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# KAZAKHSTAN LAND ADMINISTRATION REPORT

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## **DISCLAIMER**

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## **ACRONYMS AND ABBREVIATIONS**

CAR	Central Asia Republics
CLS	Conditional Land Share
GOK	Government of Kazakhstan
IPRS	Immovable Property Registration System
LRMA	Land Resource Management Agency
MoJ	Ministry of Justice
USAID	United States Agency for International Development

## EXECUTIVE SUMMARY

ARD is implementing a United States Agency for International Development (USAID)-funded Land Tenure Reform Project in the countries of Kazakhstan, Uzbekistan, and Tajikistan; hereafter referred to as the Central Asia Republics (CAR). The objective of the project is to provide assistance to the governments of Kazakhstan (GOK), Uzbekistan, and Tajikistan to 1) develop land laws, policies, and implementing procedures to strengthen property rights; and 2) to assist farmers in Kazakhstan to acquire access to land and defend property rights through the law. This activity is intended to lead to greater investment in agriculture, increased income, and sustainable resource use, as well as promote market development.

One of the primary components of the Land Tenure Reform Project in Kazakhstan is to prepare an assessment of the land administration system. The specific priority areas to be addressed in the assessment are land valuation, cadastre, and registration systems. These are areas where there appears to be time to provide serious inputs to improve the effectiveness of land administration in Kazakhstan.

The objective of the assessment was to analyze and document the existing land administration system, understand the transition of the land management structure in the GOK, and provide recommendations for improving efficiencies, simplifying procedures, reducing the costs involved in the land valuation process, and maintaining the cadastre and the immovable property registration systems.

The assessment found that both the cadastre and the registration systems function well according to their legislated mandates to provide land information and security of land rights. The registration of property rights is not mandatory to conduct transactions for all types of immovable property. All agriculture land rights that are granted in private ownership and/or long-term lease rights from the state to legal or private persons must be registered. However, transactions on private buildings, apartments, and any secondary transactions on privatized land do not have to be registered in the immovable property registration system to make the transaction legal. Deeds registry systems in many parts of the developed world operate in this manner.

The valuation system for agriculture land is based on a very rigid system of coefficients and complex factors that is defined in the Land Code. The Land Resource Management Agency (LRMA) is responsible for valuing all state-owned lands. Private specialists provide valuation of other immovable property. Agriculture land must be valued by USAID using the methodology and valuation factors defined in the Land Code, prior to alienation from the state. However, after alienation from the state, the land can be transacted without any further valuation and can be sold according to market value (in other words, “what the market will bear”). While the land valuation process may appear to be cumbersome, it was found that the value established for agriculture land is reasonable and that the process of conducting valuation does not contribute significantly to increasing the period of time for acquiring land.

The major problem facing citizens wishing to acquire land to establish an individual farm is associated with the challenge of withdrawing their land share from the farm enterprise. The main hurdle is dealing with the enterprise directors and getting approval of all the farm members to withdraw the land. Once this obstacle is overcome, the process of dealing with the cadastre, the valuation process, and the registration system is relatively easy. While the government claims that its policies do not impede the process of withdrawing land, it is quite evident that there is no effort by government to help make the process more efficient, even though they are very much aware of the problems that citizens face.



According to the legislation, every citizen of Kazakhstan is entitled to own and use land in accordance to land use regulations and any other regulatory instruments. However, all government efforts and activities, with respect to access to agriculture land and all land policy, currently favor the establishment and maintenance of large farm enterprises while discouraging the establishment of small individual farm units. Until such a time that the government is willing to change its attitude towards land ownership and support small enterprise development in the agriculture industry, no level of intervention in the cadastre, registration, or valuation systems will have any significant impact on the ease of access to land rights or on the development of a functioning land market in Kazakhstan.



## **I.0 BACKGROUND**

ARD is implementing a USAID-funded Land Tenure Reform Project in the countries of Kazakhstan, Uzbekistan, and Tajikistan; hereafter referred to as the Central Asia Republics (CAR). The objective of the project is to provide assistance to the governments of Kazakhstan (GOK), Uzbekistan, and Tajikistan to 1) develop land laws, policies, and implementing procedures to strengthen property rights; and 2) to assist farmers in Kazakhstan to acquire access to land and defend property rights through the law. This activity is intended to lead to greater investment in agriculture, increased income, and sustainable resource use, as well as promote market development.

One of the primary components of the Land Tenure Reform Project in Kazakhstan is to prepare an assessment of the land administration system. The specific priority areas to be addressed in the assessment are land valuation, cadastre, and registration systems. These are areas for which there appears to be time to provide serious inputs to improve land administration effectiveness in Kazakhstan. World wide it has been proven that an efficient land administration system contributes to the implementation and operation of a successful land market.

Commencing in late 2004, the land administration system in Kazakhstan has been undergoing restructuring. It is understood that certain responsibilities currently held by the Land Resources Management Agency (LRMA) of the Republic of Kazakhstan will transfer to the local *akimats*. An assessment of the land administration system will provide a better understanding of the transition of responsibilities in Kazakhstan and enable the project to provide assistance in developing more efficient systems to improve rural economic development.

This assessment was conducted over a three-week period in March 2005. During the assessment, the government was in the process of making changes to the land administration system at the regional and local government levels. Government officials claimed that they were too busy working on the details of these changes to meet with the consultant. Also, since the changes were in progress, it was not possible to obtain documentation on organizational restructuring. Unfortunately, the assessment will be out of date very quickly if the government implements changes to the land administration system. One of the changes is to establish land relations departments in the municipal, *oblast*, and *rayon* level *akimats*. However, no information on the duties, roles, or responsibilities of these departments was available at the time of the assessment.

## **2.0 OBJECTIVE**

The objective of the assessment is to analyze and document the existing land administration system, understand the transition of the land management structure in the GOK, and provide recommendations for improving efficiencies, simplifying procedures, reducing the costs involved in the land valuation process, and maintaining the cadastre and the immovable property registration systems.

### 3.0 AGRICULTURAL LAND TENURE

In 1995, the Law on Land specified that lands of restructured agricultural enterprises were to be divided into conditional land shares (CLSs) on paper and were to be granted in long-term lease (originally for a term of 99 years, this was later changed to 49 years) to members of the *solkhozes* and *kolkhozes* and citizens of the rural areas who worked as part of the “social sphere” (e.g., doctors and teachers). These CLSs were issued as “undefined common shares,” which means that the limits of the land rights were undefined as physical units and, consequently, the certificate holders were unaware of the location and shape of the land to which they were issued the rights. By 1997, 2,277,000 CLSs had been granted in leasehold for an area of 119 million hectares (an average of 52.26 ha. per share) of agricultural land.

Many citizens who received CLSs subleased the rights to friends, family members, or other citizens. The Land Code of the Republic of Kazakhstan, Code No. 442 of 20th June, 2003, Article 170 - Interim Provisions, Paragraph 2 states that:

“Citizens and non-governmental legal entities who transferred land plots held by them under land use rights into secondary land use (sublease) for the maintenance of peasant (farmer) holdings and commercial agriculture, shall be obliged by the 1st of January 2005 to terminate secondary land use agreements (subleases).

In that case, said persons shall have the right independently to engage in activities associated with the maintenance of peasant (farmer) holdings or commercial agriculture or to transfer land use rights as a contribution or investment to authorized capitals of business entities.

In the cases of lessees' failure to exercise said rights, the termination of secondary land use (sublease) agreements and termination of land user (lessors') rights shall be carried out in accordance with a court procedure pursuant to lawsuits of territorial authorities for the management of land resources, and land plots transferred into secondary land use shall be reserved and included into the special-purpose land stock of the district”

This article has caused much confusion for many farmers who were leasing land and also to many land right holders who were not aware of the law. Many citizens lost their rights through inaction because they were unaware of the law. Also, many farmers who had leased the land and invested in equipment and improvements to the land discovered that they no longer could farm it. An example of one farmer's situation is described in the text box below.

One farmer who was interviewed in the village of Kabanby Bayter (near Astana) told the consultant that he was leasing land from five people who had to cancel their subleases with him. Now, he has just his own share of land and, consequently, his farm size is approximately 50 hectares, as opposed to 300 hectares. He stated that he had invested a lot of money on his farm, but now he has no opportunity to farm. He says that the citizens would still like to form a partnership with him and farm the land. He did not know how to form an enterprise, so he tried to get information from the local officials. He said he had applied to the *akimat*, but that his application was sent to Kakshtau and for six months he has not been able to find out the status of the application. Representatives of the Astana Legal Aid office were present in the meeting and offered to help the farmer. He was very pleased that he finally found someone that could help him resolve his situation.

The vast majority of agricultural land in Kazakhstan is farmed in very large units which are operated similarly to the Soviet system of collective farming. Multiple land share holders contribute their land shares as capital to establish a “farm enterprise.” The enterprise is led by a director and several shareholders who have invested funds or who provide inputs such as seeds, fertilizers, and equipment. These shareholders own between 75 and 95 percent of the enterprise’s shares. Therefore, the landowners who contribute land as share capital can own a maximum of 25 percent of the enterprise. This would indicate that the value of the land is considered to be relatively low compared to the rest of the farm assets. The low land value reflected here is consistent with the low rate of tax reported by the farmer who is quoted below in Section 8. Also, it is relatively consistent with the reported land sales price of 17,000 tenge per hectare. It would indicate that the established ratio of land tax to land sales price is close to the norm in a well functioning land market.

