis on these crops, and, in particular, that on cotton, rights associated with land appear to be distorted to accommodate the industry and to maintain government control over one of the main production elements of the national economy. Several consequences flow from this emphasis on cotton production at fixed prices and the quotas that directly and adversely influence land reform, including the introduction of ownership and tradable real property rights.

Legal reform regarding land tenure and associated rights cannot be viewed in a vacuum. It is necessary to approach legal and legislative reform regarding land rights holistically and incorporate economic and social considerations. Legal issues and how they are addressed form an integral part of overall land policies established by the government. The findings, conclusions, and recommendations in this report are made with these factors in mind. In addition, this report recognizes that the GOU wishes to maintain a staged approach to reforms so as to avoid severe economic and social dislocation, and the consultant was mindful of such concerns.

Finally, any comprehensive attempt at land reform must include the development of an efficient, cost effective, transparent land administration system. An integral part of such a system is a real property registry. Title registration, which is briefly covered in this report, is the subject of an on-going Asian Development Bank project being implemented by Lahmayer International. A real property registry is a necessary element in the development of secure land tenure. Current forms of rights associated with real property, given their contingent nature, make a registry of limited utility at this time. If, on the other hand, a system of tenure is developed based on secure leasehold rights, as recommended in this report, then the establishment of a registry is a necessity.

One of the main limitations in Uzbek agriculture is the availability of water. According to a representative of the Ministry of Agriculture, with whom the consultant met, approximately 75 percent of all water is supplied by the neighboring states of Tajikistan and Kyrgyzstan; the remainder comes from domestic sources. All

water is supplied free of charge. This is a significant issue and one that clearly impacts the views concerning land privatization and permitting unrestricted use of the land, since GOU's view is that private ownership would interfere with water distribution by providing land owners control over water passing through privatized farms.

According to agricultural reports issued by the World Bank and other consultancies, with few exceptions, only irrigated land is arable and has marginally expanded during the past ten years, while a substantial part of soil quality has been reduced because of salinity and the absence of crop rotation. Consequently, the volume of available arable land is actually decreasing; the GOU has tried to deal with access to land while balancing the needs of farmers under pressure to produce cotton for foreign exchange and wheat for food self-sufficiency. Any land reform steps that are proposed or that will be undertaken must take these major constraints into consideration.

Finally, the core of the recommendations in this report are aimed at promoting development, including (but certainly not limited to) increased production in the strategic cotton industry. The GOU is justifiably concerned with increasing productivity in its strategic industry and soil improvement to reverse past actions that adversely affected both. This appears to part of an overall land administration plan. However, land administration is only part of the problem. Land administration must be a part of an overall land policy, of which it is a primary component. Land administration includes the regulations and measures of rights to land, the use of land, and the valuation of land. To these should be added the alienation, development, and transfer of land. Land reform should aim to ultimately release the 'dead capital' (DeSoto, 2000) locked in the land because of restrictive tenure rights.

## 3.0 FINDINGS AND CONCLUSIONS

### 3.1 EXISTING LEGAL FOUNDATION: LAND TENURE AND LAND RIGHTS

The current land tenure structure in Uzbekistan is an inheritance from the Soviet land policy system that imposed collectivization and a planned economy heavily based on cotton production, which did not provide for private ownership of land. Buildings are treated separately from land, a common practice in post-Soviet systems. As will be covered later in the report, the distinction between land and buildings tends to subvert the operation of a market in real property.

Although the system was replaced in 1991, the practices introduced and employed since the 1920s remain largely in place. During the initial reforms implemented by the GOU, the Soviet period *kollehozes* were converted into collectives known as *shirkat* farms, which often are a distinction without a difference. This was not a move toward privatization, as the *shirkat* farms remain largely within the planned system (as far as the two strategic crops, cotton and wheat, are concerned) of delivered inputs and procurement of output. However, it represents a stage in the ‘step-by-step’ approach toward land reform instituted by the GOU.

Recently, the GOU has taken an additional reform step and has instituted a program of converting the poorly performing *shirkats* to Farms which theoretically provide farmers with more rights and some relief from the quota system, as will be explored in more detail later in this report.

Since 1999, the term *dekhon* is used for a formalized form of a household (plot) farm, which uses the household labor force and the private plot given to the head of household. At the same time, state ownership of land remained unchanged, with only different forms of leaseholds in place. The rights associated with *dekhon* farms<sup>3</sup> are inheritable.

#### 3.1.1 Land Tenure Reform Progress: Summary

The legal foundation for all land tenure in Uzbekistan is contained in three key documents: a) the Constitution; b) the Civil Code; and c) the Land Code. Although, as will be discussed, the Civil Code does not always comport with the provisions of the Land Code, it apparently does not take precedence (at least in connection with land issues) as most civil codes do in other countries.

In the context of legal and legislative initiatives which promote more secure land tenure, it must be noted that the government of Uzbekistan has said it is committed to the following land reform objectives<sup>4</sup>:

- To retain state ownership of land to provide the right of life usage, and inheritance, of land. In individual cases, to establish private ownership on land;
- To pursue a gradual transition to market conditions for agricultural production;
- To create a peasant-owner who is greatly interested in production, improvement of product quality, etc. This is to be achieved by land lease or provision of land for life usage with the right of inheritance. In individual cases, land is to be provided for private ownership;

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<sup>3</sup> This applies to ‘garden plots’ which are similar both legally and in size.

<sup>4</sup> (EU TACIS FAPU Land Reform Report)

- To change the system of central planning and management by transition to organization through the market;
- To establish and develop farms with a variety of possession forms;
- To reorganize radically the internal structure of the agricultural sector; and,
- To reorganize all productive and social infrastructure.

All the aims above focus on increasing agricultural productivity, therefore, the emphasis is on rural land. In both theory and practice, land reform in Uzbekistan does not contemplate the privatization of land in the nearest future, but only enterprises, buildings, or moveables. These factors should be considered in any proposals designed to impact security of tenure and achieving more widespread land distribution. However, it is important to note that these expressions of intent by the GOU indicate a willingness to discuss the evolution of land reform and should be explored further.

Land reform policy is viewed as a ‘step-by-step’ process that does not envision major modifications within a short period of time. In that context, the GOU has implemented a number of reforms that change the form of land holdings and provide a wider degree of rights to land users.

### 3.1.2 Rural Land Tenure Reforms

As mentioned in the Section 2 above, following the dissolution of the *kollektiv* system in the early 1990s, the GOU restructured the farms into *shirkat* farms (agricultural enterprises) and *dekhan* farms (small household plots). In 1999, the GOU again commenced a reform program to convert the *shirkat* farms into farm communities representing a type of ‘privatization’ that established ‘private’ Farms ranging between 10 to 50 hectares.<sup>5</sup> Legislation<sup>6</sup> establishing these Farms provides farmers with private use rights and the right to decide what to grow and sell in the market above certain reduced quotas for cotton and wheat to be sold to the government at fixed prices.

In practice, at this time, only those *shirkats* which perform poorly have been converted to Farms. However, the Rural Restructuring Agency, funded by the World Bank and the Asia Development Bank, reported that, in the five pilot regions where they have implemented their program for Farms, the GOU quota for cotton in 2004 was 39,000 tons and the Farms produced 110,000 tons—with the difference belonging to the individual farmers. This claim appears to be inconsistent with the comments from the representative of the Center for Economic Research, funded by UNDP, who stated that all cotton was sold to the state. Indeed, based on conversations with farmers, the likelihood is that they sell all cotton to the state, including the surplus above the quota simply because it is a safe-harbor and a known quantity. Nevertheless, the success of the Farms in increased productivity has resulted in a government plan to convert all *shirkats* to Farms by the end of 2006, according to the Ministry of Agriculture. One can reasonably conclude that any conversion process that results in an increase in tenure rights also results in increased productivity.

The tenure structure of Farms remains leasehold. The restructuring of each *shirkat* is directed by the *hokimiyat* (mayor’s office) and *goscomzem*. *Goscomzem* performs the preparatory work for the Raion’s land committee, which, in turn, makes its recommendation on whether to approve or disapprove the restructuring plan to the *hokhim*.

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<sup>5</sup> The fundamental driving force behind the dissolution of the *shirkats* was the realization that productivity on *dekhan* farms increased by more than 35 percent while the *shirkats*’ production remained flat or declined.

<sup>6</sup> The Farm Law

Land allocation through leaseholds is implemented through a tendering process where farmers are selected. The consultant was frequently told by both the government and private farmers that there is not enough land, and therefore only good farmers qualify to become lessees.

The general administrative process for acquiring the leasehold is relatively simple and requires that farmers submit an application to the *bokimiyat*, whereupon an administrative commission evaluates the applicants, makes recommendations, and submits their findings to the *bokimiyat*, which then issues its decision. According to local *bokimiyats*, the criteria used to make the selections of farmers include, but are not necessarily limited to, demonstrated managerial and farming skills and long term presence in the area.

The allocations establish “private farmers” under a lease contract from the *bokhim* with a term up to 50 years. Theoretically, the lease is a right allowing great leeway on farm production. In practice, these lease contracts drafted by the *bokimiyat* are tied to the government quota system and contain restrictive conditions, which, if not met, can result in termination of the lease. The conditions are highly dependent on third party performance, which theoretically can result in a waiver of any termination requirement for failure to fulfill the conditions of the contract. For example, the GOU finances the work, plans the farming decisions, supplies materials and seeds, sets and controls production targets, and buys the products, all through banks and companies that are 51 percent or more controlled by the state.<sup>7</sup>

Anecdotal evidence from both farmers and local officials indicates that the vast majority of farmers have little knowledge of their rights or how to protect them. Although leases cannot be terminated without a court order, this right is illusory if the farmer has no access to legal advice and does not understand his rights.

