
ECONOMIC AND SOCIAL RESEARCH FOUNDATION (ESRF)



AGRIBUSINESS CLIMATE, LEGAL AND INSTITUTIONAL REFORM (AgCLIR)

ASSESSING THE AGRIBUSINESS ENVIRONMENT IN TANZANIA

REGISTRATION OF PROPERTIES

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1.0 INTRODUCTION

The economy in Tanzania has, of recent years, experienced positive growth. Economic indicators show that many sectors of the economy are performing better than the expected 6-7 percent, and at over 10 percent in certain cases. But, it has been observed that land based sectors like agriculture and livestock trail at 3-4 percent while their share of GDP is also shrinking. The share of agriculture for example, declined from 48 percent in 1996 to 44 percent in 2006 and continues to drop against positive growth of the economy. A close observation of the growth figures shows that sectors that could benefit from land reform, including the registration of properties are slowing down the economy due to: (i) Land use conflicts and disputes that are on the rise in spite of the new regulatory and legal framework ushered in by the adoption of the national land policy (NLP) in 1995 and subsequent instruments; (ii) Apparent scarcity of farming land - about 80 percent of the population of Tanzania derives their livelihoods from agriculture. However, statistics from the Ministry of Agriculture¹ show that only 10.1 percent of the country's total land area is under cultivation with over 80 percent of the cultivated land being used by 3.8 million small scale farmers at an average of 2.2 Hectares only; (iii) Difficulties in land access - In spite of policy drives for investment promotion, it has remained difficult to access land both in rural and urban areas indicating that foreign direct investment (FDI) in Tanzania could have been much higher.

All these draw backs point to the fact that the national economy has not benefited much from the new national land policy process. The road map to a buoyant economy must therefore enhance land reform in its various dimensions of land access, use, tenure, administration and registration. Land reform in Tanzania started in earnest with the passing of the land policy in 1995, followed by the enactment of new legislation on land in 1999 and 2002² and the adoption of a strategic plan for their implementation in 2005³. The reforms are geared at addressing key problems and challenges in land use whilst capitalizing upon evolving opportunities in business climate in the country's transition to market economy. Some of the reform drivers that the economy still needs to grasp with are: (i) Growth in the already large livestock population and the demand for more grazing land – conversion to pasture; (ii) Increased urbanization requiring more land for settlements, industries and commerce etc while addressing emerging slums; (iii) The upsurge of prospective investors wishing to acquire large parcels of village land in response to the country's investment promotion policy; (iv) Increasing awareness amongst the population of the value of land and property – a concept that was undermined in the command economy; (v) Recognition and regulation of land markets in and around urban centers and public revenue gains from land market transactions; and (vi) Adoption of political pluralism, new economic and social policies and mechanism for the protection of land rights of individuals and organizations.

The reform of business climate hinges therefore on how well these drivers are addressed through the reform of institutions and regulatory framework. Reforms to enhance agribusiness climate and opportunities have particularly been encumbered by the several factors:

- Dualism in the land administration system centralized at the Ministry of Lands, Housing and Human Settlements Development (MLHSD) and in District Land Offices of the Prime Minister's

¹ See Agriculture and Livestock Policy of 1997

² The Land Act No. 4 (Chapter 113 of the Laws) and the Village Land Act No. 5 (Chapter 114 of the Laws) of 1999; The Land Disputes Courts Act of 2002 (Chapter 115 of the Laws)

³ The Strategic Plan for the Implementation of the Land Laws, (SPILL)

Office – Regional Administration and Local Government (PMO-RALG) and regulated by the two Ministries - the former provides leadership on policy and the latter operational implementation.

- Slow rate of decentralization and devolution of services. The efficiency and sustainability of land reforms require a decentralized system of authority down to the district level and lower.
- Under-investment in land registries, mapping, land-use planning, cadastral surveying and in the acquisition of working tools such as GIS, LIS and information dissemination technology.
- Concentration of land development services in Dar Es Salaam city and to a lesser extent in larger towns. For example; (i) land-use planning is concentrated in urban areas; (ii) township maps are available in nine towns only; (iii) urban maps are updated more often than rural maps; (iv) land registries are located at zone offices but not even at regional headquarters, making them less accessible; (v) most professional private practitioners are concentrated in the cities, with Dar Es Salaam hosting most of the physical planners, valuers and surveyors; (vi) town planning drawings and cadastral survey reports must be approved in Dar Es Salaam and a planner or surveyor practicing elsewhere must travel to the MLHSD to get his/her work finalized.

The aim of this study is to examine the legal, institutional and social underpinnings (strengthening) of registering property in Tanzania, beginning with assumptions about the importance of registering real property and moving into the related areas of moveable and intangible property. With respect to all three topics, a country's commitment to allowing citizens to use their property to build greater wealth and economic opportunity is also examined". The three types of property which are considered to be registrable in an office of documents are: (i) Real Property (such as Land and Buildings), (ii) Movable property (such as Inventory of equipment, cars etc) and (iii) Intangible Property (intellectual property, future harvest, etc). In Tanzania the registration of these properties in Document Registries is dealt with under several chapters of the Law.

1.1 Key Concepts

Real Property - Land and all that is attached to it. It refers to a land parcel together with anything that is firmly dug into or built onto the land. Real property consists of land, developments thereon and all rights and profits arising from and annexed to the land in a permanent and immovable nature. Agribusiness requires long term investment and land tenure must therefore be secured to attract such investment.

In general lands,⁴ ownership is certified after the land has been surveyed through a fixed boundary system. The system is regulated by physical, land surveying and registration laws⁵. Land Ownership has thus always been a four-step process. Firstly, is **land acquisition**. Indicators of an acquired land include exhaustion of all third party interests through paying of requisite compensation to existing property owners. Secondly, in urban areas, **physical planning**, is undertaken - layout(s) for the acquired lands, are designed in accordance with agreed land-use patterns and zoning requirements. Thirdly, the layouts, or without it in village lands, are transferred to the ground through **cadastral surveying processes** that, in Tanzania, are based on fixed land parcel boundaries. The end product of cadastral surveying is a registered survey plan and corresponding data

⁴ Refers to non-village and non-reserve land

⁵ The Land Survey Ordinance Chapter 324 of the Laws of Tanganyika, The Professional Surveyors registration Act No. 2 of 1977, The Land Registration Ordinance, Chapter 334 of the laws of Tanganyika; The Registration of Documents Ordinance Chapter 117 of the Laws of Tanganyika; The Urban Planning Act and the Land Use Planning Act.

and information that guides and informs the certification by way of a Certificate of Occupancy in general lands and certificates of customary right of ownership (CCRO) in village lands. The fourth and final stage is **land allocation and certification**. An indicator of an allocated and hence delivered land parcel in urban areas is a certificate of occupancy (CO) or CCRO in village lands, with conditions as attached to the grant. Tanzania implements land registration through the **registration of titles**. Any of the two certificates indicates a title to land and is registrable under the appropriate regulation.