The average cost per hectare for agricultural land is 17,000 tenge (approximately US\$130 at the current exchange rate) while the annual land tax rate is approximately 133 tenge per hectare.<sup>1</sup> This probably explains why the farmers are overly eager to purchase land from the government. Under the current lease agreements, farmers pay the annual tax as lease payments. The annual land tax would have to increase drastically in order to have an impact on decisions to buy versus lease.

As a result of the formula for share ownership in the farm enterprises, these land shareholders qualify at the end of the season for very minimal amounts from the enterprise profits. It is reported that, in most cases, the landowners get nothing more than a few bags of grain as payment for their land assets. It is difficult for the landowners to demand more payment or compensation, as most of them do not have formal agreements with the enterprise director, they do not know how much land they have contributed, they do not know the location of their land share (in fact, they do not have a designated land plot; they have an undefined common share of the former collective or state farm and can be assigned land anywhere within bounds of the farm), and, in certain instances, the landowners are unaware that they have contributed a land share to the enterprise and are, therefore, qualified for compensation.

Government policy encourages the establishment of large farm enterprises and, consequently, there is no government support for individuals wishing to withdraw their land shares and start small private farms. According to reports from *rayon* officials and local citizens, in spite of the fact that land shares have been granted to the people, the mode of operations of the farm remains unchanged except for the fact that fewer people work on the farm, and fewer people derive benefits from it.

According to the Union of Farmers, the demand for the privatization of agriculture land is virtually non-existent because the leasehold conditions are currently so attractive. To date, only 15,000 hectares of agriculture land has been privatized into freehold title in Kazakhstan. All other agriculture land is held in long term-lease. The lease period is generally 49 years. Subsequent to the initial land share distribution of the agricultural land in 1995, there are three approaches to acquiring agriculture land in Kazakhstan: a) Application to the state for land from the agriculture land reserve stock; b) application to withdraw a land share from an established farm entity; and c) purchase of already privatized land.

### **3.1 ACQUIRING LAND FROM THE AGRICULTURE LAND RESERVE STOCK**

While one option presented to enable acquisition of agricultural land stock is to apply to the state for land from the agriculture land fund, there is a shortage of such land in most regions of the republic. Only agricultural land of the worst quality is still available, and most farmers refuse to accept it. This is particularly true in the south of Kazakhstan, where agricultural land is scarce. On the other hand, it has been reported that, under the implementation of Land Code Article 170, Interim Provisions, the government has reclaimed large areas of good quality agriculture land that had been under sublease. No documentary evidence of this

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<sup>1</sup> These numbers were provided for the Akmola *oblast*. There was no opportunity to gather information from the south of Kazakhstan, where land is less abundant

was provided, but the information's source is considered to be reliable. The Land Code states that all citizens of Kazakhstan can purchase land into private ownership, and government officials clearly state "that anyone who has money can buy land in Kazakhstan." Indications are that it is easier and faster to buy land from the land stock (if the land is available) than to withdraw one's conditional land share from a farm enterprise.

### **3.2 WITHDRAWAL OF LAND SHARE FROM A FARM ENTERPRISE**

The withdrawal of land share from a farm enterprise, or in another form of commercial farm establishment in which the land shares have been contributed as share capital, is reported to be a very difficult, frustrating, and often unsuccessful experience for many citizens. Complaints have been that the farm director: a) claims that it is illegal for them to withdraw; b) claims that he does not have proper evidence that they have contributed their shares to the farm; or c) absolutely refuses to acknowledge their request. If and when they are successful in convincing the director to let them withdraw their share, and if they succeed in completing withdrawal process, then they are almost always given the worst land at the most remote part of the farm.

One deputy *akim* defended the farm director's position of assigning land from the edge of the farm to those withdrawing land shares. He stated that "it would disrupt the whole farm operations if land was taken anywhere from the internal area of the farm." Since the share of land contributed to the farm by the citizen has not been spatially defined relative to the farm boundaries, it is easy for the farm director to assign land wherever he wishes for those withdrawing. If the CLSs were spatially defined, there would be no question of location and, thus, no issue when the land was to be withdrawn.

The application to withdraw land is:

- Submitted to *akim* of the *akimat* for processing;
- Submitted to a commission for approval;
- Upon approval by the commission, submitted to the LRMA division for cadastre-related activities; and
- Upon completion of all cadastre works, returned by the LRMA to the *akim* for final approval and applicant notification of application approval or rejection. Only at this time can the certificate of ownership be issued to the farmer.

The commission must call a general assembly of all members of the enterprise and obtain their agreement before approving the application. This is very difficult to achieve, often requiring several months since many members can be absent from the village, others can not attend due to illness or other issues, and still others have no idea that they are even part of the enterprise.

### **3.3 PURCHASE OF ALREADY PRIVATIZED LAND**

There are no restrictions imposed on the sale of privatized agriculture land, as long as the land remains in agricultural use. However, as pointed out earlier, only a small amount of agriculture land has been privatized, and this land is not for sale at this time. Also, most individuals state that they do not have money to purchase land. As pointed out above, those with money are quite satisfied to take land in long-term leases and be responsible for only paying the annual taxes as rent. As shown in the example in the text box in Section 8 of this report, this is a much more lucrative option than paying large sums of cash to purchase the land.

## 4.0 LAND ADMINISTRATION

Land administration is the set of functions that facilitates the implementation of policies developed for the management of land resources. This includes the institutional arrangements, the legislative processes, and the resource requirements necessary to obtain the highest and best use of all land: urban and rural; private and public.

The administrative processes and procedures for land take place at several levels and across several organizations in Kazakhstan. Figure 4.1 provides an organizational chart for agricultural land administration. In the context of this assessment, the following land administration functions will be considered:

- Management, preparation, and maintenance of the land cadastre, including legal and technical aspects such as valuation, surveying and mapping, and information technology;
- Operations and maintenance of the immovable registration system; and
- The land tenure processes that provide for the definition and distribution of land rights.

Kazakhstan operates a dual agency approach to cadastre and registration. The cadastre is operated and maintained by the LRMA, and the registration system is operated and maintained by the Ministry of Justice (MoJ). This is similar to approaches found in parts of western and southern Europe; countries like Germany and Austria have been well served for many decades. However, as countries like Sweden, the United Kingdom, and Norway that have traditionally maintained a dual agency approach have renewed their immovable property and land administration systems, they have integrated the responsibilities of the cadastre and the registration organizations and have adopted a single agency approach. Since much of the data about the immovable property contained in these organizations is common to both, it makes sense to combine the systems and reduce duplication. This has been done to reduce administrative and management overhead costs, take advantage of access to technology, and reduce real estate costs.

As shown in the figure below, there is a land relations department located in each of the *oblast*, municipal city, and *rayon* level *akimats*. This department has been established over the past few months. During the assessment, no documentary information could be gathered to define the role of these departments. The assessment team interviewed the head of the land relations department for Kaxchatau *Oblast*, but she was unable to articulate the exact responsibilities for her department at the time. She explained that the land relations departments are being established to create more transparency in the *akimat* as it relates to decisions on land use approvals and other land management decisions. She reported that there was a document defining the roles and responsibilities of the departments and promised to provide a copy. However, to date the project has not been able to obtain a copy.

There are currently no formal arrangements for sharing of information between the LRMA and the Immovable Property Registration System (IPRS). The graphic information contained in the agency could be made available to the IPRS and any legal information related to land contained in the IPRS could be transferred to the LRMA. This would be a very beneficial arrangement for both the IPRS and the LRMA, as it relates to carrying out their respective mandates and serving their clients.