The lease contracts are neither transferable nor inheritable, except for a provision in the Farmer’s Law that permits the lease to be inherited subject to the approval of neighboring parcel lessees. According to Lahmayer International, farmers seemed not to rely on inheritance rights, as many opted to take the leases under the name of the son, who is planned to continue farming after the present generation. In addition, a lease may not be subleased.

Termination of leases are said to be rare. Interviews in the two Farms visited were inconclusive, although the head of the Land Resources Department in Gulistan stated that, in the past year, 1,076 were cancelled.<sup>8</sup> Whether the termination of leases is rare or not, the system lends itself to serious abuse, and the government has reversed the most egregious through the courts.

*Dekhan* farms are lifelong leaseholds with inheritable possession rights and may be recorded in first registration, to be described below. However, heirs must be family members. The leaseholds are small, ranging in size from 0.35 hectares to two hectares. *Dekhan* farms may not be transferred, but can they be leased for short, medium, and long terms. It is important to note that the *dekhan* farms are important food producers and are not subject to government production controls.

Administrative reforms undertaken by the GOU will be discussed below.

### **3.1.3 Urban Land Tenure Reforms**

Private ownership of land is permitted only in the case of foreign embassies, or their representatives, through a decision of the Cabinet of Ministers. Although the GOU auctioned, between 1993 and 1994, several hundred shops as real property, together with the transferable ownership right to the underlying land, the

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<sup>7</sup> Several officials suggested that the state ownership shares will be privatized in the future. This could not be verified and would likely not improve the credit availability to farmers since land is not considered adequate collateral due to restrictions of lease right transferability.

<sup>8</sup> Although this is less than 10% of the farms located in this region, it was admitted that many of the leases were again allocated to the same farmers whose leases were terminated. There was no time for any independent verification of these numbers.



process was not continued. In addition, use rights were strictly regulated as in the Soviet period where usages of specific parcels could not be changed.

As in the example of *dekeban* farms, urban land use rights are lifelong and inheritable. Two additional forms of tenure are the right to permanent use and the rights to leases. Permanent use is a common form of use right found in Russia, Ukraine, Armenia, and other former Soviet republics. Unlike a lease, the permanent use right is of indefinite duration and is connected directly to the use of the parcel. Termination of the designated type of use also terminates the right. Leases are, of course, of limited and established duration. The division of buildings and land is also applied in urban areas with one result being that buildings may be owned, but the land possessory rights are leased. Takings never compensate for loss of land use rights, only the loss of the structure upon the land. Individual apartments may be owned, as can the building, but land remains in government ownership.

### 3.1.4 Impediments to Land Tenure

Some of the issues arising under the current system have been briefly alluded to above. This section will describe, in more detail, the continuing impediments to land tenure security largely by reference to numerous reports on the same subject, written from 1995 to the present. Recommendations regarding how to address these impediments will be addressed in Section 4 of this report.

Impediments are discussed in order of importance and, in that regard, the overwhelming impediment regarding land tenure is the contingent nature of leasehold rights.<sup>9</sup> The present state of land reform can provide a foundation for security of tenure. Taking into consideration the stated GOU policy that private ownership of land will remain in the state, the impediments to the creation of a real estate market can be removed to permit the market structure to be based on leasehold rights.

#### Leasehold Tenure

As mentioned elsewhere in this report, numerous consultant studies have been completed since 1995, and each of these identified impediments which needed to be addressed. The following examples of these findings reveal a substantial similarity, and many of these impediments remain in the current system despite some reforms instituted by the GOU:

- "...cadastre and register of real estate (Grundbuch) should be differentiated."
- "The availability of information and explanation for the farmers is vital for the success of land reform. There is a large degree of uncertainty and lack of information about the legal situation, about rights, duties, costs, about the meaning of certain terms (e.g. shareholdings)."<sup>10</sup>
- A major impediment to land reform is the non-transferability of lease rights and that the conditionalities imposed regarding farm production are adverse to the concepts inherent in a land market.<sup>11</sup>

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<sup>9</sup> This report will not address the issue of ownership. It is clear that the GOU is not prepared at this time to consider land ownership, particularly that of rural farmland. However, ownership *or its equivalent* has been repeatedly recommended by virtually every other consultant report and is an absolute necessity in a modern, market economy.

<sup>10</sup> "Land Tenure in Uzbekistan Study on the Guiding Principles: Land Tenure in Developing Cooperation," Julia Eckert and Georg Elwert, GTZ, 1995, pp. 45-46

<sup>11</sup> "Land Reform and Farm Restructuring Policy Guidelines," Food and Agricultural Policy Advisory Unit, TACIS, December 1998

- “In general, the legal situation (is) not yet really ready for real estate registration e.g. ‘ownership’ for land, implications regarding systematic registration, economic implications, mortgaging etc., is not yet satisfactorily developed...”<sup>12</sup>
- “The life-long inheritable leasehold system may well provide an adequate security of tenure for the long-term commitments, investment and crediting, but (the) present system and especially its application fall short of doing it.” “It is *impossible* (emphasis added) to have a functioning real property market without enabling land transfers.....”<sup>13</sup>
- “While not all types of lease rights should be transferable, the notion that no lease rights can be transferred stifles the real estate market since, for all practical purposes, the only legal right to real property in the ROU are the various lease rights.”
- “The stronger the tenancy security the greater the market value of the land and the ability to use the land as a source of wealth.”
- “The list of termination causes in Article 38 (of the Land Code) should be both reduced as well as being a discretionary right.”
- “While the transfer of land to private ownership could resolve many of the constraints listed in this Technical Report, this Report does not advocate the change in the ownership notion as set forth in the Uzbek land policy as an immediate step. It rather recommends that within the existing scheme, the lease/use right be recognized as the principal right...and that land rights extend to the structures permanently attached thereto as well.”<sup>14</sup>
- “The agricultural land use rights provide no access to credit and the whole farming sector is still strongly controlled and managed by the government. The privatization has not been real...The agricultural land use cannot be effective in a situation where new ideas and products cannot be freely explored and practically no long-term investments are made.”
- “The real property market is not allowed to develop. In general, the ambiguous economical atmosphere does not support investing; especially the foreign investors are rare. The ambiguities in the real property legislation hardly help in this regard.”<sup>15</sup>
- “The project recommends that a new approach to land rights be considered...that the principal right available for all land uses will be the lease.”
- “...ownership of land remains with the state while the lease right will be strengthened by attaching to the lease rights some attributes that provide both tenancy security...as well as the ability to mortgage registered rights.”<sup>16</sup>

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<sup>12</sup> “Land Registration in Uzbekistan,” FDUZ 9604, TACIS Phase 1, Completion Report, Robert Kallin, Swedesurvey, 15 November 1999, pp. 15, 16

<sup>13</sup> “Land Registration in Uzbekistan,” TACIS Phase 2, SCRE/110618. Technical Report on Land Tenure by Mika Törhönen, 31 October 2001. Section 9

<sup>14</sup> “Land Registration in Uzbekistan,” TACIS Phase 2, SCRE/110618. From the Technical Report on Legislative Support and Land Policy, Jitchak Alster, October 2001. (This is a highly detailed and extensive report that should be utilized for any follow-on activities.)

<sup>15</sup> “Land Tenure in Transition: Case Uzbekistan,” Mika-Petteri Törhönen. Presented at the FIG XXII International Congress, Washington, D.C. April 19-26, 2002. Paper TAS7.6, Land Tenure and Sustainable Development.

<sup>16</sup> “Land Registration in Uzbekistan,” Phase 2, TACIS Project Number: SCRE/110618. Final Report by Blom/Info A/S, October 2002.

As can be seen from the above excerpts, findings all identify the failure to provide secure tenure under the then existing system and conclude that, if ownership is not an option, then security of tenure in leaseholds is significantly, adversely affected by the current, contingent rights and their implementation.

The lack of security in the current lease structure is the principle impediment that has been identified. However, other issues remain key to reform and must be addressed simultaneously.

### **Key Identified Needs**

- Tenure security through tradable land lease rights
- Legal awareness through public education
- Credit expansion and mortgageable leaseholds
- Reduction of mandated land use restrictions

### **Contract Uniformity**

The need for a nationwide, uniform system of lease contracts is clear. Although theoretically all lease contracts contain the same provisions, many *bokimiyats* modify these forms for their own purposes. Complaints that lease contracts are arbitrary, vague, and based on unrealistic production goals were reported, although the extent of this problem could not be determined in the limited time available to prepare this report. The potential for abuse of this system is evident. One donor-sponsored program did report that, in at least one instance, the *bokhim* presented blank contracts to farmers and pressured them to sign. Because of the localized nature of land usage rights, this is a serious issue if shown to be widespread.

### **Land Use Requirements**

Government officials mentioned that to deepen land reform the concept that the farmer must return land in better condition than it was received has been seriously discussed and may, indeed, be the practice. Although an admirable social goal, tenure security would actually be decreased, as this would add a new layer of contingencies to an already tenuous lease right. The monitoring of land use and quality, which is supposed to be conducted every five years, can be used to terminate lease rights if the land is found to be deteriorating.

### **Due Process**

A third serious impediment is the question of due process. Part of the concept of security of tenure is the ability to obtain due process in the event that the *bokimiyat* determines that a lease right should be terminated for failure in either of the following criteria: 1) fulfillment of contract obligations; or 2) improvement in the quality of the land. Integral to the process is the methodology used to determine land quality and the agricultural quotas. This process is formulaic and theoretically scientific. Nevertheless, these two criteria are independent causes for termination and, by law, must be proved in court.