Movable property – is also referred to as Personal or Tangible Property. It may be classified in a variety of ways as any type of property that can generally be wholly shifted (i.e., it is not affixed to land) but which has a formal and recognizable value. These generally include items such as household goods (including furniture), clothing, jewelry, art, writings, etc. There can be formal title documents that show the ownership and a transfer right of a property whose owner has died (for example, motor vehicles, boats, etc.) and the property is on hold for a living someone to inherit. In Tanzania the Chattels Transfer Act (Chapter 210 of the laws) provides for the legal recognition and transactions in movable property. Chattels are defined as any movable property that can be completely transferred by delivery. It includes machinery, stock, natural increases in stock, crops and wool but does not include title deeds. The transfer of title deeds to land is a provision of the Land Act and Land Registration Ordinance.

Intangible Property is personal property that cannot physically be moved, touched or felt. Such property refers to something of value such as negotiable instruments, securities, future harvests, stocks at the stock market, copyright, etc. The use of intangible property such as crops in the field at or close to harvest time has been possible in traditional circles, when communities were organized around clans as clan leaders provided security but is less so in modern villages where people hardly know one another. The rise of trust in the system could be most useful in agribusiness particularly in village lands.

2.0 THE LEGAL FRAMEWORK

Property registration in Tanzania is lengthy and a time consuming process that starts with an application for registration of a well determined property at Village, District or Ministerial level under one or the other form of regulation. There are, also circumstances when registration is required by decree with the intension of acquisition for public purposes involving property adjudication⁶. Informants on the legal framework have the following views:

- There is a general dissatisfaction with the scanty availability of land parcels in urban areas. Indeed, in independent Tanzania, the government has managed to create and register no more than 220,000 urban plots, in all of its 152 towns and cities and over 400 small towns hosting a population of about 5 million people. A recent study in context of the World Bank's Local Government Support Project (LGSP)⁷ in Tanzania states in part that "scarcity of serviced, legally subdivided urban land not only hinders economic development, but also impacts the social issue of how people live. Lack of access to legally available urban land in Tanzania has led to a large amount of informal settlements. In large cities, such as Dar es Salaam, some 70 percent of residents live in informal areas because of an inadequate supply of planned, surveyed, and serviced land parcels." Even when a parcel has been allocated, getting the title delivered takes too long a time as to discourage the investor.
- Further, urban dwellers are of the opinion that even the village customary titles face the same fate above. There appears to be a shadow over the village land titling program to urban dwellers and the experience, inherent in urban areas, makes it difficult to believe in any change of approach until such

Basic Laws in Registering Property:

The Land Survey Ordinance (CAP 324)
The Professional Surveyors Registration Act (CAP 270)
The Land Registration Ordinance, (CAP 334)
The Registration of Documents Ordinance (CAP 117)
The Land Use Planning Act (CAP 116)
The Agriculture and Livestock Policy Act (CAP
The Land Act No. 4 (CAP 113)
The Village Land Act No. 5 (CAP 114)
The Land Disputes Courts Act (CAP 115)
The Urban Planning Act
The Land Acquisition Ordinance (Caps. 118),
The Chattels Transfer Act (Cap 210),
Ward Tribunal Act (Cap 206)
Unit Titles Act of 2009
National Environmental Management Act (CAP 191)
The Tanzania Investment Act of 1997 (Cap 38)
The Mortgage Finance Special Provisions Act of 2009

time as the framework is seen to deliver expected results.

- The majority of the interviewees are unaware of the potentials of registering **immovable** properties. These appear to be used more by the Asian community in business. Responses in other communities indicate ignorance of the legal system that enables properties to provide credit in the formal market. It came to light during interviews that those operating informal businesses would rather stay so to avoid payments of income tax and the employment of Auditors as practiced in formal businesses.
- This poor knowledge of legal frameworks is exhibited at places of work also. It appears that many workers are not conversant with the laws governing employment and labor. There is an outcry against government in not providing proper working tools and equipment. Conversely, in a number of incidences, staff neglected their responsibility and no due disciplinary action was taken by leadership. This situation is made worse with claims of political interference in legal procedures. There are

⁶ As per Land Survey Ordinance (Cap 324)

⁷ The World Bank, The Urban Transition in Tanzania - Tanzania ESW Report, 2008

circumstances where political decisions caused breach of the law but actions to defend the law were not evident. The experts mandated to foresee the rule of law in certain sectors spend more time complaining about enforceability of the laws rather than taking due process of the law and see if the political interference would stand.

- There is also an element of confusion at the District level. Respondents feel that there is lack of knowledge on the various laws being used in many of the departments conducting official business in the Districts and often the public is served without due regard to the law.

The absence of adherence to legal procedures in overall management of public affairs has led to general inefficiency and complaints from the public. Attendance to work, work output, decision making is slow and service delivery is ineffective. Reaction to all issues is almost always lacking the reference to the law that mandates the decision.

2.1 Legal Framework for Village Lands

The framework, in accordance with the Village Land Act No. 5 (Cap 114) of 1999, provides for a preparation of the village land boundary (currently, using the global positioning system (GPS)) against which the Certificate of Village Land (CVL) is issued. The CVL indicates boundaries of the land placed under the jurisdiction of the Village Council. It prevents overlap of powers between villages. Soon after issuance of the CVL, a land use plan is prepared including villages in the vicinity. Land Use Planning is done on several adjacent villages at the same time in order to reduce operating costs and take advantage of common resources. The CVL and presence of a land registry are conditions precedent in village land certification and registration.