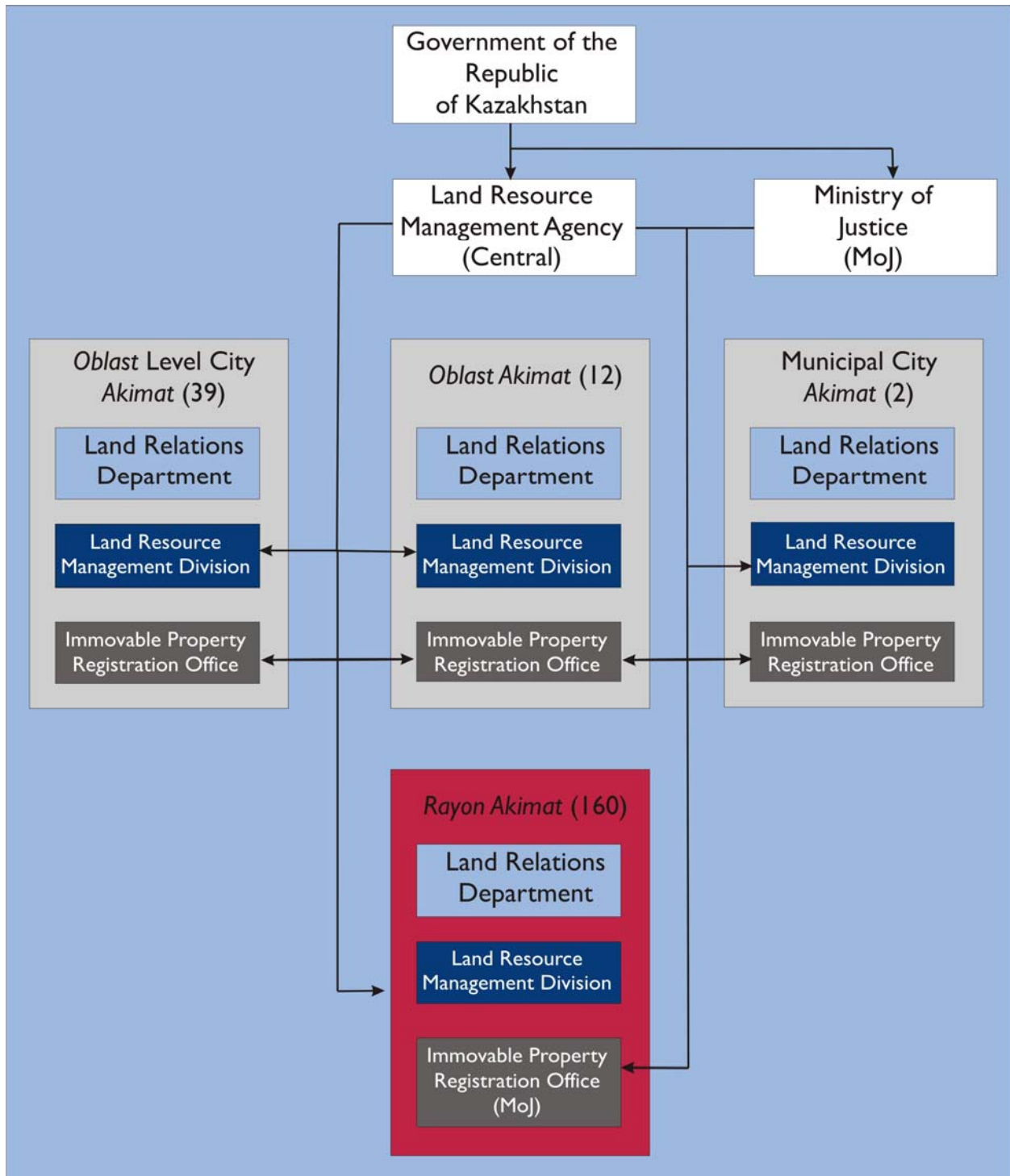
The IPRS currently has no interest in having graphic information such as cadastre maps that show the location of any immovable property submitted for registration in the system. According to the registrar in Kakshtau, the only maps at the IPRS are small scale maps showing the city districts. The parcel identifier number used by the LRMA to identify land parcels is not used in the IPRS. The IPRS uses the family name of the owner as its primary reference for registering land parcels. In most jurisdictions, the parcel identifier number is a unique number used to unambiguously identify immovable property units. There may be many parcel owners that have the same family name, or the same person may own many parcels. In this case, a



unique number for each parcel would avoid confusion and ensure that in the case of transactions, the rights to the correct property unit are being transferred.

The introduction of information and communication technology into the land administration system provides for the appearance of a single agency approach through electronic data sharing processes. It is electronically possible for the clients of the system to apply to obtain or transfer property rights, receive all approvals, receipts, or certificates necessary to prove their entitlement to the property rights, and subsequently register the rights at one location. All of the administrative processes and procedures will not take place at the same physical location and will almost certainly be preformed by multiple entities. However, this would require a significant commitment of funds, human resources, and time to work out the institutional arrangements to share land administration responsibilities and information and to develop, implement, and maintain the system.

**FIGURE 4.1 ORGANIZATION CHART FOR AGRICULTURAL LAND ADMINISTRATION**



## 5.0 THE CADASTRE SYSTEM

The responsibility for operation and maintenance of the land cadastre is under the authority of the LRMA, and it is decentralized. It operates at three levels of government: *oblast* centers, municipal cities, and *rayon* centers. For specific details of the functions and activities of the land cadastre, please refer to Annex 2 of this report.

The Land Research Institute, a division of the LRMA, is responsible for surveying and mapping all agricultural lands in Kazakhstan. The Research Center has branches in all *oblast* centers and sub-branches in the *rayon* centers.

The Land Research Institute of the *Oblast* Division of the LRMA is relatively well-equipped with modern technology. These offices are currently conducting digital data conversion on the cadastre maps and on the textual information for their respective *oblasts*. The conversion of the maps is currently completed for most of the republic, and the textual data, including state *akts* and property passports), is expected to be completed by the 2007. There is a large volume of textual data.

The central office of the institute, located in Astana, is well-equipped with state-of-the-art technology. This office is responsible for coordinating all of the technical specifications development, data conversion scheduling, training for the regions, and overall management of the digital cadastre development for the republic. The head of the central office reported that there are several private sector companies providing digital conversion services to the LRMA under contract. A competitive bidding process is used to contract suppliers. All quality control for contracted work is conducted by the LRMA.

## 5.1 LEGISLATION

The Land Code establishes the Land Resources Management Agency as the primary authority for the administration of agricultural land in Kazakhstan. Legislation that provides the details of the operations, functions, roles, responsibilities of the Divisions and Branches of the LRMA has been created and subsequently passed. See Annex 2 of this report for details.

The Land Code provides very detailed and specific land management rules which will need to change as the land administration, land tenure, and land reform processes evolve. It may be necessary to change certain land management rules more quickly than can be accomplished through the process necessary to amend the Land Code. Generally, rules and procedures that require flexibility and frequent changes can better serve the citizens through regulations to the main legislation. For example, the Land Code defines the land valuation process and includes specific coefficients for determining the land value. As the market for agricultural land evolves, these coefficients may not be appropriate to provide a realistic land value in all or in certain parts of the republic. Since the Land Code is intended to cover the whole territory, there may be some injustice imposed on some regions, and this may, consequently, penalize some citizens by imposing unfair and unrealistic land values. Regulations can be more easily changed and customized to reflect regional differences in agricultural land markets and the quantity and availability of land.

In 1995, the “Law on Land” specified that lands of restructured agricultural enterprises were to be divided into CLSs on paper and were to be granted as “permanent use rights” to members of the *solkhozes* and *kollektives* and to citizens of the rural areas who worked as part of the “social sphere” (for example, doctors and teachers). These CLSs were issued as “undefined common shares” which means that the limits of the land rights were undefined as physical units and, consequently, the holders of the certificates were not aware of the location and shape of the land to which they were issued the rights. By 1997, 2,277,000 CLS for an area of 119 million hectares (average of 52.26 ha. per share) of agricultural land had been granted.

## 5.2 TECHNOLOGY

The LRMA central office in Astana, its divisions in Almaty, and the *oblast* centers have a quantity of modern, state-of-the-art technology for operation and maintenance of the cadastre system. The LRMA has standardized ArcGIS as its geographic information system for managing digital mapping activities such as preparation, presentation, and publication of digital cadastre and digital topographic maps for the republic. The central office has a large format scanner capable of scanning A0 format map sheets. The office has an A0 format, color plotter for printing large format map sheets. Similar technology exists at the LRMA *Oblast* Division in Kaxchatau *Oblast*. The director of the central office reported that the level of technology and staff qualifications is similar in all *oblast* divisions.

The LRMA has a quantity of Lieca Global Positioning System instruments and Lieca Total Stations for conducting field surveying and mapping activities. Not all divisions of the LRMA have such technology, but given access to funding, there is internal capacity to train staff and have all divisions functional in a relatively short timeframe. The *rayon* centers, where responsibility lies for establishing cadastre boundaries, are not so well-equipped and are still using very old Soviet era theodolites and electronic distance measuring devices for surveying boundaries.

The Land Research Institute of the LRMA in Astana expressed a need for access to technical equipment to analyze high-resolution digital satellite imagery. Apparently, the center has access to the imagery through a local university but does not have financial resources to procure the image analysis technology.

## 5.3 DATA

Since 2002, the Agency has converting its hardcopy cadastre maps into electronic format using scanning and on-screen digitizing techniques. There are many private companies in Kazakhstan that provide data conversion services for the LRMA. Data conversion contracts are awarded to the companies through a competitive bidding process. The LRMA prepares specifications, issues calls for bids, evaluates the bids, awards the contracts, and performs data quality control for the contract area.

It was reported that the cadastre map scanning has been completed and are in raster format for the whole republic. It is planned that all of the raster data will be converted to vector format by 2007. Digital conversion of the textual data is ongoing and is also expected to be completed by 2007. This means that there will be a complete digital cadastre for the republic.

The hardcopy cadastre maps that were scanned to create the digital maps are very old and outdated and, as far as could be determined during the assessment, there was minimal effort made to conduct field measurements for updates. Therefore, the digital data carries any errors or omissions from the old cadastre and should be regarded as preliminary evidence only as to status to the existing cadastre situation. There were reports of inaccuracies in the field boundary locations, field sizes, and in the spatial referencing system, but these were not able to be confirmed. To verify these reports would require field measurements and spot checks on several farms.

The LRMA reported that it is currently working with the tax authority to build the necessary electronic links to share cadastre data and information for tax assessment and collection. Information about the size, ownership, and location of the land will be automatically provided to the tax authority.

## 5.4 FINANCIAL

Funding for cadastre operation and maintenance is provided through the budget of the LRMA and from revenues created internally. The LRMA creates revenue through fees for services such as surveying and mapping for land boundary establishment (for privatization or leasehold plots), the sales of map products, and providing mapping services to other government ministries such as environment, transportation, and

communications. It is not clear whether the LRMA is allowed to retain 100 percent of fees these services or of a portion goes to the Ministry of Finance as general revenues.

## **5.5 EDUCATION**

Education of cadastre specialists is provided at several universities in Kazakhstan. The S. Seifullen Kazakh Agrarian University in Astana provides courses in measurement science, cartography, geodesy, photogrammetry, remote sensing, land cadastre, geographic information systems, and mapping science. These courses satisfy the educational requirements to perform land parcel location, preparation of land *akts*, and all other aspects of a land cadastre as they relate to the definition, delimitation and delineation of land rights. The university is staffed with well-qualified professors that have had practical experience and have participated in research and development projects in the field of surveying and mapping in Kazakhstan.