Therefore, on its surface, the law provides for a system of due process prior to the termination of rights associated with the land. However, anecdotal evidence suggests that the system does not work smoothly. In any event, it is difficult for any person to obtain due process without adequate understanding of the laws, regulations, and contract provisions. For example, one local official outside of Tashkent admitted that farmers simply do not understand the laws and, therefore, need help. Farm leases are terminated for failure to perform pursuant to the contract, yet the failure to perform was caused by a third party, e.g. the government-owned equipment supplier. Farmers do not understand that they are not necessarily responsible for failure to fulfill the terms of a contract if such failure is outside their control, and, as a consequence, lose their leasehold. As will be noted below, in the section on donor activities, some assistance is available to overcome the gaps in the due process mechanism. Nevertheless, the practical application of due process appears to be less than optimal.

Interviews with farmers in the field revealed that they view the major issues impacting their rights as technical problems, e.g. shortage of equipment, insufficient water, and soil salinity. In matters of contract enforcement

for equipment from the government-owned company, the farmers stated that they only try to verbally enforce the contract. They also indicated that should one farmer appear to be failing to comply with the terms of the contract, the other farmers will join together to assist the non-complying farmer, so as to avoid termination of the lease. This indicates a strong social structure, but, more importantly, shows that, rather than relying on the courts or the laws applicable to leasehold rights, farmers prefer to deal with the issues within their own circle. This is typical of the ‘bell jar’ syndrome so well described by DeSoto, which more often than not results in the development of social and legal structures outside of the formal system, to neither the benefit of the state nor the citizen.

Since many technical issues mentioned above impact the ability to farm effectively and comply with the terms of the farm contract, they each constitute an impediment to secure tenure rights and, therefore, must be treated as part of the global land tenure problem.

### **Sublease Rights**

An additional impediment to implementing the next step in land reform is the inability of farmers to sub-lease their farms. If, in fact, the fundamental policy of the GOU is to maintain ownership of land for strategic reasons, then sub-leasing rights should not pose an insurmountable problem, since the contractual provisions of quota production and protection of the land are separate legal concepts from tenure rights. Farmers interviewed in the both the Syrdarya region and Keles, north of Tashkent, stated categorically that they wanted the ability to sub-lease their holdings and, in the former region, to grow a variety of crops of their own choice and sell them at market prices to whomever they want.

The foregoing impediments: a) non-tradability of leasehold rights; b) technical inputs tied to production which can impact leasehold rights; c) questionable due process; d) lack of knowledge by farmers of legal rights and obligations; and e) inability to sub-lease, are the principal obstacles to establishing secure land tenure. As is evident, economic considerations, as well as the structure of government-owned input organizations acting as the sole suppliers to farmers, also impact land tenure, since the contract system is tied to quotas and is under the control of the *hokhim*. Therefore, these impediments cannot be addressed in isolation, but must be taken in parallel with the legal and legislative concerns, including due process and balanced contract enforcement. It is unreasonable to expect farmers to invest in greater production capacity, assuming credit was available, or for third party investors to provide funds without greater security in tenure.

### **3.1.5 Donor, Government, and NGO Activities in Land Tenure**

During the past ten years, numerous donor interventions have taken place in connection with land tenure and real estate market development. These interventions have assisted the GOU in its program to reform the real estate sector, largely in the rural farm areas. Currently, only a few donor programs are on-going that impact land reform outside of this project. The following is a description of the significant current activities that are being implemented by donor, government, and NGO activities in the sector.

#### **United States Agency for International Development**

**1. Uzbekistan Economic Reform Project: Implemented by BearingPoint/Barents Group.** The consultant met with the Chief of Party, David S. Martin, and the Senior Economist, Eshref Trushin. Although largely an economic development project, the program does impact land tenure because of the emphasis on the agricultural sector in Uzbekistan. They have successfully implemented a pilot project in the Fergana Valley that increased farm production by 40 to 60 percent. They noted that the old debts of the former state farm were imposed on the farmers illegally. The successful resolution of this matter is set forth below in the following item.

**2. Uzbekistan Farmer to Farmer Program: Implemented by Winrock International.** One meeting was held with the Regional Director and Deputy Director, Richard McQuady and Inobat Avezmuratova,

respectively. A second meeting was held with the Deputy Director to specifically address the role of women as it relates to farms and real estate.

As mentioned in the first item, farmers successfully defeated an attempt by the *bokhim* to impose unpaid debts on new farmers. In the Gallaorol region, the *bokhim* intimidated farmers to absorb the debts of the former collective farm for the grain elevator. This attempt was made by invoking Cabinet of Ministers Regulation No. 476. Most farmers were required to sign the papers transferring the outstanding debt and satisfy the obligation in order to obtain their lease rights. As a result of a legal rights training program sponsored by USAID/AED, Winrock International and the Ministry of Agricultural and Water Resources, the farmers learned that Regulation No. 476 actually provided exactly the opposite of what the *bokhim* had required. The farmers initiated a court action in the economic court, and the court issued a ruling reversing the charge for debts.

Winrock mentioned that, although the GOU supports training, some of the local administrations take a wary attitude toward the activities. The training, however, has been extensive and was handled by the Uzbekistan National Training Center for Knowledge and Development. The following is a summary of the results achieved by the program. Detailed results can be obtained from the implementing partner:

1. All 91 training events were completed on schedule, with 40 trainers who used an interactive methodology. Approximately 1,800 farmers participated and increased their interest and awareness in legal and economic aspects of farming.
2. In each *oblast*, between 10 and 11 farmers developed business plans for their farms and adjusted those plans following the training activities.
3. The training helped to change farmers' attitudes of dependence on the government and provided the tools and knowledge to help them exercise their rights and protect their interests.
4. Most of the *bokhims* requested additional training events and showed a keen interest in the program and methodology.

The program also identified impediments encountered in the discussions with the farmers. Those impacting land tenure include:

1. Corruption and bribery are flourishing in the farm input sector, such as the MPT and firms providing chemicals, fertilizers and fuel.
2. Farmers' rights are violated by the *bokimiyats* during the tender process and by creating one-sided and unfair contracts. In one instance, blank contracts were provided for signature by the local Association of Farmers.
3. Service institutions do not provide timely services, resulting in loss of crops that can result in the termination of lease rights.

The program also arrived at certain findings that will need to be addressed as part of or in parallel to any project dealing with land tenure, including those listed below.

1. About 99 percent of the participants could not define the term 'right'.
2. Almost none of the participants had ever read the Law on Farming.
3. The Association of Farmers fails to fulfill its role in protecting the rights of farmers and disseminating information.

Finally, the project has developed a list of suggestions and recommendations, some of which are listed here.

1. Conduct training on a biannual basis.

2. Develop a program of consultative assistance.
3. Organize systematic meetings of farmers and representatives of service institutions, including law enforcement representatives, at least once every quarter.
4. Provide farmers with literature on legislation, among other items.

The second meeting held with the Deputy Directory sought to obtain more information on organizations and programs affecting women's rights in regard to land tenure and reform. Specifically, two organizations were mentioned, one located in Bokhara and the second in Dzhizakskoy *oblast*. Both are called Association of Women *Dekhan* and Farm Owners of their respective locations. According to the materials provided, the association located in Bokhara has worked with Winrock International and was assisted by IREX in establishing a web site. In addition, they have worked with Mashav, an Israel-based organization which is significant since Israel has a leasehold system of farm tenure that clearly works very efficiently. Both organizations are officially registered.

### **Asian Development Bank**

The ADB is currently funding a major project with the State Committee for Land Resources (TA 4218-UZB), Developing an Integrated Cadastre System for Land Resources Management & Property Right Registration. The implementing firm is Lahmeyer International, a large German consulting engineering company. The goal of the project is to develop an integrated computerized cadastre system capable of land resources management and property right registration. The project builds upon and uses the existing tools and knowledge delivered from previous technical assistance projects under the framework of TACIS.

The two main stakeholders of the project are Goscomzem and Uzgoedescadastre, who maintain registration systems for rural and urban areas, respectively (See Institutional Functions: Administration of Land Rights below on the most recent changes to this relationship).

This is principally a technical project, but it also contains a legislative component aimed at improving the transparency and efficiency of the cadastral and land registration procedures and strengthening the security of tenure for land users.

In September 2004, this project, together with the Ministry of Justice and the Japanese International Cooperation Agency, organized an international seminar in Tashkent on State Registration of Real Estate Rights.

This report incorporates the preliminary findings from the Lahmeyer project, particularly those dealing with tenure issues. The consultant discussed the Lahmeyer project with its director. It is in its third and final phase, with an estimated completion date of fall 2005, unless extended. ADB has issued a follow-on tender.

### **Center for Economic Research (CER)**

The CER is an independent think tank that provides various studies and reports and is funded by UNDP. Recently, an independent consultant from the University of California completed an investigation of land reform in Uzbekistan. The report is expected in the next 60 days and will be posted on the CER web site. CER has also worked with USAID programs in the past.

### **Rural Restructuring Agency (RRA)**

The RRA is implementing three agricultural project funded by the World Bank and the Asian Development Bank. The World Bank-funded project is designed to support rural enterprises in five pilot areas. Although largely technical, one component of the program includes the establishment of consultative centers for agricultural enterprises to assist with legal questions, business plans, etc.

The ADB-funded program targets the Alkatyn region (visited by the consultant) and contains similar components to the World Bank project.

In an interview with the Deputy Director, he suggested cooperation with any future program funded by USAID should target legal assistance to farmers to help with the conversion of *shirkats* to Farms. Since government officials have stated that they are concerned with the lack of public knowledge of the rules and regulations governing rights associated with Farms, the types and methodology for legal assistance would be an appropriate topic of discussion between the GOU and USAID. Opportunities for targeted assistance could be expanded into new pilot programs as the *shirkats* are converted during 2005 and 2006.