The Village handles real property registration by issuing certificates of customary right of occupancy under the Village Land Act (VLA). This process requires an individual or family to lodge an application to the Village Chairman for a CCRO. The Chairman calls for meetings of the Village Council and then the Village Assembly both of which, by law, must approve or reject the application. Only on approval, by the Council and Assembly and payment of due fees, will the Village Manager submit the application to the District Land Officer for further processing. The latter will put into action the services of Land Use Planning. Latter on a demarcation and adjudication team locates the property and sketches it out on a reference map.

The CCRO is signed by the applicant before a reliable witness, including the village leadership. Thence the CCRO is returned to the District Land Officer in triplicate for registration wherefore the duplicate is given to the applicant and the original is held by the Registry at the District Level and the triplicate retained in the village registry. The time spent in completing the request for CCRO ranges from a month (where the CVL and Land Use Plan already exist) to six months but, could experience untold delays. It is this unpredictable time that makes applicants dissatisfied with the services rendered. Again this is a new undertaking in Tanzania and few have benefited from it.

The Village Chairman is also an authority that provides letters of identity to any villager and confirmation of ownership of any property in the Village. This system has proved very valuable in the informal sector and a

large number of transactions, on all kinds of properties, have taken place for many years. A similar situation exists at the *Mtaa* level (lowest administrative level) in urban areas and the system, though not legally constituted, has contributed greatly to the efficiency and success of the informal business sector. Yet it is also prone to corruption where no alternatives or recourse to appeal against unnecessary delays exists.

2.2 Legal Framework in Other Lands

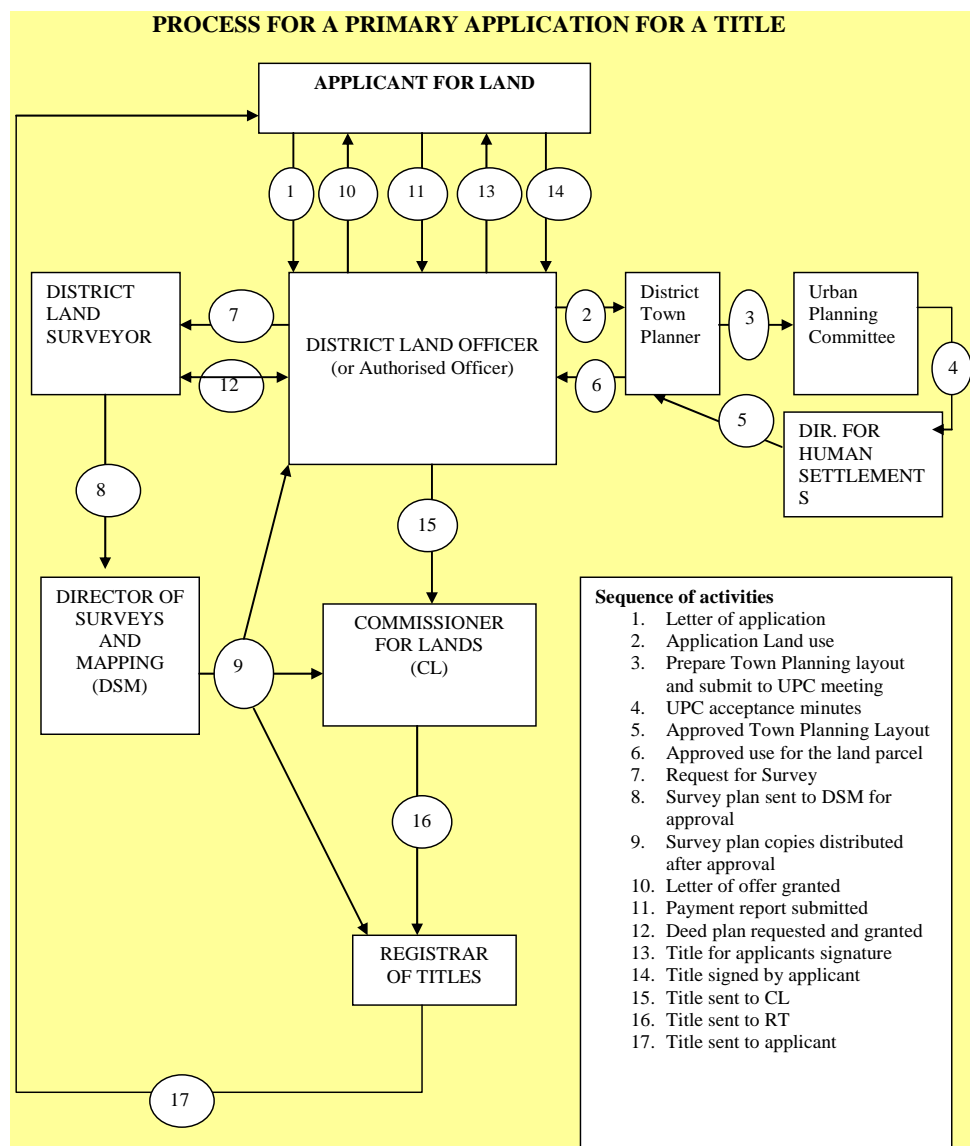
Districts deal with land delivery in both village and general lands. In village lands, Districts facilitate the preparation of CVLs and the registration of CCROs. In general and reserve lands, Districts are guided by the laws⁸ that call for: (i) Town Planning, (ii) land acquisition (for urban settlement and other public utilities like schools, hospitals etc), (iii) land surveying, and (iv) allocation of urban land parcels to applicants and subsequent preparation of the COs⁹. In each step, the District is well informed of the minimum requirements to facilitate easy decision making at Council Meetings and give technical advice to higher levels. From interviewees point of view, it appears that the knowledge of both the procedures and associated laws at this level is fairly low and has led to a form of bureaucracy. Hence decision making takes long and at times misguided. The chart below indicates seventeen steps to follow in the search for a certificate of occupancy in the current framework.

When a Town planning drawing is prepared at the district or Municipal level, it is considered by the Council, and when adopted, it is sent for the approval of the Ministry of Lands in Dar Es Salaam. On approval, the District or Urban Council proceeds to implement the plan. In many cases, the resources for such implementation is not available and could take several years before any part of the plan is implemented. However, if implemented, the same Councils allocate the parcels of land to applicants and thereafter prepare the CO. The CO is signed by the applicant and then sent to the Zonal Office of the Commissioner for Lands for a seal of government and signature. Thereafter the CO is sent to the Registrar of Titles for registration and delivery to applicant. Even on paper, this legal process can be seen to be long and not user friendly. The general reaction of interviewees to this mode of land allocation and property formation has been negative with the exception to a recent 20T plot project done in Dar Es Salaam. In this project the process was noted to be fairly efficient and unexpected of the Ministry of Lands considering past public experience.