The main drawback identified at the university is the lack of modern surveying and mapping technology and experience in the application of said technology. The professors and staff would like more opportunities to interact and share research and development ideas with educational institutions in other countries that apply state-of-the-art technology for spatial information management. The professors are aware of the technology and have a very strong knowledge of the basic principles, but they do not have access to funding for purchasing the technology and inclusion in the university curriculum.

## 6.0 THE IMMOVABLE PROPERTY REGISTRATION SYSTEM

The land title registration process and the process of acquiring the title to land will be treated as two separate issues in this document. It is important to separate the two, since the registration legislation deals only with the registration of the evidence of entitlement to the rights of the land or other immovable property, as described in the title certificate and supporting documentation. The process of obtaining the rights defined in the title documents takes place outside the immovable property system. The process of applying for land rights and acquiring the approval of the various entities responsible for issuing and administering the rights is described in the Land Code and in regulations to the code.

The IPRS is under the authority of the MoJ and is decentralized. The MoJ operates immovable property registries in the cities of Astana and Almaty, the *oblast* centers, in the *oblast*-level cities, and at the *rayon* centers. As a result, all citizens have easy access to a registry office.

The offices visited during the assessment were well marked and easily accessible from the street. Inside, the offices were well appointed, and it was evident that recent rehabilitation had been undertaken. Signs in Russian and Kazak provided information to assist users. This information included:

- Fees for services;
- A list of supporting documents required to register property rights or interests;
- The specific services provided at each service window;
- Samples of all types of documents provided by the registry; and
- Office hours and days of operation.

Documents are recorded in the system on a “user name” (family name) basis. The unique identifier for each person is their personal passport number issued by the state. The registry office arranges all records according to “districts” within a particular set of administrative boundaries. For example, all records for each zone within Astana, or for each individual *rayon* village, are filed in specific sections of the registry office.

Any “user” (physical or legal person) wishing to register a document in the immovable registration system completes an application which includes the following information:

- Family name and patronymic;
- Confirmation of fee/tariff payment;
- District in which the property is located;
- Passport number; and
- Address.

Upon submission of the application and payment of the appropriate fee, all documents are checked to verify conformity to regulations and that all the necessary forms are included. The user is then informed of the date and time to return for their registration verification. A similar process is used to obtain an “excerpt” from the registry system. Registration is generally completed within five business days of application submission.

The IPRS registers all types of immovable property rights and interests in Kazakhstan. The IPRS currently contains the records of the Bureau of Technical Inventory, the organization that responsible for maintaining

records of all buildings (apartments, houses, and commercial buildings) under the Soviet regime and information pertaining to land rights that have been conveyed in private ownership or by leases.

As far as could be determined during the brief visits to the registry offices and in discussions with local groups, the IPRS functions well and does not create any impediments to conducting land transactions. There were no reported problems with registering document or getting information from the registry.

## **6.1 LEGISLATION**

The “Law About State Registration of Immovable Property Rights,” December 25, 1995, forms the basis for the establishment and operation of the immovable property registration system. No attempt is made here to do an analysis of the immovable property registration law. However, the chief registrar of the Kaxshtau office stated that the law is fundamentally sound and does not create any major impediments to the operation of the registry. The law was prepared under a World Bank project by international legal experts with the assistance of local legal experts. At the same time the organizational and institutional structures were reformed and established as they currently exist.

It is *mandatory* to register all land leases and private land conveyances that have transferred land rights from the state to legal or private persons. However, subsequent to the initial conveyance of the land rights in private ownership from the state, registration of rights in the immovable property registry is *not* mandatory. Therefore, a certain number of immovable property transactions may be taking place which do not get registered in the IPRS.

The registry system is merely a repository of title deeds and serves notice that the registered property owner claims the rights to the immovable property defined in the registered documents. There is no certainty that a second party will not have an unregistered, but legitimate, claim to the property. Or, a second party may have a registered claim. The registration system is based on a “race notice” principle. The first person (race) to register (notice) in the IPRS is considered the rightful owner unless it can be proven in court that a second party has a stronger claim. The transfer of immovable property rights takes place at the moment when the parties to the agreement sign to verify that all terms and conditions of the contract are fulfilled, including the exchange of all agreed payments. These are the fundamental principles of a deeds registry system. Such systems function and provide security of immovable property rights in many industrialized countries that have well-functioning land markets.

## **6.2 TECHNOLOGY**

The technology used by the immovable registry offices to keep records in the registration system is very basic but seems to function well enough that there are no reported problems accessing information. The staff is pleased to be able to search and retrieve documents from the system. The software used for word processing and spreadsheet analysis is Microsoft Word and Microsoft Excel respectively.

## **6.3 DATA**

The only electronic data in the IPRS at this time is the data used to identify the owner of the property rights, the property location (address), and the file location in the IPRS office. The data is used for administrative purposes only. The documents in the IPRS are in paper format, and there are no plans at this time to do data conversion of any of the documentation.

## **6.4 FINANCIAL**

During the assessment, it was not possible to get access to financial information about the funding mechanisms or level of revenues for the IPRS. In general, it was determined that the operation of the IPRS is funded by the

budget of the MoJ. All fees collected for services go to the Ministry of Finance as general revenue. A substantial amount of revenue is generated from fees and taxes for registration and other services provided at the IPRS offices in the larger urban centers where a secondary market of immovable property is already operating. The Kaxshtau city IPRS reported that there are approximately seventy transactions per day at the office. The fee for a typical registration is 486 tenge. However, it was reported that there is very little market activity in the majority of the rural *rayons*.



## **7.0 LAND VALUATION**

### **7.1 VALUATION OF AGRICULTURE LAND**

In Article 11, “The Adjustment Coefficients for Basic Rates of Payment for Land Plots,” paragraph 3, subparagraph 1 of Code No. 442, June 20, 2003 of the Republic of Kazakhstan, the Land Code established the rules and regulations for determining the value of land.

The valuation of land in Kazakhstan is conducted by the LRMA if the land is still owned by the state or can be performed by private valuation entities if the land is in private ownership. Since nearly all agriculture land is still state owned and granted in leasehold to the citizens, the LRMA performs nearly all of the valuation in the rural areas.

Since there is no precedent established for land sales in Kazakhstan, it is necessary to conduct valuation of agriculture land in order to establish a price for transferring the land rights from the state to the citizens. Once a market for land develops, it would be possible to let the market establish the price, and, hence, the value for taxation purposes. It should also be pointed out the value established for tax purposes will not necessarily be the same as the sales prices in a well-functioning land market. The assessed value is normally lower than the sales price by as much as 10 percent.

#### **7.1.1 Valuation of State-Owned Agriculture Land**

The LRMA is responsible for valuation of agricultural land that is still in ownership of the state. On approval of an application for privatization of an agricultural land plot, the LRMA branch at the *rayon* will conduct a valuation of the plot and prepare a schema of the plot showing the size, dimensions, and relative location of the plot within the farm boundary. This valuation is done by the *rayon* land engineer/agronomist who has been trained in valuation as a part of the land cadastre education system in Kazakhstan.

The evaluation report and the technical information on the land parcel are provided to the *rayon akimat* for approval. Subsequent to approval of the plot for privatization, the *rayon* division of the LRMA prepares the title certificate (*state akt*) in duplicate. One copy of the title certificate will be held by the right holders (landowner) and a second copy will be submitted to the Immovable Property Registry for registration. The LRMA also retains a record of the owner’s information, such as name, address, telephone number, passport number, tax number, and the technical information about the land parcel.

According to local experts and officials, the value placed on agricultural land is not the main deterrent to privatization. While most people are not in agreement with valuation approach, they do not see it as a major impediment to purchasing land and establishing farms.

#### **7.1.2 Valuation of Private Agriculture and other Immovable Property**

Valuation of agriculture land that has already been transferred into private ownership can be done by a private evaluator. There is a private sector capability to conduct immovable property valuation in Kazakhstan. Several companies established in the major urban areas focus on commercial and residential property valuation. These companies will travel to the rural areas to conduct valuation of privatized agriculture land if the client is willing to pay the associated costs.

## 7.2 LEGISLATION

In Article 11, paragraph 3, sub-paragraph 1 of Code No. 442 of June 20, 2003 of the Republic of Kazakhstan, the Land Code of the Republic of Kazakhstan established the rules and regulations for determining the value of land. While it is not practical to include the whole Land Code in this report, Article 11 is provided below as an example of the level of detail contained in it. Typically, these details would be contained in regulations to the law instead of being imbedded in the law. It is placed in regulations to allow for ease of change as the land situation changes due to such factors as fluctuations in the land markets caused by environmental changes, natural resource developments, closures of major enterprises, regional influences, or natural disasters. It would be easier to change a regulation than open the law for amendment. Opening the law would mean involving parliament, while changing regulations could generally be done under the regulating body, such as the LRMA in the case of Kazakhstan.

### “Article 11. The Adjustment Coefficients for Basic Rates of Payment for Land Plots

1. The adjustment coefficients and zone boundaries in the cities of the district level, settlements and rural populated areas shall be approved by a decision of the district representative authority, pursuant to the proposal of the district executive authority, and in the cities of the provincial level (Cities of Astana and Almaty) by the provincial (municipal in Astana and Almaty) representative authority pursuant to the provincial (municipal in Astana and Almaty) executive authority.

In that case the greatest (maximum) size of the increasing or reducing coefficient must not exceed its double amount.