### **3.1.6 Institutional Functions: Administration of Land Rights**

The GOU, through the issuance of a Presidential Decree, launched a significant administration reform initiative in October 2004 which will greatly assist in the administration of land rights and policy. The plan, promoted by ADB, involves the merger of the three major government administrative arms dealing with real estate, either in rural or urban areas.<sup>17</sup>

This is an important reform that will help to streamline the land administration system and provide, through the establishment of a single agency to handle registration, additional security of tenure to farmers.

The previous administrative structure was cumbersome and divided among three agencies with minimal information sharing between them:

1. Goskomzem, for rural lands;
2. Uzgeodescadastre, for urban land and non-residential buildings; and
3. The Bureau of Technical Inventory, for residential buildings.

Two regulations govern the administration and registration procedures:

1. Instruction on the Procedure of State Registration of Rights to Land Parcels (1999); and
2. Instruction on the Procedure of State Registration of Buildings and Constructions (1998)

The new structure eliminates all three agencies and merges them into one—Goskomzemgeodescadastre.

There is one area that must be rationalized if this new system is to work as efficiently as possible for its intended purpose. Despite the merger of the three agencies, both the registration and land use monitoring functions remain under the control of the same people. Aside from the possibility for abuse that arises from this work flow, the efficiency of the new electronic system will be compromised.

Aside from the above, the administrative changes flowing from the merger will need to be implemented in the regions. This will need to be aggressively pursued so as to avoid any power struggles that may occur on the local level. The unification should also assist with current problems arising from land use monitoring which include reported failures by farmers to complete monitoring programs that can impact their leasehold rights.

Finally, from a legislative administrative point of view, laws should be written in less detail. Provisions that are primarily regulatory in nature—e.g., monitoring methodology, data collection, and survey information—should be contained in regulations that are easily altered, so as to avoid burdening the Majlis and Senate each time technology or circumstances are changed.

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<sup>17</sup> This report is not intended to provide a detailed description of the previous or new structure of real estate administration, which would be duplicative of several other reports including, most importantly, three progress reports issued by Lahmayer International, available from the ADB implementing office. Briefly, the previous structure largely followed the Soviet system of multiple agencies, mentioned in this section, controlling urban, rural land, non-residential, and residential structures. It was cumbersome, bureaucratic, and non-transparent.

## **3.2 KEY LAWS AND PROCEDURES IMPACTING LAND TENURE AND LAND RIGHTS**

The following key laws affecting land tenure and rights to land were reviewed in detail:

- The Constitution of the Republic of Uzbekistan (December 8, 1992);
- The Civil Code of the Republic of Uzbekistan, Part 1 (December 21, 1995);
- The Law of the Republic of Uzbekistan “On Land” (June 20, 1990) (with changes and additions entered by the Laws of the Republic of Uzbekistan of 20.4.91, 7.05.93, 6.06.94, 23.09.94, 6.05.95 and 31.08.95); and
- The Mortgage Law

### **3.2.1 The Constitution**

The Constitution does not specifically prohibit private ownership of land. Article 36 provides that all have the right to own ‘property,’ although the distinction between movable and immovable is not made. Consequently, it is unclear whether Article 36 includes land, but it is reasonable to assume that it does. Article 53 provides for equality and legal protection of all forms of ownership. Private property is said to be inviolable and protected by the state. An owner may be deprived of property only as prescribed by law.

Article 55 deals specifically with land. “The land, its minerals, fauna and flora, as well as other natural resources shall constitute the national wealth, and shall be rationally used and protected by the state.” This provision does not explicitly assert that land can only be owned by the state; however, the clear inference to be drawn from the treatment of land as the ‘national wealth’ is that land ownership should be retained by the state. This view is frequently cited by the authorities as the basis for not proceeding with privatization further than creating forms of leasehold at this time. The step-by-step reform efforts of the GOU has resulted in approximately sixty laws, regulations and decrees since 1991 that establish a set of lesser rights that may be granted to the population regarding land and a system for registering such rights.

Finally, Article 36 guarantees the right of inheritance. There are no specifics as to what can be inherited.

### **3.2.2 The Civil Code**

The Civil Code, which is normally the highest level of legislation following the constitution in other countries, does not appear to be superior to the Land Code, described below, in establishing the legal regulations among rights holders to real estate. Rather, the consultant was told that in the event of vagueness or contradictory provisions regarding real estate, the Land Code takes precedence. Nevertheless, it is important to consider the provisions of the Civil Code as other laws, including the Land Code should be consistent with it, and not the other way around.

The following is an outline of the principal articles contained in the Civil Code dealing with rights to land. The outline is broken down into sections dealing with land issues, agricultural restructuring and land transactions. Consequently, references to the key articles found in the Civil Code are not necessarily sequential. This also constitutes an issue of legal drafting techniques, which is not a subject of this report.

#### **Land Tenure in General**

The Civil Code provides that land may be held in ownership (Article 169). Both private and state ownership are allowed (Article 167) and the right of ownership in plots of land “shall arise in instances, in the procedure and upon the conditions provided for by legislation” (Article 188). Other forms of land tenure include: the



right of economic jurisdiction; the right of inheritable possession for life; the right of permanent possession and use of a land plot; and servitude (Article 165).

Property can be held in common or common joint ownership. The Civil Code provides general rules for common ownership and the division of property (Articles 216-227). Specific rules may be provided by separate legislation for division of joint property (Article 226).

If registration or notarization is required when property is alienated, the right of ownership arises at the time of registration or notarization. If both are required, the right of ownership arises only at the time of registration (Article 185). In earlier provisions, the code states that the right of ownership, transfer, limitation, and termination of rights to immovable property shall be subject to state registration (Article 84). Although a registration agency for immovable property is not identified in the Civil Code, in practice the Soviet system of lodging data in the Bureau of Technical Inventory for buildings and with the Land Committee for land perform those functions. However, this has changed recently due to an administrative reform measure that is scheduled to take effect at the time this report is completed. The reform measure has been discussed elsewhere in this report.

Nationalization with compensation is allowed in accordance with law (Article 202) and requisition with payment is allowed in case of natural disaster, epidemic, or other extraordinary circumstances (Article 203). Furthermore, the right of ownership can be terminated by compulsory acquisition through a court decision or by an act of legislation (Article 197). If an act of legislation terminates the right of ownership, the losses caused to the owner, including the value of the property, shall be compensated by the state. It should be noted that the division of ownership between land and buildings can make the valuation procedure cumbersome. Disputes concerning compensation are to be settled by the court (Article 233). Finally, property can be confiscated for the commission of a crime or other violation of law by a decision of the court (Article 204).

When property is withdrawn and the party is entitled to compensation, the compensation is determined based on the prices of similar property. This assessment may be contested in court (Article 205). If rights to ownership are terminated by a decision of a state agency, and that decision is not directed toward the owner of the property, the owner must be provided with property of equal value and be compensated for all losses. If the owner disputes the termination, the property cannot be withdrawn until the dispute is resolved in court (Article 206). It is important to note that the compensation does not include loss of the leasehold.

### **Agricultural Land Tenure**

Note that the provisions of the Civil Code in this area have been modified to the extent that the reform measures adopted in the Farm Law eliminate *shirkats* by the end of 2006.

The Civil Code provides that agricultural enterprises shall be allocated land into permanent ownership. Citizens and non-agricultural enterprises shall be allocated land in permanent or temporary use. Temporary use can be short term (up to three years) or long term (three to ten years). *Dekhan* farms shall be allocated land for lifetime inheritable possession.

Citizens have a right to receive a land plot in lifetime inheritable possession for establishing a private subsidiary plot or a *dekhan* farm; for construction, purchasing, or inheriting a house; or for producing traditional handicrafts. Other legislation can stipulate the allocation of land plots for ownership or for other purposes (Article 20).

Agricultural land may be leased to citizens, local government bodies, or enterprises for not less than ten years. Agricultural enterprises may lease land to workers or groups of workers on the enterprise. The lease shall be determined by agreement of the parties and fixed in a contract. The lease payment shall be established by separate legislation (Article 11).

Allocation of land plots for ownership is the responsibility of the Cabinet of Ministers and local self-government bodies (Article 12). Foreign legal entities and citizens may own the land on which their building stands (Article 12-1).

Local governments at the village and town level are responsible for approving the maximum size of personal subsidiary land plots. They are also responsible for: (1) protection of the land; (2) allocation of land for ownership, use, and lease (except within an agricultural or forestry enterprise); (3) withdrawal of land within the village and cessation of the right to land; and (4) registration of ownership and lease of land plots (Articles 4, 5).

Regional governments are responsible for: (1) control over use and protection of land; (2) allocation of land for ownership, use, and lease to citizens, enterprises, or *dehban* farms; (3) withdrawal of agricultural land (except irrigated land, hayfields, and pastures owned by the forest fund or occupied by industry, transport, communication, or defense); (4) management of the water fund (10 hectares per land user); (5) allocation of land from the land fund for ownership, use, or lease; (6) cessation of the rights of ownership to land, except land within the competence of the village and town governments; (7) registration of ownership and lease of land; (8) resolution regarding ownership of land on a collective farms in case of reorganization or liquidation; (9) organization of land cadastre; (10) organization of land development; and (11) collection of rent for land allotted to citizens for collective gardening and vineyards (Article 6).

The right of ownership and use of land can be withdrawn by local government bodies for the following reasons: (1) voluntary return of the plot; (2) expiration of the term of use; (3) cessation of the activity of the enterprise or *dehban* farm; (4) violation of the lease contract; (5) unlawful use of land; (6) cessation of labor relations; (7) irrational use of land resulting in a less than normative yield for agricultural land; (8) use that leads to a reduction in soil fertility or environmental harm; (9) systematic non-payment of land tax or land lease; (10) non-use of land for one year for agricultural land or two years for non-agricultural land; and (11) non-use of land purchased at auction for lifetime inheritable use or non-use of pledged land. Landowners will be compensated if their land is withdrawn for non-use. Land users may appeal to a court if their land was withdrawn under sections 5, 7, and 8 above (Article 13). Land users have the right to receive payment for the improvements made to their land if their land use is terminated (Article 18(4)).