⁸ The Urban Planning Act (Cap 116), The Land Act (Caps 113), the Village Land Act (Cap 114). The Land Survey Ordinance (Cap. 324 formerly Cap 390), Registration of Documents Act (Cap 117), The Land Acquisition Ordinance (Caps. 118), The Chattels Transfer Act (Cap 210), The Land Registration Ordinance (Cap. 334).

⁹ The figure displays the intricacies of registering a title to land in Tanzania. The process involves 17 steps and each step requires a minimum of one week. Other steps can take as much as a couple of months. It is noted that the steps involve both local government and central government authorities at the local District office and at Ministry headquarters in Dar es salaam.

This District Office also deals with property transfers in the form of consent or permission to transmit a property from one owner to another. One can therefore conclude that availability of services for the property titling is a difficult venture, be it at village or District level. It is good to look at the situation at national level.



2.3 Legal Framework at National level

In matters of property registry, The Ministry of Lands, Housing and Human Settlements Developments is the primary actor for technical leadership in the country. Under the Urban Planning Act 2002, MLHHS D prepares and approves town planning schemes, supervises and undertakes Land Surveying and Topographical Mapping, delivers land and certifies them, thereafter undertakes the registration of COs and CCROs. In some special circumstances, in consultation with the a Local Councils, the MLHHS D can move into an area and do planning, survey, allocate and give titles in joint venture as has been done n Dar Es Salaam, Mwanza, Morogoro and partly in Mbeya in recent years.

The public still sees performance, be it at District or National level, as a responsibility of the MLHHS D. If a response is delayed in local government councils, it is counted that it is the central government that has not done its duty in time. It is also noted that the processes of property registration, and advantages related to it in the business sector, is not acknowledged by the administrative systems. This is reflected by the poor application of laws pertaining to registration of tangible and intangible properties in the formal markets though applied fairly frequently in the informal sector. This situation is well indicated in the reports of Property and

Business Formalization Program (PBFP)¹⁰ located in the President's Office. It is the responsibility of the District and Urban Councils to deal with property needs and to be business oriented in order to lead people into new potentials and processes of reaching out for credits for business through properties of all kinds and not only real property.

It needs a major investment of resources to establish a workable legal infrastructure of credit worthiness at District, Regional and National levels in order to open up the potential of property registration in business. Without this the business sector will continue to be stunted particularly in village lands where credibility is far from being attained.

2.4 The Environmental Management Act (EMA) of 2004

It is a legal requirement to conduct an environmental impact assessment (EIA)¹¹ for any development project to be implemented in Tanzania. Section 81(2) of EMA states that; "An EIA study shall be carried out prior to the commencement or financing of a project or undertaking". The National Environment Management Council (NEMC) manages the EIA process, which culminates by the issuance of an Environmental Impact Assessment certificate by the Minister responsible for the Environment. The Environmental Impact Assessment and Audit Regulations (2005), made from the EMA (2004) regulates the EIA process. The general view is that EIA is good for land and environmental management but, the process is often slow and discouraging to developers.

2.5 Cross Cutting Issues from Registering Property

The policy framework for land and property registration in Tanzania is supposed to operate bearing in mind a set of fifteen fundamental principles of the land policy and land laws. The law clearly states that these principles are to be taken into consideration at all times by all those in the public service. The Issues are: (i) Implementing and Support Institutions do not work according to their Laws but according to Political instincts; (ii) Mindsets in land administration not taking aboard the new policy framework; (iii) Dualism in government machinery with regard to property registration; (iv) Human Resource have a freelance approach to service provision; (v) Public service leadership is conciliatory to management and professional malpractice; and (vi) Standardization of processes and products in intangible properties is yet to be established.

¹⁰ Better known as MKURABITA in Tanzania

¹¹ Environmental Management Act (EMA) No.20 of 2004.

3.0 THE IMPLEMENTING INSTITUTIONS

The Registrar of Titles: The registration of property, alongside the registration of documents, is a mandate of the Registrar of Titles¹² in the Ministry responsible for lands. Registration of property is a step further in land access after certification for surveyed land. Certification is undertaken by the Commissioner for lands in the Land Administration Division (LAD) and in its decentralized five zonal offices under the Assistant Commissioners. The Registrar and Assistant Registrars also deal with mortgages that are now in great demand. Business persons are visiting the Registrar in big numbers to realize properties as collateral. Outside Dar Es Salaam and zones, support to the Registry is heavily dependent on titling activities at the village and District levels with the support of Land Use Planning, Surveys and Mapping, the Commissioner for Lands and certainly, the postal services. Postal services come handy in the delivery of documents from the Registry known for its delays and losses. People prefer to collect their property documents or use agents in order to reduce the chances of loss after long follow up periods.

The Land Administration Division, MLHHS D: According the legal framework, this is the last support institution in the process to deliver and register titles. It is also grossly congested with the inflow of titles and land conflicts which have not yet reached a stage of court proceedings. As mentioned, CO title to a real property is a contract between the parcel owner and the Commissioner, signed and delivered to the Registrar of titles for the final act of registration. Registration of chattels and other documents comes to the Registrar direct from the Notary and need not go to the Commissioner for lands. However, transfer of real property has had to go to the Commissioner (or Authorized Officer) for consent since it is one of the conditions on the title to seek consent to make a sale, a mortgage or change of development conditions.

The office of the Commissioner for Lands has recently devolved powers of land certification to zonal offices with the appointment of Assistant Commissioners in six zones with headquarters in Moshi, Mwanza, Mbeya, Dodoma and Dar Es Salaam cities and municipalities. Land titles from the District Land Officers are now sent to this Zonal Office for the seal and registration. This is a major development but the main issue is not so much about decentralization but whether the staff will work harder to avoid the backlog that overwhelmed the headquarters. With relevance to property registration, the Commissioner for lands deals with real

- | Implementing Institutions |
|---|
| ○ Ministry of Lands, Housing and Human Settlement Development (MLHHS D) |
| ○ Prime Minister's Office – Regional Administration and Local Government (PMO – RALG) |
| ○ MLHHS D - Division of Land Administration |
| ○ MLHHS D - National Land Use Planning Commission |
| ○ MLHHS D - Division of Urban Planning |
| ○ MLHHS D – Division of Surveys and Mapping |
| ○ MLHHS D – Registrar of Titles Office |
| ○ PMORALG – District Lands Office and Registry |
| ○ Village and Ward Tribunals |
| ○ District Land and Housing Tribunal |
| ○ Lands Division of the High Court |

property whilst the other types of properties are directly delivered to the Registrar of Titles from the Notaries.