2. When establishing the cadastre (estimated) value of the land plots which are granted by the state for the maintenance of agricultural production, the adjustment coefficients (increasing or reducing) shall be used in relation to the quality condition of a given land plot, its location, water supply, remoteness from service centers.

3. The quality condition of a land plot by type of land and type of soil shall be established on the basis of the land cadastre maps, materials or soil-science, geobotany, soil-reclamation and other research work:

- 1) The following adjustment coefficients shall be used in order to establish the value of a land plot which is used as arable land, in relation to its reclamation status and its surface gradient:

- Reclamation status of land:
  - Good (soils with no salinity and not *solonetz*, unstonny, uneroded; depth of subsoil water: fresh, more than 3 meters, mineralized, more than 6 meters) — 1.2;
  - Satisfactory (soil with low salinity, *solonetz* with low salinity, low stoniness, low erosion; depth of low mineralization subsoil water 3-6 meters) — 0.9;
  - Unsatisfactory (soils of medium and high salinity, medium and high salinity *solonetz*, stony, medium degree and high degree of erosion; depth of subsoil water with mineralization in excess of 1 g/l, less 3 meters) — 0.6;
- Surface gradient:
  - Under 1 degree — 1; from 1 to 3 degrees — 0.98; from 3 to 5 degrees — 0.96; from 5 to 7 degrees — 0.93; more than 7 degrees — 0.86;

- 2) The following adjustment coefficients shall be used in order to establish value of the land plots which are a part of natural forage land (hayfields, pastures) in relation to their quality status and the surface gradient of a land plot:

- Better hayfields and pastures:
  - Radical improvement; with additionally sown perennial grasses — 1.2;

- Partial improvement without changes in the specific composition of vegetation — 1.1;
- Status of land with hayfields:
  - Good (land plot is not littered, not overgrown with bushes, not overgrown with forest, unstoned with clear features of zonal vegetation) — 1.2;
  - Satisfactory (land plot is littered, overgrown with bushes, overgrown with forest, stony with the zonal structure of vegetation disturbed. Said features occur in an area under 40 per cent of the territory) — 0.9;
  - Unsatisfactory (land plot is littered, overgrown with bushes, overgrown with forest, stony with the zonal structure of vegetation disturbed. Said features occur in an area in excess of 40 per cent of the territory) — 0.7;
- Surface gradient:
  - Under 3 degrees — 1; from 3.1 to 6 degrees — 0.95; from 6.1 to 10 degrees — 0.9; from 10.1 to 20 degrees — 0.85; more than 20 degrees — 0.5;
- Condition of land with hayfields:
  - Good (land plot is not littered, not overgrown with bushes (inedible bushes), not overgrown with forest, unstoned with clear features of zonal vegetation) — 1.2;
  - Satisfactory (land plot is littered, overgrown with bushes (inedible), overgrown with forest, stony with the zonal structure of vegetation disturbed, presence of overgrazed pastures, bald saline land, *solonetz*, *takyrs*. Said features occur in an area under 40 per cent of the territory) — 0.9;
  - Unsatisfactory (land plot is littered, overgrown with bushes (inedible), overgrown with forest, stony with the zonal structure of vegetation disturbed, presence of overgrazed pastures, bald saline land, *solonetz*, *takyrs*. Said features occur in an area in excess of 40 per cent of the territory) — 0.6;
- Surface gradient:
  - Under 12 degrees — 1; from 13 to 20 degrees — 0.8; in excess of 20 degrees — 0.6.

4. The following adjustment coefficients shall be used in order to establish the value of land plots in relation to water supply, situation with regard to the economic centre, remoteness of a land plot from service centers:

- 1) Water supply (availability of water) of a land plot:
  - Available — 1.2; not available — 0.8;
- 2) Situation of a land plot with regard to an economic centre, in kilometers:
  - Under five — 1.2; from 5 to 10 — 1; from 10 to 20 — 0.9; from 20 to 30 — 0.8; in excess of 30 — 0.7;
- 3) Remoteness of a land plot from service centers in relation to the quality of roads.”

DISTANCE, KM	ROADS WITH HARD TOP	ROADS WITH BALLAST TOP	GROUND ROADS
Up to 20	1.4	1.1	0.7
21-40	1.2	0.9	0.6
41-60	1.0	0.7	0.5
61-80	0.8	0.5	
81-100	0.6		
In excess of 100	0.5		

### 7.3 EDUCATION

Several training programs for evaluation have been established since 1997. At least one private school and two universities currently offer training in immovable property valuation. In addition to graduating from a

recognized valuation education program, a Valuation Specialist candidate to must work under the supervision of an experienced property valuation specialist for a two year period. After gaining two years experience in valuation, the candidate wishing to become a certified valuation specialist must apply to the Ministry of Justice Registration Department for a certificate. The application for certification must be accompanied by a letter of reference from the supervisor. As far as can be determined, there is no governing body responsible for regulation the activities of the certified valuation specialists.

## 8.0 AGRICULTURAL LAND MARKETS

According to local experts, there is no market for the purchase of agricultural land. Many individuals hold agricultural land in long-term lease rights and, according to the experts, there is no incentive to convert use rights to ownership rights at this time. To date, approximately 15,000 hectares of agricultural land has been transferred into private ownership from the state. Many entrepreneurs have leased huge (20,000 hectares) tracts of land for agricultural production in Kazakhstan. Leasing is very cost-effective under the current lease terms and, since the duration of the lease is generally 49 years, most farmers feel secure in investing without fear of losing the rights to the land.

Articles 9 and 10 of the Land Code deal with payments for land. During the interviews with local experts and citizens, I was given a number of 17,000 tenge (135 tenge per US\$1) per hectare for agricultural land. One farmer told me that he has 1500 hectares and is paying 200,000 tenge per year for taxes (rent). At that rate, he can rent for 127.5 years for the amount of money (22,500,000 tenge) that he would spend to purchase the land. The only issue is that the tax rate will undoubtedly increase. However, the farmer said he was willing to take this risk, rather than commit to paying 22,500,000 tenge all at once. The maximum period in which he would be allowed to buy the land through the government installment plan is 10 years. He can apply to buy at anytime, if he sees that it is to his advantage to do so. His question to me was, “Why buy instead of lease for 49 years, when I get the same rights to the land?”

## 9.0 CONCLUSIONS AND RECOMMENDATIONS

### 9.1 INSTITUTIONAL AND ORGANIZATIONAL STRUCTURES

The institutional and organizational structures that are responsible for administering land in Kazakhstan are functioning well and are capable of providing a satisfactory level of service to the users. The cadastre system is responding to the needs of the citizens at this time. There is not much demand from citizens for the privatization of agricultural land and, therefore, the cadastre organization is seldom required to perform land parcel boundary measurement activities. The IPRS is functioning well and has no difficulty responding to the number of applications for registration of transactions or to applications for information from the registry. The IPRS reported that, based on the number of secondary transactions, there is a developing market for immovable property such as apartments and commercial properties in the larger urban areas but virtually no market in the rural areas.

Reorganization of the land administration structure at the various levels of government is taking place, but there seems to be no clear process in place for transition/transfer of responsibilities at this time. It is understood that the new land relations departments that have been established will not interfere with existing activities of the cadastre agency. As far as can be understood at this time, the departments will take on some of the responsibilities currently handled by the *akim* and by the land commissions at the respective administrative levels.

Subsequent to the consultant leaving Kazakhstan, the CAR Land Tenure Project Chief-of-Party met with a senior government official and was told that further structural changes are proposed for the land administration system. No documentation was provided to support the information. According to the official, a draft law on decentralization has been prepared which will shift the responsibilities of the ministries to the local *akimats*. The Ministry of Budget and Economy has been working on a law to decentralize the land administration. At present, the Land Agency is undergoing structural changes to hand over the functions on land administration, including institutional arrangements, legislative process, and the resources management to the local oblast and *raion* level executive bodies. What this means for Land Agency reorganization is that by year 2007, the Land Agency will not be a vertical structure. The current Territorial Committees (*oblast* or *raion*-level subdivisions) are completing their functions and will no longer exist. Their responsibilities will be transferred to the newly established departments on land relations at the *oblast* level and departments of agriculture and land relations (usually consisting of 2 local experts) attached to the local *akimats* at the *raion* level. The central Land Agency office will play only theory/ research/policy division for the land administration. The draft law is being now considered by Parliament and is a subject to approval by the Government of Kazakhstan

The bureaucratic processes that have been imposed on the institutions often tend to slow down the delivery of services. For example, the legislation allows up to three months to process a farmer's application to acquire/withdraw land from a farm enterprise and start an individual farm. This process should be possible to complete within two to four weeks. The cadastre can do the technical work within five days. Upon receipt of certificate of ownership, the farmer is responsible for submitting the documents to the IPRS for registration. The IPRS will complete the registration of the documents within five days.

The existing land legislation is adequate to support and secure land rights in Kazakhstan. Transactions occur with relative ease with respect to the legislative aspects. Although changing and improving legislation could provide for better administrative procedures, it is not the most critical factor in improving access to land. The problem is that existing laws are seldom implemented and enforced as intended. There are several reasons for this lack of implementation and enforcement including a lack of knowledge and understanding of the laws by those responsible for administering them, lack of information available to the general public about their land

rights, and lack of human and financial resources at the local level of government. Therefore, amending the laws or making new laws will not help landowners unless the government changes the land policy and is willing to implement a genuine land reform program. The government must be willing to change the procedures to make it easier to perform such tasks as acquiring land, withdrawing land shares, and starting individual farms. The technical and administrative aspects of registration, cadastre, and valuation are not the impeding factors to land ownership, security of title, and the development of a functioning land market.