Landowners and land users, including lessees, shall receive compensation for their land, including lost profit, when the land is withdrawn temporarily, restricted, or the soil quality is worsened due to public necessity such as building water channels, etc. (Article 50). Disputes shall be settled by the economic court (Article 50).

Land can be taken for state or public needs by local government bodies with the “consent” of the landowner or land user. If the landowner or land user does not agree to the taking, he may bring a court action (Article 14).

### **Land Transactions**

Landowners have the right to transfer their land plot for temporary use to another member of the farm (Article 17(7)). Land users have the right to transfer their land plot for temporary use upon a decision of the local government (Article 18(6)).

Landowners have the right to obtain credits for private subsidiary farms and to build a private house. Land users who hold their land in lifetime inheritable possession may pledge their land plot if they purchased it at an auction (Article 17(9)).

Legal entities and citizens (including foreign) have the right to purchase a housing land plot or a land plot under an object of trade or service in cases stipulated by legislation (Article 20-1).

Buying, selling, mortgage, and exchange of land plots by land users without permission shall be invalid (Article 64). Mortgages are allowed in those cases described in Article 17(9).

## Household Plots

The administrations of agricultural enterprises shall allocate to members, workers, and social service workers land for household plots in lifetime inheritable possession. The administration can allocate up to 0.2 hectares of irrigated land and 50 hectares of non-irrigated land. The criteria for size of the household plot include: availability of land, participation of the recipient in the work of the collective farm, the limits set by the enterprises charter, and the opinion of the administrator (Article 21).

Those who have worked for more than 5 years can receive additional land on the territory of the farm where they have worked. Those members and workers who own cattle can receive pasture land if it is available. The allocations must be approved by the local village government. Up to 0.06 hectares can be sold at auction for lifetime inheritable possession (Article 21).

Citizens living in towns and not members of an enterprise can receive up to 0.06 hectares of land in lifetime inheritable possession to build a house. Up to 0.04 hectares can be sold at auction (Article 22).

## Restructuring of Agricultural Enterprises

Regional governments are responsible for allocating land for establishing *dekhan* farms. The land is to be conveyed by lifetime inheritable possession or lease for a term of not less than 10 years. The regional government determines the size of the land plot and must take into account the number of workers on the farm (Article 23).

Regional officials are responsible for allocating land to agricultural cooperatives that are established due to the division of collective or state farms (Article 30).

Land from agricultural enterprises can be allocated in lifetime inheritable possession to citizens of rural areas who do not have private plots or gardens for the creation of a garden. Land can be allocated in temporary use for tractor farming. Gardens can be up to .06 hectares and tractor farms can be up to .08 hectares. This land will be allocated by the administrations of the agricultural enterprises (Article 31).

Unused or inefficiently used land can be allocated in permanent ownership for part-time farming to nonagricultural enterprises to the employees of such enterprises (Article 32).

As can be seen from the lengthy outline above, the Civil Code contains an extensive number of articles governing land relations. Significantly, the definition of real property appears to provide that real property consists of a land plot and appurtenant permanent construction, trees, and underground construction (Article 83), and such real property is also fully transferable (Article 182). This is not the definition contained in the Land Code, as explained below.

Purportedly, the Civil Code real property concept is often argued among experts, and the prevalent view is that Article 83 establishes four different categories of real property and not one consisting of four parts. Ultimately, this may be insignificant as the Land Code is deemed to be the specific statute governing land tenure. In addition, Article 187 of the Civil Code provides for a property ownership right to be established by adverse possession if the land is occupied for an uninterrupted and public period of five years from the time an action could have been brought to challenge the occupancy.

As can be seen, the Civil Code also contains numerous references to other legislation that impacts its own provisions. This is not unusual among Civil Codes designed in the Russian Federation, Ukraine, Armenia, or other former republics, but there are no direct citations as to which legislation would modify the broad conditions contained in the Civil Code. Legislative drafting should provide for specific reference to other laws applicable if it is to be transparent and useful during any legal dispute or for research purposes.

However, rather than modifying the Civil Code to be more precise in its references and clearly establishing its superiority to other laws (which should be a future objective), an interim recommendation is to commission an annotated Civil Code. The annotation would clearly set forth the intent of vague or broadly applicable

articles. Annotations are useful in creating a transparent legal system, understandable to professionals and the general public alike. Such an annotation was supported by the USAID Land Titling and Registration Project in Armenia during the period from 1998 to 2001. In that case, the annotations took the form of a book that described the purposes and intent of the many articles in the Civil Code dealing with rights to real property, and it was written by a law firm that had worked closely in the original drafting of the Code. As a matter of future practice, important national legislation should all be annotated.

### **3.2.3 The Land Code**

The Land Code (1998, as amended) is the principal legal foundation governing land policy and tenure in Uzbekistan. The distinction between land and permanent structures attached to land is strongly present in the Land Code and does not mirror the concept contained in the Civil Code which appears to deal with land and buildings as a single concept.

As previously mentioned, land tenure forms only a part of overall land policy in any country. The highest form of land tenure established by the Land Code is life-long inheritable possession. This is followed by various forms of lesser rights affecting land, as follows:

- Permanent use (Article 20);
- Temporary use from three to ten years (Article 20);
- Lease (Article 24) in the form of a temporary use right of between ten to fifty years; and
- Joint possession and use (Article 21).

The Land Code sets forth the methodology for acquisition, transfer, and circumstances of termination of the foregoing rights. Transfer of rights is so significantly restrictive, and causes for termination are sufficiently expansive and vague, that the rights purportedly created are highly contingent, illusory, and of limited value. Although the impact of these restrictive transfer rights and causes for termination broadly depress initiative and investment by farmers in general, they have considerable adverse effects on land subject to state quotas.<sup>18</sup>

According to the Land Code, land belongs to the state. Therefore, individuals may only enjoy use rights identified with a particular parcel, which cannot be transferred. A land parcel is a plot with fixed boundaries<sup>19</sup> that is formed during the planning process.

Recommendations to revise the Land Code, as well as the Civil Code, revolve around drafting consistent provisions with specific reference to other laws and regulations, avoiding vague references. However, to strengthen security of tenure, mere revisions such as these will not suffice. A determination by the GOU to implement further reforms, such as permitting the transfer of leases or their sublease and use as collateral, will require substantial revisions to both Land and Civil Codes. In that case, consideration should be given to adopting a new land code with supporting regulations governing the technical issues. At the same time, any new land code and amendments to the Civil Code must be consistent in their definitions regarding land tenure rights.

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<sup>18</sup> The quota system applies to grain and cotton but not to land producing high value crops such as fruits and vegetables.

<sup>19</sup> From a surveying and registration perspective, fixed boundaries are established, normally during systematic registration, by field surveys characterized by different levels of accuracy depending on the type of land: urban or rural. A discussion of survey techniques, their relationship to registration, and dispute resolution is not part of this report.

### 3.2.4 The Mortgage Law

The Mortgage Law (December 9, 1992 as amended May 1, 1998) is a broad legislative act that distinguishes several types of mortgages: those attached to property (moveables), land, and buildings, as well as provisions for secondary mortgages and priorities. For the purposes of this report, only those provisions dealing with the mortgage of real estate (both land and buildings) will be discussed.

Article 1 sets forth the concept of a mortgage and refers to the “transfer of real property or the right to it, to another person” pursuant to a pledge. The agreement can involve a “loan, bank credit, lease, acquisition, cargo transportation and other obligations...”

Article 37 specifically refers to mortgages of immovables as *ipoteks*, and Article 38 lists those objects that may be the subject matter of the mortgage, which include “property connected with the land, buildings, and structures, flats,... enterprises,... residential premises together with the parcels on which they are located... fruit, products, and income obtain as a result of the mortgaged property use...”

The law also separates physical objects from the mortgage of rights, in particular the rights of the mortgagor to “possess and use, including those of the lessee...” (Article 43).

Mortgages can be entered into through written, registered agreements. Although the wording is somewhat unclear, the validity of any mortgage appears to depend on its registration with the appropriate authorities. The rights and duties of the mortgagee and mortgagor are detailed and specific.

Finally, Article 49 specifically deals with choice of law provisions for mortgages. This article appears to allow the parties to select the law of a country, other than Uzbekistan, for the enforcement of the mortgage. The consultant is unaware of which international agreements Uzbekistan is a party to, but it is highly unlikely that a foreign choice of law would be effective in an Uzbek court on property located in Uzbekistan. As a practical matter, a foreign judgment would likely be impossible to enforce in Uzbekistan in this specific type of matter. Further research on this issue would need to be undertaken before the effectiveness of this article could be determined.

The Mortgage Law is detailed, perhaps excessively so, but it provides a suitable foundation for a variety of secured transactions, including those dealing with land, buildings, usufruct rights, and leases. However, as a practical matter, it is highly doubtful that a lender would take a lease, particularly an agricultural lease, as collateral for a loan. Nor is it clear how any loan could be secured against any production from a farm that was subject to a contract requiring the sale of cotton or grain to the government. The government would simply have the superior claim and the loan would largely be unsecured. Consequently, for the credit market to improve and for the Mortgage Law to be useful, the security of the collateral must be strengthened substantially. This will require the implementation of a significant effort to harmonize the Civil and Land Codes as well as to modify the Farm Law so that leasehold rights are made transferable.

Nevertheless, the fact that the Mortgage Law contemplates land, buildings, and leases as security should ultimately result in credit facilities for farmers as leasehold interests become more secure.