The Land Use Planning Office: There is a Land Use Planning team in 109 out of 134 Districts which work in co-operation with the National Land Use Planning Commission. The major shortfalls include: (i) Shortage of funds for village land use campaigns. There must be in

depth participatory planning at grass root level in order to get accountability in the Village Councils; (ii) Lack of

¹² As per the Land Registration Ordinance (Cap. 334).

equipment for reproduction of documents and travel. The team must move around for meetings and studies; (iii) Shortfall of up to-date base maps for realistic land use plans. The major natural features in the surrounding lands need to be on maps so as to take due attention; (iv) political incitement to expand electoral boundaries have been cause for conflicts; (v) Slow employment of professional staff in the Districts leads to delays in work implementation.

Land Survey Office: There is a land survey office in each of 123 Districts, Towns, Municipal and City Councils of Tanzania. The main problems noted are: (i) Lack of funds for field operations which are the sources of property data for the titling processes to beginning; (ii) Transport is not always available for land surveys teams to move around with equipment on field work - using private transport is viewed by observers as a source of corrupt practices; (iii) Modern equipments such as GPS is not readily available so as to ease on hard outdoor operations during field works; (iv) paucity of the geo-referencing framework coverage; (v) No training programs for technical staff in many districts and this makes technical consultations and technical support difficult.

The Land and Property Valuation Office: This is the front desk for almost all land transactions. Much takes place here before such transactions move up the ladder to the Registrar of Titles. This stage has some challenges: (i) It is always short of office spaces and many times it is relegated to derelict buildings in 80% of the Districts; (ii) It is short of competent staff and working tools such as stationary, furniture, file racks, etc; and (iii) Staff is poorly trained.

The two tire system of professional management is particularly felt in these offices. While the powers of work execution are given to this office by the Commissioner for Lands, in the form of "Authorize Officer", the disciplinary procedures are exercised by the District Execute Director who is, in turn, under the Ministry of Local Government. It is therefore easy for the officials respond effectively to one and negatively to the other.

The District Land Office and Registry: In the District, as a support institution, there is a Land Use Planning Office, a Land Survey Office and a Land Office, which are supposed to work together like a team but, in general, it has not been possible. It needs a lot of effort to bring them together to the advantage of the land users and applicants for plots of land in an urban area. Pressure is being applied to bring these experts closer and establish a process of team work.

Land Disputes Courts¹³: Operate as: (i) Land Councils at the lower village level for mitigation and counseling, (ii) ward tribunal¹⁴ at the ward level capable of determining cases, (iii) District Land and Housing tribunal at the District Level with powers to determine cases, and (iv) the Lands Division of the High Court as an appeal court from Districts and or hearing cases on properties valued at 50 million shillings and above.

¹³ Under the Land Disputes Courts Act of 2002 (Cap 216)

¹⁴ Ward Tribunal Act number 7 of 1985 (Cap 206)

4.0 THE SUPPORTING INSTITUTIONS

4.1 The Land Bank at TIC¹⁵

A land bank is a database of titled land parcels, created and maintained by Government to facilitate investment through existing policy, institutional and legal frameworks. The creation of a Land Bank in Tanzania was first proposed in 2004 in a study of several Ministries and the Tanzania Investment Centre, led by the Ministry of Lands, Housing and Human Settlements Development. People with titled land can deposit the same in the land bank for sale to or joint venture with prospective investors. The MLHSD is identifying land surveying and titling it in the name of TIC in readiness for sale through the Bank.

4.2 Property and Business Formalization Program (MKURABITA)

The program seeks to transform properties and businesses in the informal sector to entities held and operated within the confines of the prevailing law in the formal economy (Salema, in CASLE, 2006). The formalized property and businesses are expected to enable their owners to access more capital in the formal financial sector and benefit from expanded market opportunities, among other benefits. The expected outcomes of the program are: (i) reduced individual household poverty; (ii) improved living standards of the target groups; (iii) an expanded national market economy that is governed by the rule of law and extend credibility worthiness to a wider range of the population. MKURABITA's overriding Goal is thus to empower target groups and individuals in the informal sector so that they can participate fully in the modern market economy through the use of the formalized properties and businesses, effectively contributing to the attainment of the MDG Targets via reduction of income poverty.

4.3 Land Reform Component of the Private Sector Competitiveness Project (PSCP)

The project component is a direct flow from SPILL and is funded by the World Bank at a cost of nearly US\$ 30 million. It has five subcomponents namely: (i) land registry and land information; (ii) geodetic control and base mapping; (iii) decentralization of land administration services; (iv) formalization of property rights in the unplanned areas; (v) strengthening the dispute resolution mechanisms; and (vi) capacity building. The main activities in the land registry component are:

- Developing an efficient, re-engineered registration process supported by strengthened land information systems;
- Decentralizing land administration services in 15 Districts by establishing District Registries, surveying and issuing certificates of village land, establishing a prototype village registry in each

Supporting Institutions

- PSCP Land Reform Project
- The Land Bank at TIC
- Property and Business Formalization Program (MKURABITA)
- Ministry of Livestock and Fisheries
- Property Adjudication and Registration Project (MAZAGAZAGA)
- Ministry of Agriculture and Food Security
- Sokoine University of Agriculture (SUA)
- Ardhi University (ARU)
- Institution of Surveyors of Tanzania (IST)
- Tanzania Institute of Valuers and Real Estate Agencies (TIVEA)
- National Council of Professional Surveyors (NCPS)
- Various Non-Governmental Organizations

¹⁵ Enabled by the Tanzania Investment Act of 1997 (Cap 38)

District and providing support and guidance to other villages in establishing registries and undertaking a comprehensive public awareness campaign;

- Undertaking field campaigns to map and register properties in unplanned settlements in Dar Es Salaam and other priority areas, establishing registries in local authorities, and encouraging and supporting residents in applying for residential licenses;
- Facilitating the resolution of land disputes by strengthening the District Land and Housing Tribunals, improving infrastructure, providing vehicles and supporting a public awareness campaign;

4.4 Property Adjudication and Registration in Irregular Settlements (MAZAGAZAGA) of Dar es Salaam:

The project commenced in 2004 using satellite imagery to identify the affected homes. Project activities include: (i) undertaking field campaigns to map and register houses and plots in the irregular settlements; (ii) establish registries and encourage and support residents to apply for the 5-year residential licences. The project is being piloted in Dar Es Salaam with a view of expanding to other Cities namely; Mbeya, Arusha, Mwanza and Tanga in the foreseeable future. It is envisaged that an upgrading of the irregular settlements would follow. The residential licences will hopefully, give residents access to microfinance to upgrade the homesteads and contribute to a better living environment when land services will be introduced.