### **9.1.1 Recommendations**

1. The procedures for processing applications from farmers to withdraw land or to acquire state-owned land to start an individual farm should be reviewed with the intent to reduce the time duration from three months to a maximum of six weeks. The CAR project should assign one of the local legal aid offices to work with a local *rayon akimat* to review the application procedures and recommend steps to be eliminated or efficiencies which can be introduced.
2. The CAR project should work at the local levels of government to establish standard procedures and develop user manuals that would guide the citizens who are applying to withdraw land shares from the large farm enterprises and that would also guide local administration when dealing with requests from farmers/landowners. This would at least help to ensure that the respective processes are conducted according to the legislation. The work could be undertaken within the funding capacity of the current CAR project.
3. A project should be developed to formalize data and information sharing links between LRMA and the IPRS. The project would require the cooperation of the LRMA and the MoJ and would need to have the full support of the GOK in order to be successful. The project should be approximately two years in duration and would require a funding commitment of approximately \$1,500,000.

## **9.2 VALUATION**

There were no complaints about the agriculture land valuation *process* from the officials or farmers interviewed during the assessment. Individuals complained that the price of land as set by the government is too high. No one complained about the tax rates on agriculture land as it is currently taxed. This is likely due to the fact that most of the land is held in leasehold, and the lessee is responsible for paying the annual tax only as the lease payment. Most citizens appear to be contented with the lease rates and wish to continue to lease under the current conditions.

Valuation of agricultural land is currently performed according to a formula and coefficients defined in the Land Code. There is a need for more flexibility in assigning the valuation parameters, but since all the factors are laid out in the Land Code, there is no legal way to change them other than by changing the code. It would be much more practical to remove valuation factors from the Land Code and administer the valuation of agriculture land through regulations to the code. However, it should be pointed out that removing the coefficients from the code and putting them in regulations will do nothing to improve access to land unless there is also a willingness by government to allow the coefficients to be changed as necessary to reflect the changing economic and environmental conditions that impact on the demand for land.

During the assessment it was learned that a parliamentary committee has been assigned to prepare proposed amendments to the Land Code, but these are mainly related to Article 170 Interim Provisions. The recommended changes would extend the deadline for withdrawing leases from January 2005 to July 2005. However, once the Land Code is opened up for amendments it may provide an opportunity to amend the valuation process (Article 11. “The Adjustment Coefficients for Basic Rates of Payment for Land Plots”).

### **9.2.1 Recommendation**

1. The CAR project should work with the LRMA to prepare amendments to the Land Code that would remove the detailed land valuation coefficients from it and create regulations to the code for the purpose of valuation of agriculture land. This step can only be effective if the government is willing to allow flexibility for changing the coefficients once they have been placed in regulations. The assistance could be provided under the current project budget through the local legal aid office in Astana.

## **9.3 EDUCATION AND TRAINING**

There are adequate education and training facilities to supply the demand for qualified cadastre and registration service management and staff in Kazakhstan. Many of the educational institutions need to update their technology, curriculum, and the educational standards of their staff. The staff is well-educated in science, mathematics, and the fundamental principles of land cadastre and spatial referencing. However, most education is dated, and the staff has not had the opportunity to update their skills due to the lack of access to modern processes and technological developments.

The central office of the LRMA provides training packages in data conversion and digital cadastre preparation for the personnel of the regional offices. The training is conducted on-site and through distance education (online). Similarly, the MoJ has established training programs for staff of the immovable property registration offices.

### **9.3.1 Recommendation**

1. The S. Seifullen Kazakh Agrarian University in Astana should establish a counterpart relationship with a university offering land cadastre and land information management programs in Western Europe or North America. Donor assistance could be provided to assist the S. Seifullen Kazakh Agrarian University with establishing contacts and facilitate an exchange of students and professors on a per semester basis.
2. As part of an educational assistance program, the CAR project should sponsor a land conference. It would be useful to invite specialists and government officials from other countries which have implemented land tenure reforms and undergone successful organizational and institutional development. The conference could be sponsored under the budget of the CAR Land Tenure Reform Project.



## **9.4 CONVERSION OF LAND SHARE CERTIFICATES TO LAND TITLE CERTIFICATES**

Citizens were issued CLSs as common, undefined shares in the collective and state farms in Kazakhstan. The Land Code obliged the holders of these CLSs to either purchase the land into private ownership or to transfer the CLSs into share capital in farm enterprises or economic corporations. Most citizens opted to transfer the CLSs into share capital. Article 101 of the Land Code provides for people who have transferred land shares into farm enterprises to withdraw their shares in kind. However, many disputes have occurred when, upon withdrawing their share, citizens are assigned land plots that were not in the location they had understood their plot to be when being transferred in. To help resolve this problem, a pilot project could be implemented that would divide the farm into physical land parcels containing the areas transferred by the CLSs. Although the rights to the land shares are no longer held by the citizens, it would be a means to establish the value of the land assets that were transferred. This is especially important since the law dictates the coefficients that are to be used to value land and factors such as soil type and quality, location of the land relative to major features and facilities, and ecological factors. Certainly, based on these factors, not all land on the farm is of the same value. Therefore, the land shares conveyed to the enterprise by certain citizens must be more valuable than that of others. The proposed pilot project would demonstrate that the government is committed to providing equitable land rights to all citizens that were issued conditional land shares.

The process would include determining the amount of land for which land shares have been issued on each farm, all members meeting and agreeing on the location of their shares, conducting field surveys to establish the boundaries of each land share, creating title certificates for each land plot, and registering the title certificates in the Immovable Property Registration System. As an example, a program similar to the “Conversion of Land Share Certificates to Land Title Certificates,” being implemented by USAID in Ukraine, could be developed and implemented. This would also help make the process of withdrawing land for the formation of individual farms easier, would remove any uncertainty of the location and extent of the land rights, and would resolve the issue of the farm enterprise director selecting the location of the plot and being accused of assigning the worst land to those wishing to withdraw. Such a program would require approximately two to three dollars and two years to complete.

### **9.4.1 Recommendation**

1. To resolve the issue of unknown extent and location of the individual land rights of citizens who transferred their land rights as a contribution as share capital of economic partnerships, or as a contribution to production cooperatives, the government should consider implementing a pilot project to convert land share certificates from “undefined common shares” to land title certificates for delineated and delimited land parcels. The pilot project could include three farms in three regions of the Republic.

**ANNEX A RESOLUTION OF THE GOVERNMENT OF KAZAKHSTAN; NO.  
1022, 4 OCTOBER, 2004**

About Approval of the Typical Structure of the Local Governance of the Republic of Kazakhstan

**RESOLUTION OF THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN**

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4 October 2004

No. 1022

**About Approval of the Typical Structure of the Local  
Governance of the Republic of Kazakhstan**

As provided by the article 56 of the Budget Code of the Republic of Kazakhstan dated 24 April 2004, the Government of the Republic of Kazakhstan RESOLVES:

1. Approve the typical Structure of the Local Governance of the Republic of Kazakhstan in conformity with the attachment to the present Resolution.
2. To Akims (Mayors) of the Oblasts, and the cities of Almaty and Astana:
  - 1) make the structures of local governance complaint with the current Resolution;
  - 2) abolish sectoral sub-divisions in the offices of Akims and transfer their functions to the executive authorities financed from the local budgets.
3. To the central governmental authorities in two weeks time, Akims of the Oblasts and the Cities of Almaty and Astana the recommended structure of departments (divisions, units) made agreeable with the Ministry of Economy and Budget Planning of the Republic of Kazakhstan.
4. This Resolution becomes effective since 1 January 2005, exclusive point 3, that becomes effective form the date of signing.

**Prime Minister of the Republic of Kazakhstan**

**D. Akhmetov**

## **ANNEX B RESOLUTION OF THE CABINET OF MINISTERS OF THE REPUBLIC OF KAZAKHSTAN; NO. 14, 14 JANUARY, 2005**

On Approval of the Provision “On the Land Resources Management Agency of the Republic of Kazakhstan”

The Government of the Republic of Kazakhstan hereby enacts the following:

1. To approve the attached Provisions on Land Resources Management Agency of the Republic of Kazakhstan.
2. To rename the state authorities on the region, city and district level committees of the Land Resources Management Agency of the Republic of Kazakhstan into the regional departments of Land Resources Management Agency of the Republic of Kazakhstan in regions, Astana and Almaty cities; into branches in the districts and cities with region status as per the attachment.
3. To permit Land Resources Management Agency of the Republic of Kazakhstan to have three deputies of Chairman, including the first deputy.
4. To oblige the Land Resources Management Agency of the Republic of Kazakhstan within the three months: a) to adopt the establishment documents of renamed state entities and provide their registration at justice bodies. b) To undertake other measures on implementation of this Resolution;
5. To recognize some attached Government of the Republic of Kazakhstan decisions invalid.
6. This Resolution comes into force from the date of its sign.

Prime-minister of the Republic of Kazakhstan

D. Ahmetov

Approved  
by the Resolution of the Government of  
the Republic of Kazakhstan #14  
dated January 14, 2005

### **Provisions on the Land Resources Management Agency of the Republic of Kazakhstan**

#### **1. General Provisions**

1. Land Resources Management Agency of the Republic of Kazakhstan is the central executive body of the Republic of Kazakhstan, which is not the part of the Government, carrying out, in frame of legislation, special executive, permissive and control-monitoring tasks, as well as inter-industry coordination in the area of state management on land resources, topographical – geodesic and cartographical work.
2. Agency holds its activity works on the basis of Constitution of the Republic of Kazakhstan, laws of the Republic of Kazakhstan, acts of President and Government of the Republic of Kazakhstan, and other normative legal act, as well as the present Provision.