#### Legal Conclusions

All the foregoing laws form the foundation for land tenure rights based on leasehold interests. However, leasehold tenure is not secure under the present structure. The principal issue is not the inconsistent language used in all the above, although this must be addressed, but rather the effective enforcement of what is currently the legal foundation for tenure security followed by amendments to the Land Code (particularly Article 24) or drafting a new law dealing with land relations when leasehold rights are made tradable. Certainly, it would be appropriate to permit sub-leasing of rights to parcels.

Since leasehold rights are currently in the process of being identified through unique parcel identifiers (Lahmeyer International project), those rights can be further guaranteed through the enactment of a registration law. A registration law should be a priority in the near future and examples of successful

registration laws can be found in Armenia (the only CIS country with a fully electronic title registration and mapping system with state guaranteed title), Georgia, and most European countries. Russia's registration law is cumbersome, and the new registration law in Ukraine has not been implemented so it is impossible to say whether it will work well.

Virtually all recommendations in the past have said that the leasehold tenure rights must be made secure through a variety of measures. Lease contracts are too easily terminated for minor breaches and lend themselves to abuse and manipulation. Leases should also be standardized on a nationwide basis.

Information is a key necessity for right's holders as well. Knowledge of legal rights and responsibilities, for the lessor as well as the lessee, should be a goal of the GOU, so that farmers are treated fairly.

Finally, land policy and land laws are separate and distinct. Land policy is a tool and should not be incorporated into laws. An example of the issues confronting land policy, how land policy is determined and the questions that should be asked, follows in Section 4.3.

### **3.3 LAND POLICY CONSIDERATIONS**

Land policy, as mentioned in the introduction, is an integral part of land use planning. This section provides a very brief discussion of the elements of a nationwide land policy planning program for the purpose of reviewing past reforms, assessing current programs, and planning for the next steps in land reform.

Land policy is a key component of the economic and social structure of a country. The following is intended to be a road map for further analysis and policy formulation by the GOU.

The consultant has relied heavily on European Union and United Nations policy guidelines and previous work completed in this field. Land policy reform has been extensively analysed in the past, and fundamental principals have been recognized. Therefore, the essential framework for effective policy reforms has been proven and established.

Equitable, sustainable economic development, as well as social stability, is highly dependent on land policy and institutional reforms. Designing a comprehensive land policy is a government responsibility. A land policy must propose practical and coherent rules, authorities, and tools, which are considered both legitimate and legal and that offer methods for dealing with the diverse problems faced by people. The consideration of specific land policy reforms should be viewed in the context of securing the broad objectives of social justice and economic development.

Land policy is linked to a wide array of issues such as land tenure, economic development, public administration, and local government decision-making, contractual relationships, inheritance law, environmental regulations, agricultural development, and human rights.

It is possible to break down the content of a rational, coherent land policy into seven components, which comprise an overall framework. The seven policy components are as follows:

1. Conceptual
2. Institutional
3. Legal
4. Fiscal
5. Land Utilization
6. Social
7. Technical

Each component has its own set of questions, criteria, and desired outcomes.

Land policy must be treated as a whole, utilizing an integrated approach. A guiding principal should be that the core principals of land policy must provide equal access to property for all people while respecting the sensitivity to local needs. Policies must ensure that formalizing and transferring property rights are as simple and efficient as possible. The policy agenda must ensure that there is a balanced and integrated approach to urban and rural society.

It must be clearly understood that development of a coherent national land policy is a long-term undertaking that requires a commitment to coordination and cooperation among all stakeholders. A key element in land policy development is social justice and public/private partnerships.

A land policy must, at the least, contain the following principals:

- A long-term view that is secure and independent from politics;
- Creation of a vision highlighting the intended development path;
- Established and connected to existing systems, expectations and successful practices;
- Dedication to an evolutionary process of change rather than sudden upheaval; and
- Implementation of a dialogue between the government and its citizens.

Land policy development must be promoted as a participatory approach. To assist in developing the framework, it is recommended that a lead group, which can be an agency, commission, or committee, be established, composed of experts from the key stakeholders. Prioritisation of goals must be carefully defined, taking into consideration the principal strategic challenges and issues, together with actions currently underway and capacity to implement reforms.

Land policy is a complex area and will not be developed over the short term. It must be evolutionary, inclusive, transparent and feasible.

Some questions that should be addressed for each of the components are as follows:

### **Conceptual**

- What is the definition of 'land'?
- How connected are urban and rural land?
- How linked are land values, ownership rights, and use rights?
- Does the market drive land reforms?
- What is the status of formal and informal systems?

### **Institutional**

- Is there a lead agency? Are they impartial?
- Is the system centralized or decentralized?
- Are data and decision making related?
- Will there be public/private partnerships?
- Will performance be monitored?

## **Legal**

- What property rights, restrictions, and obligations are recognized?
- What is the process to formalize title?
- Are minority rights protected?
- What are the dispute resolution procedures?
- What, in law, are the roles of maps and surveys?

## **Fiscal**

- What is the form of land and property taxation?
- Who will receive community created land values?
- Will the valuation system be transparent?

## **Social**

- Does land policy address social justice and human rights?
- Is there a partnership with landholders?
- What are the plans for capacity building and communicating with stakeholders?

## **Technical**

- Is technology the servant or the master?
- How will data be captured, processed, and distributed?
- What national policies exist regarding access to information?

## **Land Utilization Control**

- How will change be stimulated and monitored?
- What is the impact of the system of inheritance?
- What actions are taken with regard to informal developments?
- How is sustainability defined, and how is it determined?

The GOU has chosen a step-by-step approach to land reform. Needless to say, some of the foregoing questions have been addressed, but the answers are contained in a variety of reports and assessments. In addressing its next stage of reform following the conversion of all *shirkats* to Farms, it is advisable to re-address the questions above to arrive at a future, coherent national plan.



#### 4.0 POSSIBLE FUTURE NGO ACTIVITY

NGO activity is limited and difficult. However, as previously mentioned in the donor program section, follow-on activities could be implemented through the following organizations:

1. The Bokhara and Dzhizakskoy Association of Women *Dekhan* and Farm Owners;
2. The Center for Economic Research; and
3. The Uzbekistan National Training Center for Knowledge and Development.

These organizations could be used most effectively in an information and support campaign for farmers. In particular, training and information sources are an important input to help leaseholders defend their rights and be aware of their obligations.

NGOs should be used in the context of land reform to increase participation in the defense of their rights, even under current legislation, and to work with local officials to assure fair and transparent enforcement of legal obligations, both of farmers and local administrations.

It should be pointed out that the National Training Center has successfully worked with Winrock International and has conducted more than 1,500 interactive training seminars for over 37,000 participants. They appear to be very qualified to support the legal needs of farmers. Furthermore, training and seminars for farmers have the verbal support of the local administrative agencies interviewed by the consultant.

The Center for Economic Research is primarily a think tank. However, it could be used effectively for providing support to establishing secure tenure rights by preparing and disseminating a variety of reports and recommendations to the government.

Finally, the two Women's *Dekhan* and Farmers Association also appear to be well equipped to supply support, advice and information in their respective regions. Both have worked with USAID funded organizations in the past.

## 5.0 RECOMMENDATIONS

Although this report contains many implicit recommendations, some recommendations deserve further emphasis. It is worth repeating that overriding concern for farm productivity in the cotton sector drives the forms of land tenure that the GOU is willing to make available to farmers. This linkage does not appear to be susceptible to substantial change in the near term. Therefore, recommendations below and within the report are framed to take into consideration the announced step-by-step approach being implemented by the GOU in connection with land reform, as well as the fact that land is considered a strategic resource that must be preserved for the future. The latter is enshrined in the Constitution and is unlikely to change.

Nevertheless, although the leasehold system of land rights has acted and will continue to act as a hindrance to any progress toward a market economy, it should be recognized that this system can be improved so as to form a foundation for further reforms in the future. An interim secure tenure system can be developed on the basis of leasehold rights, subject to certain requirements.

A key component to secure tenure, which is beyond the scope of this report, is the availability of an independent enforcement mechanism, whereby rights both of the GOU and leaseholders, are protected. Therefore, underlying any implementation of reform is an accessible and fair dispute resolution system, whether through the courts or some other legal structure.

The principle recommendations to increase security of tenure based on leasehold rights are set forth below:

1. Lease rights should be made meaningful. The most effective value enhancing and productivity increasing mechanism is to make lease rights fully transferable, including permitting the right to sub-lease, mortgage, or otherwise transfer leasehold interests. The strength and scope of land tenure security directly impacts the value of the right, a result that has more than ample evidence on a world-wide basis. The GOU, in its evaluation of *shirkat* farms, has already concluded that farmers produce more products if their rights (perceived or actual) are expanded. The next logical step is to make leaseholds more secure by allowing transferability in various forms coupled with reduced quota requirements. Transferability will also allow for the use of credit facilities that farmers, in particular, could use to create additional capital.
2. Lease contracts should be standardized on a nationwide basis. Lease contracts, although somewhat standardized, are subject to modification by local authorities for any or no reason. This does not enhance trust or tenure and completely prevents the leases from being used as collateral, even if they were mortgageable.
3. Lease contracts should not be terminated except in those clear instances where a leaseholder has apparently deliberately failed to comply with its terms. Nevertheless, such apparent failure must be subject to proof in the courts or other dispute resolution body. Although the current system theoretically excuses farmers from compliance with the quota imposed on the basis of *force majeure* or actions and inactions by third parties, in practice this does not work, and farmers are unwilling to invest in the leasehold beyond the minimum necessary.
4. Merge land rights with the rights to any building or structure located thereon. The concept of merger already exists in law, as mentioned in the body of this report. It should also be merged in practice. This is particularly important in urban areas where future investments will require that the land and buildings be treated as a unit for, among other reasons, credit purposes. Investment is also restricted when land and buildings are treated separately. For example, in the event of condemnation or other loss of use of the real estate, only compensation for the loss of a structure (in whole or in part) is considered. Loss of the land use right is not compensable. This 'zero' valuation of land use rights does not recognize that land use rights have value and must be considered both from an investment and tax perspective.