4.5 Ministry of Livestock and Fisheries

There is no easy means to use livestock as collateral in Tanzania due to the following reasons: (i) Codification and registration delays - the plan to register all animals and providing a code for the Village, District and the Region. An act to this effect is on way to Parliament; (ii) Insurance hick-ups – cattle diseases and epidemics are on the high side; and (iii) Delays in village land use plans – grazing is not yet confined to own villages, and nomadic lifestyles prevails without identified stock routes. Development of infrastructure that is particularly suited to traditional livestock is needed in order to use the traditional livestock capacity pending, improvements for better breeds and the reduction in livestock populations. Then the Animal Registration should proceed at a greater speed in order to establish registers of movable animal property.

4.6 Ministries in charge of Water, Natural Resources and Agriculture

Expansion of irrigation systems is heavily dependent on availability of water discharges. This, in turn, depends on conservation of water sources and good forest cover. Deforestation continues at a high rate. As forest cover is removed, less rain water is absorbed into the soil. The high consumption of forest resources exposes land to degradation and desertification.

In the efforts to increase crop yields and combat famine, land use change seems unstoppable and in the process stream bank cultivation and cultivation on steep slopes of land proceeds unabated. Water in otherwise good areas for irrigation is no longer sufficient for the purpose. Also water for electric power generation and domestic uses is scarce. Water resources in Tanzania have been grossly overestimated in recent years. Further, laws and/or regulations that provide for the enforcement of the conservation of the 60 meters of land on both sides of the river courses are yet to be enacted. This land reserve is under the custody of the Water Boards. But, none of them has made any claim to it as stipulated in the Land Act No. 4 of 1999.

4.7 Land Access and Titling Mechanisms:

Documents, particularly titles to land registered by this Ministry, have the advantage of being accepted as a security to get credit for both housing and agricultural investment. The country needs about 2,000,000 parcels of land in areas declared for planning and about 8,000,000 parcels for titling in the Villages. The total standing demand for immediate titling is therefore 10,000,000 land parcels. All these titles are potentially credit worthy, which could move forwards the development of the agri-business sector. So far (since independence) no more than 230,000 urban plots and only 57,500 village parcels have been delivered in the last 5 years as follows:- In the latter case only six Districts out of 131 have participated in village land certification with the following record: (i) Namtumbo (6,000), (ii) Manyoni (2,000), (iii) Bariadi (15,000 in 34 villages), (iv) Babati (13,000), (v) Mbozi (20,000) and (vi) Iringa (1,500). The main issues in reaching out to the 10,150 villages in the country with a minimum of 790 families each are: Financial capability and human and technical capacity.

4.8 Training and Research Institutions: SUA.

Institutions like the Sokoine University of Agriculture (SUA), can greatly contribute in Registration of Property particularly in villages. During periods of training in best practices in agriculture and demonstrations of crop produce in Agricultural Shows, the Laws and advantages of property titling can be included as a public awareness function. During the interviews at SUA, it was noted that there is need to harmonize the laws related to land.

It is also suggested that land titles ought to be the same namely certificates of occupancy, so as to give all holders of land the same status before the lending institutions. Also risks should be reduced in Village Lands by control of crop diseases and vulnerability to one or other crop. In this regard, a fund should be setup to absorb losses incurred by farmers while taking big risks for the country towards food security in a similar way the Western World subsidizes its farmers. Further, a few investors can be given loans and incentives to build agro-industry to process the crops for both internal and export markets as well as crop conservation (up to 6 years). The main line of approach is to establish a fund to subsidize agricultural production as is done in the Developed World and thereby stabilize production and property values.

4.9 Ardhi University

This is the main training ground for land related professions in the country. These professions include Land Surveying and related GIS/LIS, Estate Management and Valuation, Land Use Planning, Housing Economics, Architecture and Environmental Conservation. It is therefore a factory of human resource for the Land Sector and could even supply experts to other sectors if well used. The contributions of graduates from this university are discussed under “professional Institutions”

4.10 NGO Support:

Gender Land Task Force, which comprises several NGO's namely; Legal and Human Rights Centre (LHRC), Women Legal Aid Centre (WLAC), Environmental, Human Rights Care and Gender Organization (ENVIROCARE), Tanzania Home Economics Association, TAMWA, National Organization for Children and Human Relief (NOCHU), Tanzania Gender Networking Program (TGNP) and Women Advancement Trust

(WAT). The consortium has participated in land issues since the publication of the Land Bill in 1997 to its passing into law. The group had input into the preparation of the Strategic Plan for the implementation of the land laws and advocacy on the amendment to the Land Act in 2004 with regard to mortgages. Non-governmental Organizations are upfront in providing public awareness to communities on issues of relevance to their work plan. They have participated well in mitigating land conflicts that have occurred in such areas as Loliondo, Kilosa, Usangu and Simanjiro. NGOs are also useful in public awareness campaigns

4.11 Private Sector Support:

The University of Dar Es Salaam in Association with Topo-Carto Consultants Limited have played a useful role in the Public Expenditure Review Studies for the lands and property sector, preparation of sector strategies and assessment of sector needs over the past ten years. This policy guidance has helped shape the strategic focus of the lands and property sector. In the onset of the 20T plots Projects a number of private land surveying and valuation firms were directly involved in the property registration process and provided a big relief to many who were given access to land in Dar Es Salaam, Mwanza and Mbeya Cities and Morogoro Municipality.