3. Provision and limits of number of Agency's staff are to be approved by the Government of the Republic of Kazakhstan.
4. Agency is the legal person in legal form of state institution, has the seal and stamp with its name in the state language, blanks, and accounts at the Treasury organs of the Ministry of finance of the Republic of Kazakhstan as per legislation.

Agency enters into civil-legal relationship on behalf of itself.

Agency may be one of the parts of civil-legal relationship on behalf of names\е of state if its entitled for that.

5. Agency shall take decision on issues of its competence in the order established by legislation, which will be formalized by the Chairman Orders.
6. Agency shall have the regional organs, which are to be the legal persons in the districts and cities having a status of region.
7. Agency's legal address shall be:  
Astana, 473000, Jeltoksan str., 41.
8. The Agency's full name shall be – state institution “Land Resources Management Agency of the Republic of Kazakhstan”.
9. The present Provision is not the constitutive document of Agency.
10. Financing of Agency's activity shall be arranged from the republic's budget only.

The Agency is prohibited from entering into contractual relationship with the entrepreneurship entities regarding the obligation which are the controlling and monitoring tasks of Agency.

In case the Agency is entitles to hold the activity, which results the income, than the income deprived from such an activity should be directed to income republic budget income.

## **2. Main tasks, functions and the rights of Agency.**

11. The Agency's main tasks shall be:

- 1) conducting of a single state land resources management policy, regulation of land relationship, geodesy and cartography;
- 2) organization and implementation of work regarding the land resources management, designing and realization of the measures on land use, geodesy and cartography;
- 3) carrying out the state geodesy control and protection of corresponding information.

The Agency shall, in the order established by legislation, execute the following functions:

- 1) strategic functions, which provide formulation of state policy:
  - design the state policy on land relationship;
  - protection of state's rights in land relationship;
  - summarizing of land legislation implementation practice, preparation of the proposals on its perfection;
  - preparation of proposals regarding the establishment of the land payments;

- design, approval and execution of legal normative acts and technical requirements on producing of geodesic and cartographical work, control over the observance of such requirements by the subjects of geodesic and cartographical activity and monitoring on their implementation in the right manner;
  - establishment of the order on use topographic and geodesic, cartographic air photo materials, which are included into the state secrets;
- 2) functions which provide the implementation of state policy:
- preparation of annual reports on lands' existence and their distribution by categories, estates, land plots owners and land users, on the state control over the use and protection of lands, revegetation of deteriorated lands, take off and use of fertile layer of soil;
  - organization of land monitoring, state land cadastre as per established order;
  - establishment and holding of database on land resources;
  - arrangement of land use organization on republican level;
  - arrangement of planning and forecasting of land use based on land zoning, demarcation of and plots;
  - methodical providing of zoning;
  - publication and distribution of collections and other materials on land resources use;
  - interaction with the central and local executive authorities on the issues of land relationship regulation, use and protection of land, real property rights' registration;
  - holding of standby reference cart with reflection of borders of administrative-regional entities, as well as of changes of places and name of geographical object;
  - coordination of organizations' activity on conducting their work on land use organization, topographic-geodesic, engineering-geodesic, surveyor, cartographic, soil, agrochemical, geobotanical and other kind of inspection and exploration works;
  - arrangement of implementation of geodesic and cartographical work of state, special and/or industry purposes.;
  - keeping the state republican cartographic-geodesic fund and cartographic fund of land resources;
  - creation of geo-informative systems of republic's territory;
  - representation of Kazakhstan's interests in international organizations on the issues of land resources, geodesy and cartography, maintain the relations between the corresponding institutions of other countries;
  - carrying out the topographic-geodesic, cartographic work on delimitation and demarcation of state borders of the Republic of Kazakhstan;
  - providing the Ministry of Justice's organs with land-cadastre cards and land plots plans;
- 3) functions on the state policy realization:
- conducting of state control over the use and protection of land as per established order;
  - undertaking the measures for elimination break of land legislation;
  - issue of obligatory directions for elimination of break of land legislation;
  - requiring the elimination of identified violence on the order arrangement and execution of geodesic and cartographic work, as well as concentration, record keeping, safe, use and realization of geodesic and cartographic materials and data, which were received as the result of said works or air-cosmic photography;
  - consideration of administrative violations in land legislation;
  - cessation of exploration construction mineral wealth deposits, exploitation of objects, geologic survey and other kind work, in case they are implemented with break of land legislation of the Republic of Kazakhstan, established regime on land use, as well as if such works are being implemented on the projects, which didn't pass examination or were rejected;
  - cessation of geodesic and cartographic works in case of identifying the break of legislation of the Republic of Kazakhstan regarding geodesy, cartography, and technical requirements as per the legislation on licensing;

- control over the record keeping on topographic-geodesic, cartographic and air photo materials, which constitute the state secrets, their multiplying, storage and use in organizations;
  - keeping the record of geodesic points and monitoring over their safety;
  - identifying non-used lands and the ones used with break of laws;
- 4) functions which provide the state regulation of economic activity:
- calculation of valuation price of definite land plots, to be sold into the private ownership or rendered by the state for use;
  - definition of land plots divisibility and indivisibility;
  - issue of land rights certifying documents;
  - conformation of land plot selection at their allotment by the state;
  - issue of licenses in the frame of its competence;
  - registration, record keeping and issue of permissions for taking air photos, geodesic and cartographic work;
  - submission of information on the studied areas to the subjects of geodesic and cartographic activities which plan to work on such areas;
  - conducting the examination of republican, regions', districts' programs, schemes and the projects, related to the use and protection of lands.

12. With a view to carry out its functions Agency is entitled to:

1) request and receive the information on the use and protection of lands, as well as in the spheres of geodesy and cartography from the state bodies and other organizations;

2) submit the proposals on cessation the land plots ownership and land use rights to executive bodies for the reasons s per the legislation;

3) submit the proposals on abandonment of the local executive bodies' decisions which contradicts the land legislation.

### **3. The Property of Agency**

13. Agency shall be entitled to have solitary property on the basis of day-to-day right.

14. Agency's property will be treated as republican one.

15. Agency shall not have the right to alienate or to dispose in other way its property.

Agency may be entitled to dispose the property in cases indicated by and in frames of legislation.

### **4. Agency's work arrangement**

16. Agency shall be headed by the Chairman, which will appointed and dismissed by the Government of Kazakhstan.

1) Agency's Chairman shall have three deputies, including the first, which will be appointed and dismissed by the Government of Kazakhstan upon introduction of Agency's Chairman.

17. Chairman organizes and manages the work of Agency, controls the activity of its regional departments, and, in frame of his competence, of organizations which are within the jurisdiction of Agency and shall be responsible for the implementation of Agency's tasks and carry out of its functions.

18. In this view Chairman shall:

1) sign the Agency's orders;

- 2) define the obligation and tasks of his deputies and chiefs of divisions;
- 3) in accordance with the legislation hire and dismiss the Agency's workers, chiefs of regional departments, republican state organizations which are within the jurisdiction of Agency;
- 4) in accordance with the legislation encourage and put disciplinary punishments on the Agency's personnel;
- 5) approve the structure and staff list and also the establishing documents of divisions and regional departments;
- 6) represent the Agency in the state bodies, and other organization as per the legislation.
- 7) carry out the other tasks as per the legislation.

19. Consultative-advisory will be created at the.

The number and personal content of the board will approved by the Chairman.

### **5. Reorganization and liquidation of Agency**

20. Reorganization and liquidation of Agency shall be conducted in accordance with the legislation of the Republic of Kazakhstan.

**ANNEX C: TO THE AKIMATS OF THE OBLAST AND THE CITIES OF  
ALMIATY AND ASTANA**

Memo (no date) from, B. Ospanov

**To the *akimats* of the *oblast*  
and the cities of Almaty and Astana**

In pursuance of point 3 of the Resolution of the Government of the Republic of Kazakhstan No. 1022 dated 4 October 2004, the Agency of the Republic of Kazakhstan for Land Resources Management submits the recommended structure of the divisions and units for land relations of the local executive authorities, that was made agreeable with the Ministry of Economy and Budget Planning of the Republic of Kazakhstan.

Attachment on 5 sheets.