5. As stated in recommendation number 1, leases must be mortgagable so as to provide incentives to investors for development and allow farmers to leverage their assets to release dead capital.
6. Establish extension offices that would provide legal and business advice to leaseholders.
7. Implement a nationwide series of seminars for farmers and local administrations to support business planning and knowledge of legal rights and responsibilities.
8. Separate regulatory provisions from laws, to avoid the necessity of amendments to laws, and required submission to Parliament and the Senate, when technical circumstances change.
9. Separate the registration and land use monitoring functions at the newly formed Goskomzemgeodescadastre. Combining these functions not only slows the registration system, but creates a conflict of interest since land use monitoring can be used to terminate leasehold rights. Security of tenure is significantly enhanced through a registration system. Yet in many instances, the technical concepts of the cadastre are conflated with the legal concepts of registration of rights to the parcel identified in the cadastre. Registration of rights to parcels is a legal function and must be performed quickly and accurately. Data gathering of technical information, such as soil types, only slows the process if linked to registration. The two functions should be separate.
10. Modify the quota percentages required for cotton and wheat so as to allow farmers a percentage whereby they may grow whatever crop they feel is in their interests. A suggested initial breakdown might be 50 percent, 30 percent, and 20 percent for cotton, wheat, and 'other,' respectively. This will allow farmers to grow higher value product that will result in larger farmer incomes.
11. Implement a training program for the judiciary regarding all issues that arise from tenure and leasehold questions. Consideration should be given to establishing a special Land Court with properly trained and independent judges to hear disputes arising among farmers or between farmers and local governments.
12. Conduct an overall land policy review. This can be accomplished by the appointment of an independent commission composed of experts, not political appointees that will provide recommendations to the GOU. It should not be subordinated to any government ministry or office.

The consultant recognizes that the GOU will want to rely on factual evidence that the reforms resulting in secure and tradeable tenure will also increase—or at least, not decrease—productivity. The foregoing recommendations, particularly numbers 1, 2, 3, 5, and 10 should be incorporated into a pilot project in a region that is subject to the quota system that tests the concepts outlined in this and other reports. The pilot region should create a special zone that would permit leasehold rights to be transferred, sub-leased, and given the ability to be used to obtain credit. Furthermore, in the optimum scenario, from an economic standpoint, the pilot should be either completely or partially exempt from quota requirements, so that farmers could grow and sell products in whatever method they select. If full exemption from the quota is not selected, then at a minimum the pilot should allow farmers to reduce the quota so that at least 20 percent of the leasehold area is not subject to restrictions. Finally, the leasehold rights should be exempt from termination, unless the farmer deliberately contravenes the terms of the lease or egregiously damages the soil or environment. This pilot should be implemented over a two year period to coincide with the elimination of *shirkat* farms.

The results from the pilot can easily be measured and the evaluated by the GOU. These results would be expected to show an increase in productivity, a primary concern for the GOU, and an increase in investment by, at least, the farmer.

The current system is ultimately unsustainable from an economic, social, and environmental standpoint. It will require changes that satisfy the needs of all the parties, but, in particular, the leaseholders.

## **ANNEX A: MEETINGS, DATES, AND INTERVIEWS**

### **1. March 22, 2005, 9-00**

**Place:** Tashkent. State Committee for Land Resources, Geodesy Cartography and State Cadastre of the Republic of Uzbekistan (hereafter “Uzgoskomzemgeodezcadastre”).

**Participants:** R. Shepard, G. Nazarov

**Meeting with:** Mr. A. Samborsky – local consultant

**Contact information:** tel. (99897) 154-32-16  
e-mail: cadastre@mail.tps.uz

### **2. March 22, 2005, 10-20**

**Place:** Tashkent. “Uzgoskomzemgeodezcadastre”.

**Participants:** R. Shepard, G. Nazarov, A. Samborsky

**Meeting with:** 1. Mr. Arabov, Said - Chief of Land Use and Land Use Organization Department;  
2. Mr. Karimov, Anvar – Chief of Land Use Monitoring and Environment Protection Department.

**Contact information:** tel. (998712) 77-76-14

### **3. March 22, 2005, 11-30**

**Place:** Tashkent. Research-Design Institute “Uzdayerloyiha”

**Participants:** R. Shepard, G. Nazarov, A. Samborsky

**Meeting with:** 1. Mr. Abdullayev H., Anvar – Director General of the Institute;  
2. Mr. Melnikov T., Boris – Senior Engineer;  
3. Mr. Onishchenko M., Yuriy – Senior specialist;  
4. Mr. Maksudov M., Jahongir – Director General of Institute’s branch enterprise “Yerkadastr”  
5. Mr. Tursunov A., Abdumannop – Senior Engineer branch enterprise “Yerkadastr”.

**Contact information:** tel. (998712) 77-03-20

### **4. March 22, 2005, 14-30**

**Place:** Tashkent. Research-Design Institute “Uzdayerloyiha”

**Participants:** R. Shepard, G. Nazarov, A. Samborsky

**Meeting with:** 6. Mr. Abdullayev H., Anvar – Director General of the Institute;  
7. Mr. Melnikov T., Boris – Senior Engineer;  
8. Mr. Onishchenko M., Yuriy – Senior specialist;  
9. Mr. Maksudov M., Jahongir – Director General of Institute’s affiliate enterprise “Yerkadastr”  
10. Mr. Tursunov A., Abdumannop – Senior Engineer affiliate enterprise “Yerkadastr”.

**Contact information:** tel. (998712) 77-03-20

**5. March 23, 2005, 10-30**

**Place:** Tashkent. “Uzgoskomzemgeodezcadastre”.  
**Participants:** R. Shepard, G. Nazarov, A. Samborsky  
**Meeting with:** Mr. Abduvali A., Abduazizov – Chairman of the Committee  
**Contact information:** tel. (998712) 77-76-14  
fax: (99871) 173-84-01

**6. March 23, 2005, 11-45**

**Place:** Tashkent. “Uzgoskomzemgeodezcadastre”.  
**Participants:** R. Sheppard, G. Nazarov, A. Samborsky  
**Meeting with:** Mrs. Zuhra F. Ibragimova – Deputy Chief of the Economic Legislation Department of the Ministry of Justice of the Republic of Uzbekistan.  
**Contact information:** tel. (99871) 133-46-33

**7. March 23, 2005, 15-00.**

**Place:** Tashkent. “Uzgoskomzemgeodezcadastre”.  
**Participants:** R. Shepard, G. Nazarov, A. Samborsky  
**Meeting with:** Mr. Alexander S. Chertovitsky - Professor of Tashkent Institute of Irrigation and Agricultural Mechanization Engineers  
**Contact information:** tel. (99871) 137-19-16 (office);  
(998712) 67-71-25 (home).

**March 24, 2005. Field Trip to Syrdarya Region**

**8. March 24, 2005, 10-15.**

**Place:** Gulistan. Regional Cadastre Service Department.  
**Participants:** R. Shepard, G. Nazarov, A. Chertovitsky  
**Meeting with:** Mr. Olimjon K. Maharov – Chief of Cadastre Services Department  
**Contact information:** tel. (36722) 5-25-28 (office)  
(36722) 7-82-93 (home)

**9. March 24, 2005, 11-15**

**Place:** Gulistan. Regional Department of Land Resources and Cadastre.  
**Participants:** R. Shepard, G. Nazarov, A. Chertovitsky  
**Meeting with:** Mr. Aymatov, Toshmuhammad – Chief of Department  
**Contact information:** tel. (36722) 5-41-64 (office)  
(3672) 77-48-61 (mobile)

**10. March 24, 2005, 12-15**

**Place:** Ak-Altyn district. District’s Land Resources Department  
**Participants:** R. Shepard, G. Nazarov, A. Chertovitsky

**Meeting with:** Mr. Namanov, Shavkat – Chief of Department; 3 (three) farmers.  
**Contact information:** tel. (3673) 43-11-01 (office)

**11. March 24, 2005, 14-45**

**Place:** Ak-Altyn district. Agricultural Consulting Center “Agrosanoat”.  
**Participants:** R. Shepard, G. Nazarov, A. Chertovitsky  
**Meeting with:** Mr. Holbekov, Gaybulla – Director.  
**Contact information:** tel. (998672) 43-12-82 (office);  
(998672) 24-25-96 (cell.);  
(998672) 41-12-65 (home).