4.12 Supports from Professional Institutions:

In this group are two key institutions namely the Institution of Surveyors of Tanzania (IST) and Tanzania Institute of Valuers and Estate Agents (TIVEA). The two are recognized by the National Council of Professional Surveyors (NCPS). Senior members of these institutions are registered by NCPS and some are licensed to practice their skills for gain in mainland Tanzania. Training for the two is done in the country at the Ardhi¹⁶ University, although some go abroad for higher degrees on scholarship. The institutions service the land administration system through training and research programs and collectively, enable the registration transactions in property both in village and general lands.

¹⁶ A Kiswahili word meaning land

5.0 SOCIAL DYNAMICS

In a country where 80 percent of population depends on agriculture and natural resources for their livelihoods, land is the ultimate resource. It is their home on earth and basis for subsistence, the platform of all activity, the host of other natural resources and the major source of production. Land in Tanzania is still inequitably distributed, encumbered with tenure conflicts, and often mismanaged. In recent years, land degradation and desertification has endangered food security, causing a big toll on livestock. The potential of the land to feed its population is grossly reduced by soil erosion, by wind and water, deterioration of the physical, chemical and biological or economic properties of the soil, and long term loss of natural vegetation by the global warming and resulting climate change. Tanzania is home to pastoralists, supplying needed meat and milk products for the good health of its people and the leather market. Yet, the world has witnessed thousands of herds of livestock die in the past year alone for loss of key resources including water and pasture. However, the ability of land to reduce income poverty and sustain food security in Tanzania calls for equitable

Steps in Land Planning, Surveying and Registration

- Letter of Application
- Application Dealt with by Town Planning Officer
- Town Planner Prepares Layout
- Layout submitted to Urban Planning Committee
- Approved Layout sent to Land Surveyor
- Land Surveyor Seeks Permission to carry out Survey
- Survey Instructions Granted
- Cadastral Survey Undertaken
- Survey Plan and Data Sent for approval and Registration by Director of Surveys
- Application for Offer and Making various Payments
- Granting of Letter of Offer
- Preparation of Deed Plan
- Preparation of Certificate of Occupancy (Title)
- Signing of CO by Applicant and Attestation by Lawyer
- Signing of CO by Commissioner or Assistant Commissioner for Lands
- Registration of Certificate of Occupancy
- Collection of Certificate of occupancy by Applicant.

access and tenure security.

COs are well respected in urban areas where, since independence, urban dwellers have acquired creditworthy property. Urban dwellers have appreciated the Property and Business Formalization Project (MKURABITA) being run under the President's Office; the property Formalization in Unplanned areas of Dar-Es-Salaam (MAZAGAZAGA) and the 20T Plots Project, which was run by MLHSD to alleviate shortage of land parcels in cities. These three programs have directly provided credibility of properties in informal and formal area to about 300,000 families in the last five years (2003 – 2008). The target groups have so far appreciated greatly action taken in these projects and thereby introduced credit worthiness to these people. All three programs have given credibility to those owning real property in urban centers.

On the other hand, credibility has not gone far in the villages where the CCRO is hungrily awaited with under a thousand recipients out of millions of outstanding applicants. Also, tangible and intangible properties have not been given a way out of the current hibernation and onto the business environment as a credit worth barometer. Again, this puts a lot of valuable properties out of reach of the business sector and the owners kept out of reach of the market. But all properties have suffered setbacks at one time. Recovery could be brought faster by public awareness campaigns.

The use of property to raise the creditworthy barometer is picking-up. But, there are no credit institutions that provide mass education in the basic needs to facilitate credit worthiness to any one with one of the property types. Laws exist but, there is need for public awareness in order to acquaint the people with the methodologies of application, business management and consequences thereof on default.

6.0 THE GENDER AND POVERTY ISSUES

6.1 Gender Balance

Gender was streamlined in policy and land laws at the outset. Section 3 (1) c) of the Land Act (Cap 113) provides for facilitating equitable distribution of and access to land by all citizens in Tanzania. The 15 basic principles of the Land Policy 1995 require land officers to ensure that the “right of every adult woman to acquire, hold, use, and deal with land” to the same extent and subject to the same restrictions as that of any man.

Land, and hence, property access is a government controlled operation in both general and village lands. A land parcel has to be surveyed, registered and allocated to applicants. Historically, this has been skewed in favor of the male gender until recently in several ways: (i) through applications for land where more males sought for and were offered and ultimately given titles compared to men; (ii) Customs and traditions that favored distribution of land to male children to carry on the family name; and (iii) religious practices in which females were not allowed to inherit immovable property, such as landed property. The last two practices still encumber property registration and ownership in many of Tanzania’s communities.

Formal application for urban plots with subsequent registration saw a turn for the better in: (i) the 20T plots project launched early in this decade; (ii) the regularization program (MAZAGAZAGA) operationalized in informal areas of Dar Es Salaam, with issuance of residential permits, that started in 2005; and (iii) the operationalization of customary tenure as per the Village Land Act (Cap 114), albeit in few of the over ten thousand villages. Reports on these initiatives show that 32% of the over 35,000 land parcels surveyed and allocated in the 20T plots project were received by women, 45.5% by men, 4.5% to joint spouses and 18% to corporations. Women did apply in relatively large numbers and the law has been implemented without a marked interference of customs, traditions or religions. Equally impressive are data on the issuance of residential licenses where 21 % of women are beneficiaries – a reflection of the fact that most properties in informal settlements are owned by men and women are but tenants.

When considering Village Lands the principles above are being applied at a slower rate. Traditions are still very strongly kept. So are the ways of religious restrictions which govern inheritance and dispositions of real property. In the issuance of CCRO, there is an effort to enlighten the villagers on the rights of women to be equally included in the customary titles. It is out of these preliminary seminars that the very first CCRO in Tanzania was issued to a woman in Mbozi District. This set a good example and many women are applying for the certificates.

The study has also indicated that women know of the potential to get credit on the surety of a real property and some movable property titles. Indications are that most movable and intangible titles are rarely used by women. It is seldom do women get the complete right to own cattle or an intellectual property right. Only recently are intellectual rights coming up in the arts sector and business trade marks. The current move of women is towards the potentials for political positions, equality before the law and economic emancipation.