**Chairman**

**B. Ospanov**

Officer in charge S. Abeldinova

Tel. 326280



**Approved**  
**by the Resolution of the Government**  
**of the Republic of Kazakhstan**  
**No. 1022**  
**dated 4 October 2004.**

## **Typical Structure of the Local Governance of the Republic of Kazakhstan**

### **1. Oblast Akimat**

1. Office of the Oblast Akim;
2. Department (Division) of urban planning and construction
3. Department (Division) of internal policy
4. Department (Division) of the state architectural and construction control
5. Department (Division) of the state sanitary-epidemiological control
6. Department (Division) of healthcare
7. Department (Division) of state employment and social programs
8. Department (Division) of culture
9. Department (Division) of mobilization training and emergency situations
10. Department (Division) of education
11. Department (Division) of passenger transport and motor roads
12. Department (Division) of entrepreneurship and industry
13. Department (Division) of natural resources and nature management
14. Department (Division) of natural monopolies activities regulation and protection of competition
15. Department (Division) of agriculture
16. Department (Division) of finance
17. Department (Division) of economy and budget planning
18. Division (Unit) for archives and documentation
19. Division of land relations
20. Division for languages development
21. Division (Unit) for physical training and sports

### **2. Akimat of the City of Republican Importance, Capital**

1. Office of the Akim of the city of republican importance, capital
2. Department (Division) of urban planning and construction
3. Department (Division) of internal policy
4. Department (Division) of the state architectural and construction control
5. Department (Division) of the state sanitary-epidemiological control
6. Department (Division) of housing and communal services
7. Department (Division) of state employment and social programs

8. Department (Division) of healthcare
9. Department (Division) of culture
10. Department (Division) of mobilization training and emergency situations
11. Department (Division) of education
12. Department (Division) of passenger transport and motor roads
13. Department (Division) of entrepreneurship and industry
14. Department (Division) of natural resources and environmental protection
15. Department (Division) of natural monopolies activities regulation and protection of competition
16. Department (Division) of finance
17. Department (Division) of economy and budget planning
18. Division (Unit) for archives and documentation
19. Division of land relations
20. Division for languages development
21. Division (Unit) for physical training and sports

**3. Akimat of the district and the city of *oblast* importance  
(with population over 50,000 people)**

1. Office of the District Akim and of the city of Oblast importance
2. Unit for internal policy
3. Unit for urban planning and construction
4. Unit for housing and communal services, passenger transport and motor roads
5. Unit for employment and social programs
6. Unit for culture and languages development
7. Unit for education and sports
8. Unit for agriculture and land relations  
(Unit for land relations in the city of Oblast importance)
9. Unit of finances
10. Unit for economy and budget planning

**4. District *akimat*  
(with the population below 50,000 people)**

1. Office of the District Akim
2. Unit for internal policy, culture and language development
3. Unit for urban planning, construction, housing and communal services, passenger transport and motor roads
4. Unit for employment and social programs
5. Unit for education and sports
6. Unit for agriculture and land relations
7. Unit for economy and finances

## **ANNEX D: CONSULTANCY STATEMENT OF WORK**

### **An assessment of GOK needs in key land administration areas (November 2004)**

#### **I. BACKGROUND**

The United States Agency for International Development (USAID) has provided funding for a Land Tenure Reform Project in the countries of Kazakhstan, Uzbekistan, and Tajikistan hereafter referred to as the Central Asia Republics (CAR). The objective of the project is to provide assistance to the governments of Kazakhstan (GOK), Uzbekistan and Tajikistan to develop land laws, policies and implementing procedures to strengthen property rights; and to assist farmers in Kazakhstan to acquire access to land and defend property rights through the law. This activity is intended to lead to greater investment in agriculture, increased income, and sustainable resource use; as well as promote market development.

One of the primary components of the Land Tenure Reform Project in Kazakhstan is to prepare an assessment of GOK needs in key land administration areas. The areas where there appears to be time to make serious inputs are land valuation, land cadastre and titling, and improvement of the effectiveness of land administration. Land administration provides the public infrastructure for private land market. The Project will engage international expertise for a period of approximately one month to work with a local consultant to conduct the assessment.

#### **II. OBJECTIVES**

The objective of the assessment is to analyze and document the existing land administration system and to provide recommendations for actions to improve efficiencies, simplify the procedures, and reduce the costs involved in the land valuation process, the cadastre system, and the real property registration system.

#### **III. SCOPE OF WORK AND TASKS**

The needs that will be addressed under this component are better focused as the result of further discussions with GOK as well as the implications of recent developments in the country. The areas where there appears to be time to make serious inputs are land valuation, land cadastre and titling, and improvement of the effectiveness of land administration. Land administration provides the public infrastructure for private land markets. The Project will engage international expertise for a period of approximately one month to work with a local consultant to conduct the assessment. The assessment will consist, in respect of each topic to be covered, of the following steps:

- A. Determining and documenting the existing situation;
- B. Defining the problems and issues to be addressed; and
- C. Recommending actions and resources required.

The three topics the assessment will cover are:

## **I. ANALYSIS OF CURRENT LAND VALUATION PROCEDURES AND PROCESSES, INCLUDING:**

Expert advice in this analysis will focus on simplifying land valuation and appraisal techniques for purposes of the first registration of parcels of agricultural land newly created by land reform, but also consider subsequent registrations as a consequence of transfers or inheritance. \

Illustrative areas to be addressed include:

- Dismantling the current monopoly by state-owned enterprises in conducting primary appraisals of agricultural land being transferred to private citizens;
- Addressing whether appraising land should even be a prerequisite to land transfers;
- Suggesting amendments to existing regulations on land valuation and appraisals that concern initial and subsequent transfers of agricultural land; and
- Eliminating needless technical and bureaucratic prerequisites that are hampering and corrupting implementation of the new Land Code

## **2. ANALYSIS OF THE LAND CADASTRE AND REGISTRATION SYSTEMS, INCLUDING:**

According to Land Committee personnel, regulations for land cadastre and registration are already in place. The Project will identify impediments encountered in the cadastre and registration systems based on field experience, and will recommend ways to remove the impediments. Illustrative recommendations could include the following:

Eliminating the need for farmers to obtain a new survey of a parcel in order to register ownership rights;

- Eliminating valuation as a prerequisite to registration;
- Allowing existing plans and sketches to suffice for initial registration;
- Waiving soil fertility measurements as a requirement to agricultural land transfers;
- Breaking up the state monopoly on valuations of agricultural land undergoing transfer from state to private sector;
- Permitting approximate boundaries for purposes of registration; and
- Waiving GosAkt requirements for subsequent transactions.

## **3. ANALYSIS OF OPPORTUNITIES TO IMPROVE EFFECTIVENESS OF LAND ADMINISTRATION, INCLUDING:**

A) Identifying the needs for reorganization of land administration;

B) Identifying the needs for financing land administration;

C) Identifying the technological needs of public and private sectors; and

D) Assessing the current position and recommend actions and resources required.

Important advances may be possible in land administration through better organization, streamlining of activities, reconsideration of fee structures, and improved technology. Illustrative recommendations could include the following:

- More extensive use of private contractors for various land administration tasks
- Simplification of existing procedures
- Computerization of land administration activities, with requisite capacity-building

- Adjustment of fee structures for cost recovery, to ensure sustainability of system

#### **IV. REPORTING**

The report of this assessment will be submitted to ARD in full draft in English, with recommendations and resource requirements. Based on comments from ARD and USAID, it will be revised no later than one week after receipt of comments. The ARD will arrange for translation of the report and its submission to the Government of Kazakhstan. The project will translate the report and prepare a summary report. The report will serve as the basis for a roundtable, including donors, to discuss development and implementation of a Land Administration Development Strategy for Kazakhstan in April 2005.

#### **V. PERIOD OF PERFORMANCE**

The period of performance of this task element is from November 15 to December 25, 2004. The estimated professional level of effort for this task shall not exceed (25) person days consisting of 20 days in the field and 5 days at the consultant's home office completing the final report for the assessment and making any necessary revisions.

#### **VI. PROFESSIONAL EXPERTISE REQUIRED**

It is envisaged that the professional consulting services required to perform the tasks set forth above will be delivered over a period of approximately 25 (25) person-days. The professional expertise required to perform this assignment is that of an international consultant whose specialisation shall be in land administration with considerable experience in dealing with the legislative, organisational, and institutional issues associated with land tenure and land markets. The qualifications of the consultant shall include:

- A. at least fifteen (15) years of relevant professional experience in land administration;
- B. five (5) to ten (10) years experience in dealing with land administration issues in the Former Soviet Union in general and in particular experience in Central Asia;
- C. a graduate degree in land information management from a leading University;
- D. good oral and written communications skills; and
- E. Knowledge of standard word processing, spreadsheet and project management application software.

## ANNEX E. LIST OF CONTACTS AND MEETINGS DURING THE ASSESSMENT

Name	Company	Street	City	Telephone	Fax	E-Mail
Adilhan A. Umerbayev	Republican Public Union "Union of Farmers of Kazakhstan of Farmers	21/1 "Molodezhny" District	Astana	(7-3172) 22-88-94, 22-89-75	(7-3172) 22-86-19	<a href="mailto:sfk@mail.kz">sfk@mail.kz</a>
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Alexander V. Prutov	Kabanbi Batyer Village (Akim)	Kabanbi Batyer Village Administration Office				
Ruslan Shamsudinor	CAR Astana Legal Aid Office (Lawyer)	21/1 "Molodezhny" District	Astana			
Auezhan Darinov	CAR Astana Legal Aid Office (Coordinator)	21/1 "Molodezhny" District	Astana			
Ludmila Kondratieva	CAR Astana Legal Aid Office (Lawyer)	21/1 "Molodezhny" District	Astana			
Nurken Khalykbergen	Former GTZ Project Cadastre Specialist	Astana	Astana			
Gulnara	Former GTZ Project Lawyer	Astana	Astana			
Myrat Kabievu Ermagambetov	Selinogradskogo Rayon, Akimat Apparat (Deputy Director)	Kokshetau City	Kokshetau	8 (3172) 29-80-03, 8 300 511-57-62		
Erbatyr Akhmetov	Oblast Level LRM Agency (Deputy Chairman)	Kokshetau City	Kokshetau			
Oksana ?(Head of IT Section), Yuri ? (Head of Cadastre)	Oblast Level LRM Agency (Deputy Chairman)	Kokshetau City	Kokshetau			
Aigul Akmidshanova	Akmola Oblast (Head of Land Relations Dept.)	89 Abai Street, Kokshetau City	Kokshetau	8(3162) 23-05-09		
Registrar, Deputy Registrar, President of the Court <b>Alyia was to get the names of these people</b>	Immovable Property Registration Office	Kokshetau City	Kokshetau			

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