**12. March 25, 2005, 10-30**

**Place:** Tashkent. USAID-Winrock International “Farmer to Farmer” Project  
**Participants:** R. Shepard, G. Nazarov  
**Meeting with:** 1. Mr. Richard McQuady – Regional director;  
2. Ms. Inobat Avezmuratova – Deputy Director  
**Contact information:** tel. (99871) 120-75-89  
fax: (99871) 152-56-11

**13. March 25, 2005, 14-30**

**Place:** Tashkent. USAID-BearingPoint Barents Group “Uzbekistan - Economic Reform” Project  
**Participants:** R. Shepard, G. Nazarov  
**Meeting with:** 1. Mr. David S. Martin – Chief of the Party;  
2. Mr. Eshref Trushin – Senior Economist.  
**Contact information:** tel. (99871) 152-5414/-1460  
(998712) 56-7934/-6665  
fax: (998712) 56-5777  
e-mail: dmartin@bcc.com.uz

**14. March 25, 2005, 16-00**

**Place:** Tashkent. Center of Agribusiness and Entrepreneurship  
**Participants:** R. Shepard, G. Nazarov  
**Meeting with:** 1. Mr. Rasulmat Kh., Khusanov – Member of the Board;  
2. Mr. Fatimakhon, Nazarova – Chairman of the Board.  
**Contact information:** tel. (99871) 173-92-93  
(998712) 76-22-27

**15. March 28, 2005, 11-00**

**Place:** Tashkent. “Uzgoskomzemgeodezcadastre”.  
**Participants:** Zongmi Li, R. Shepard, G. Nazarov, A. Samborsky, D. Sultanova  
**Meeting with:** Mr. Abduvali A., Abduazizov – Chairman of the Committee  
**Contact information:** tel. (998712) 77-76-14  
fax: (99871) 173-84-01

**16. March 28, 2005, 14-30**

**Place:** Tashkent. USAID – Regional Mission for Central Asia  
**Participants:** R. Shepard, G. Nazarov  
**Meeting with:** Mr. Ulugbek, Isayev – Project Management Specialist  
**Contact information:** tel. (99871) 120-63-09  
fax: (99871) 133-76-56  
e-mail: uisayev@usaid.gov

**17. March 28, 2005, 16-00**

**Place:** Tashkent. Rural Restructuring Agency  
**Participants:** Zongmi Li, R. Shepard, G. Nazarov. D. Sultanova  
**Meeting with:** Mr. Alisher Yuldashev – Deputy Director General  
**Contact information:** tel./fax: (99871) 137-16-58  
e-mail: alisher-yuldash@yandex.ru

**March 30, 2005. Field Trip to Tashkent Region**

**18. March 30, 2005, 14-00**

**Place:** Tashkent. Regional Cadastre Services Department.  
**Participants:** R. Shepard, G. Nazarov. Kimyo Abdurakhmanova  
**Meeting with:** Mr. Tohir Anarbayev – Chief of Regional Cadastre Services Department  
**Contact information:** tel.: (99871) 134-11-63  
(99871) 104-17-73

**19. March 30, 2005, 15-00**

**Place:** Tashkent region. Tashkent district. Keles.  
District Cadastre Services Department.  
**Participants:** R. Shepard, G. Nazarov. Kimyo Abdurakhmanova  
**Meeting with:**

1. Mr. Anvar A. Yusuphodjayev – chief of District Cadastre Department;
2. Mr. Kim V. Vyacheslav – leading specialist of Regional Cadastre Service
3. Mr. Aziziov Abdufattoh – Chairman of District's Farmers Association;
4. Farmer.

**Contact information:** tel.: (99871) 56-100  
(998296) 56-100

**20. March 31, 2005, 10-00**

**Place:** Tashkent. Center for Economic Research  
**Participants:** R. Shepard, G. Nazarov.  
**Meeting with:** Mr. Tal'at Shdybayev - Research Coordinator  
**Contact information:** tel.: (99871) 151-25-56/-59  
fax: (99871) 151-25-48  
e-mail: tal'at.shadibayev@cer.uz

**21. March 31, 2005, 14-00**

**Place:** Tashkent. Ministry of Agriculture and Water Resources  
**Participants:** R. Shepard, G. Nazarov.  
**Meeting with:** Mr. Abdurahmat Muborakov – Deputy Chief of Cotton Growing Department  
**Contact information:** tel.: (998712) 41-24-62 (office)  
(99871) 137-12-05 (home)  
fax: (99871) 144-21-74  
e-mail: muborakov@yahoo.com

**22. March 31, 2005, 16-00**

**Place:** Tashkent. USAID-Winrock International “Farmer to Farmer” Project  
**Participants:** R. Shepard, G. Nazarov  
**Meeting with:** Inobat Avezmuratova – Deputy Director  
**Contact information:** tel. (99871) 120-75-89  
fax: (99871) 152-56-11

**23. April 1, 2005, 15-00**

**Place:** Tashkent. ADB-Lahmeyer International GmbH  
“Developing an Integrated Cadastre System for Land Resources Management  
and Property Rights Registration”  
**Participants:** R. Shepard, G. Nazarov, A. Samborsky  
**Meeting with:** Mr. Klaus Sponer – Team Leader  
**Contact information:** tel./fax: (99871) 173-47-10  
(99893) 172-50-42  
e-mail: Klaus.sponer@lahmeyer.de



## **ANNEX B. LAWS AND REGULATIONS REVIEWED**

1. Land Code of the Republic of Uzbekistan, 1998 as amended, English
2. Civil Code, English
3. Constitution, English
4. Law on Farms, Part English
5. Instructions on the Procedure of State Registration of Rights to Parcels, 1999, English
6. Law on the State Land Cadastre, 1998, English
7. Law on Valuation Activity, 1999, English
8. Law on Mortgages, as amended, 1998
9. Resolution of the Cabinet of Ministers: On Maintaining the State Cadastre, as amended, 1997, English
10. Resolution of the Cabinet of Ministers: On Adoption of the Provision on the Procedure of Establishing and Maintaining the General System of State Cadastres, 1996, English
11. Temporary Instructions on the Procedure of State Registration on Rights of Juridical Persons to Land Parcels in Settlements, 1998, English

## **ANNEX C. SUMMARY OF DONOR, NGO, AND STATE ACTIVITIES**

### **United States Agency for International Development**

#### **1. Uzbekistan Economic Reform Project:** Implemented by BearingPoint/Barents Group

An economic development project which impacts land tenure because of the emphasis on the agricultural sector in Uzbekistan. They have successfully implemented a pilot project in the Ferghana Valley that increased farm production by 40-60%.

#### **2. Uzbekistan Farmer to Farmer Program:** Implemented by Winrock International

Provides support and training to farmers in pilot areas. The training helped to change farmers' attitudes of dependence on the government and provided the tools and knowledge to help them exercise their rights and protect their interests.

The two organizations were mentioned, one located in Bokhara and the second in Dzhizakskoy oblast. Both are called of their respective locations. According to the materials provided, the association located in Bokhara has worked with Winrock International and was assisted by IREX in establishing a web site. In addition, they have worked with Mashav, an Israel based organization which is significant since Israel has a leasehold system of farm tenure that clearly works very efficiently. Both organizations are officially registered.

### **Asian Development Bank**

The ADB is currently funding a major project with the State Committee for Land Resources (TA 4218-UZB), Developing an Integrated Cadastre System for Land Resources Management & Property Right Registration. The implementing firm is Lahmeyer International, a large German consulting engineering company. The goal of the project is to develop an integrated computerized cadastre system capable of land resources management and property right registration.

### **Center for Economic Research**

The CER is an independent think tank that provides various studies and reports and is funded by UNDP. Recently, an independent consultant from the University of California completed an investigation of land reform in Uzbekistan which is expected to be posted on the CER web site within 60 days. CER has also worked with USAID programs in the past.

### **Rural Restructuring Agency**

The RRA is implementing three agricultural project funded by the World Bank and the Asian Development Bank. The World Bank funded project is designed to support rural enterprises in five pilot areas. The ADB funded program targets the Alkatyn region, visited by the consultant, and contains similar components to the World Bank project.

### **National Training Center for Knowledge and Development**

The NTC implemented the legal and business training program for farmers under the Winrock Farmer to Farmer program.

### **Association of Women Dekhan and Farm Owners, Bokhara and Dzhizakskoy**

These two organizations help support and provide services to women farmers in their respective regions. The association in Bokhara has received support from IREX and other donor organizations and can implement additional support and information programs.

## **ANNEX D. POTENTIAL ROUND TABLE PARTICIPANTS–FOLLOW ON ACTIVITY**

1. **Yuldashev A.** – Deputy Director General, Rural Restructuring Agency
2. **Shadivaev T.** – Research Coordinator, Center for Economic Research
3. **Avesmuratova I.** – Deputy Director, Winrock International USAID Farmer to Farmer Program
4. **Muborakov A.** – Deputy Chief of Cotton Growing Dept., Ministry of Agriculture and Water Resources
5. **Nazarov G.** – Project Lawyer, USAID Uzbekistan Land Tenure Project
6. **Ibragimova Z.** – Branch Director, Ministry of Justice
7. **Karimov A.** – Chief of the Department, Goskomzemgeodezkadastre
8. **Arabov C.** – Chief of the Department, Goskomzemgeodezkadastre
9. **Khamraev C.** – Chief of the Department, Goskomzemgeodezkadastre
10. **Samborsky A.** – Deputy Director General, National Geodesic and Cartographic Center (NCGK)
11. **Makhsudov B.** – Laboratory Manager, NCGK
12. **Abdullaev A.** – Director General, Uzdaverloyikha Institute
13. **Azizov M.** – Senior Specialist, Uzdaverloyikha Institute
14. **Onyschenko Y.** – Leading Specialist, Uzdaverloyikha Institute
15. **Chertovitski A.** – Professor, TEEM
16. **Abdurakhmanova K.** – Manager, Real Property Cadastre Laboratory, NCGK
17. **Sulyukov T.** – Leading Specialist, NCGK
18. Representatives of the Bokhara and Dzhizakskoy Association of Women Dekhan and Farm Owners.
19. Representatives from the Uzbekistan National Training Center for Knowledge and Development.

## **ANNEX E. PARTICIPANTS IN PRESENTATION OF FINDINGS, “CONSIDERATION OF THE NEXT STEPS IN LAND REFORM”**

**Location:** National Geodesic and Cartographic Center  
Conference Hall – Second Floor

**Date:** 4 April 2005

**Time:** 10:30 AM

### **Participants**

1. **Shepard R.** – International Land Reform Consultant, Uzbekistan Land Tenure Project
2. **Nazarov G.** – Project Lawyer, Uzbekistan Land Tenure Project
3. **Ibragimova Z.** – Branch Director, Ministry of Justice
4. **Karimov A.** – Chief of the Department, Goskomzemgeodezkadastre
5. **Arabov C.** – Chief of the Department, Goskomzemgeodezkadastre
6. **Khamraev C.** – Chief of the Department, Goskomzemgeodezkadastre
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