Several programs have been put in place aimed at reducing the effects of discrimination against women and children in decision making and property ownership in Tanzania. It is to this end that land formalization (tenure regularization) and issuance of residential licenses, the property and business formalization, are being done. Similarly, programs under the PSCP land component target to a national land registration which could reduce the absence of married women in decision making in matters of family property. These projects provide for monitoring, evaluation and tracking the reduction in gender imbalance physically over time.

6.2 Poverty Reduction

Tanzania's population is close to 40 million out of which about 50% live below the poverty line. Poverty Reduction strategies (PRS) have not taken into account the potential role of property in the economic infrastructure. The mention of improvements in agricultural outputs cannot be taken as a major component of the PRS without an input of the sector dealing with land tenure and property registration. The Village Land Act (CAP 114) and regulations provide that a Land Registry should be established in each of the registered villages. However, village land registration is also dependent on: (i) the village boundaries being surveyed; (ii) a certificate of village land being issued to the village and land holdings being adjudicated; and appropriately surveyed. These operations are slow for poverty reduction processes to bear fruit. The adjudication and survey (iii) is also very slow for over 4 million properties. The record, as of now, is that there are less than 60,000 properties that qualify for the grant of certificates of customary rights of occupancy. The slow pace should be re-examined if women and the vulnerable groups are to benefit in the foreseeable future.

The major outcry of village populations in poverty reduction and women's access to land is against the size of land holding, which is too small per household to address poverty reduction. Statistics from the Ministry responsible for agriculture shows that the 3.5 million small holder farmers have an average of 2.2 hectares per household. With the male dominance in village lands the average proportion of land for women is expected to be much smaller, implying that most women are landless and at the bottom of the poverty line. The small acreages are impediments to the application of technology in agriculture and use of fertilizers as these are to be paid for using the market price of the harvest. Women therefore continue to till the land with their hands and are left out on the use of other basic inputs.

7.0 RECOMMENDATIONS

7.1 Re-Engineering the System

Property registration system in Tanzania has for a long time been below expectations and far from being supportive to the economy and the business climate. It is therefore ripe for re-engineering as the problems encountered in the registries and their effects on tenure security and the market are immense. A holistic approach to resolving this problem is recommended. The current system is clogged, inefficient, cumbersome, slow, difficult to store and retrieve documents, hard to debug errors, resistant to information update and cannot be accessed electronically by users

The objective of re-engineering is to institute a radical redesign of land delivery and property registration in government ministries, departments and agencies (MDA) responsible for these activities, so as to achieve a quantum leap in performance and in so doing facilitate the attainment of objectives of the regulatory frameworks. Re-engineering will aim at improving services at a lower cost both in money and time. It will involve more sophisticated procedures, driven by computerization and employment of ICT tools that produce top-to-bottom organization transformation. The most significant change should be improving the computerization and networking of the registries to meet internal requirements for more efficient data storage, more rapid information retrieval, and greater ease in updating the records. An online access to the registry through the internet should be one of the goals of re-engineering. Re-engineering requires the formulation of a joint strategy that includes standards and specifications for technology and other issues in all pertinent government departments. Several important milestones are included in this recommendation for re-engineering, namely: systems modernization, devolution of responsibilities, regularization of tenure, capacity building, enhancement of land access, advocacy, public private partnerships, etc summarized in the table below.

Recommendation: Re-engineer Tanzania's lands sector processes to easily and with minimal constraints facilitate land access and registration of landed property in village and general lands including the mushrooming informal settlements	
Short Term	Longer Term
<ul style="list-style-type: none"> ▶ Modernize existing registries for better accessibility by the public to registry information; ▶ Expose human resource in the public service to a legal scheme of service that binds both managers and professionals alike ▶ Deploy IT in the registration process as it is key to efficiency at the work place ○ Government to engage with the private sector is essential to maximize their input as key stakeholders in property development for poverty reduction and wealth creation ○ Provide credit to the poor, and affluent alike, based on immovable property that can be mortgaged and verified through a good system of property registers ○ Provide public awareness on the use of immovable property in business mortgages in the informal sector 	<ul style="list-style-type: none"> ▶ Insert built-in linkages between the laws of the implementing and support institutions or consolidate the laws into one per sector e.g. Lands, environment, etc ▶ Build human capacity for IT use to improve transparency and efficiency ▶ A national Registration program of urban lands should be implemented to remove once and for all any delays in rural land parcel identification and land conflicts. ○ Establish Information network amongst the implementing and supporting institutions ○ Facilitate the transition of willing peasant farmers to medium scale farmers by providing more land and resettlement assistance ○ Encourage pastoralists to settle down into permanent villages by providing needed resources such as water wells and dams ○ Speed up the regularization of properties in informal settlements to facilitate legal and

<ul style="list-style-type: none"> ○ Enhance political support for property registration programs to facilitate wealth creation, higher economic growth and poverty reduction. ○ Enhance the production and registration of new plots in urban areas through the MLHSD and the Land Bank ○ Speed up the devolution of land acquisition and registration responsibilities to local government 	<p>economic use of landed properties</p> <ul style="list-style-type: none"> ○ Improve tenure security and control the rise of conflicts over land use both in rural and urban lands ○ Enhance the adjudication, titling and registration processes in village lands to enable the transformation of land, under customary tenure, into capital and obtain knowledge on unused lands for access to other investors
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Re-engineering should be done by providing support to the various pilot programs in Ministries, Departments and Agencies (MDA) that have been designed to support activities surrounding property registration, in the short term. It can also be done by financing other similar activities identified in the strategic plan (SPILL) and which contain the components identified in the table above, in the longer term. In addition to the MDAs listed under “implementing and supporting institutions,” the participation of the private sector is essential to the success of this recommendation both in the short and longer terms.

7.2 Property Registration and Poverty Reduction

The National Poverty Reduction Plan should include a component of Land Registration, particularly at the village level, where the majority of people live and work. As a prerequisite to registration, Tanzania villages need their boundaries delineated and land parcels within each village identified and registered to the individual owners. This leads to establishment of, at least, a land register for the village and a digital land register for the District Councils, the Regions, the Ministry of Lands, the Ministry of Agriculture and Ministry of Finance etc. Such a database thereafter provides for a reliable decision making process. This will also put in place a solid framework for land conflict resolution that is prevalent at all levels of land administration, such that the whole of Tanzania can have a complete property record usable for health, education, taxes, poverty management and economic planning.

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