

REPUBLIC OF ARMENIA

**LAND REGISTRATION
AND TITLING PROGRAM**

FINAL REPORT

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Definitional note: A marz is the equivalent of a county in Armenia. The marzpet is the county executive.

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EXECUTIVE SUMMARY

Land Registration and Titling Project

INTRODUCTION

Between the summer of 1998 and June 2001, USAID simultaneously implemented a wide variety of economic development projects designed to support the transition to a market economy in the Republic of Armenia. One of the initiatives has been the Land Titling and Registration (LRT) program that, notwithstanding its title, encompassed a broad agenda of public and private real estate sector market reform.

Of the many types of reform necessary to promote markets in emerging economies, few are as important as development of an open, transparent and dynamic real estate sector. The consequences of past administrative allocation of land are readily apparent in the magnitude of land use misallocation in Soviet cities. The laudable social goals of equitable and productive use of land through administrative allocation have failed. Since land is a basic resource and represents a substantial part of a nation's wealth, the absence of a market in real estate has badly affected Armenia's productivity, its ability to attract investment while maintaining excessive bureaucratic systems.

The development of a dynamic real estate market in transitional economies such as Armenia is dependent on two principal factors: (1) an *adequate* legal foundation resulting in minimal governmental interference and security of tenure, and (2) effective enforcement of agreements governing transactions and exchange. Registration of real estate is fundamental to an orderly and active real estate market. It forms the information base necessary to make investment and management decisions on real estate, associated rights, and valuation. A registration system raises claims of ownership to those of state guaranteed rights. Security of tenure thus achieved, transfer of property is facilitated and a real estate market has a foundation for normal activity.

The behavioral patterns of both governmental organizations and the private sector in transitional economies – particularly those with little or no history of democratic institutions or mutual trust – must be modified over time if any conversion is to succeed. A legal foundation is the catalyst for modification, but cannot resolve the issues of opportunistic behavior or the lack of commonality of interests in the creation of property rights.

According to World Bank estimates, capital value of real estate exceeds half of a nation's total wealth, at times approaching 75%. Consequently, the efficient use and management of real estate is key to economic development. Because the centralized management and control structure of the former Soviet system demonstrably failed to an inordinate degree, the private sector market forces are key to success. The reason for allowing market forces to determine ownership, user and, subject to planning/zoning and environmental considerations, the use of land and buildings, is that competition and price mechanisms will move the key economic resource of land and buildings towards their highest and economically most efficient use.

Unlike market reform in larger countries such as Russia or Ukraine, Armenia has no comparative advantage when attempting to promote investment. Radical administrative and social change is required. The LRT project represented a multifaceted strategy to establish a foundation for an active real estate market that, complemented by tax, judicial and commercial law reform, promotes behavioral and substantive change.

A. Background

In January 1998 a USAID, assessment team reviewed the overall market reform prospects in the Republic of Armenia. The team determined that Armenia's market reforms exceeded many of the NIS countries and that deepening of reforms was opportune. In that regard, a comprehensive core reform package of five task orders was recommended and implemented. These task orders were as follows: capital markets development; tax reform; accounting reform; privatization of strategic enterprises; and the registration and titling of land.

The stated purpose of the T.O. was to develop a collaborative partnership with the Government of Armenia (GoA) to engage in all aspects of land reform and the development of land markets. Four overall objectives were targeted for implementation over a two-year period. These four objectives consisted of the following:

- *Legal/Regulatory.* Assessment of the legal and regulatory environment and the development of the necessary legal and regulatory reforms to support a free land market;
- *Title Registration.* Improvement on the design and implementation of a simple, decentralized titling and registration system to provide for the fair and transparent registration of land titles as evidence of land ownership followed by an implementation of the roll-out of a national simplified titling and registration process;
- *Public Education.* Public education to help develop a broad base of support among key Armenian policy makers and the public on urban land privatization issues through a program of public education and the development of self-regulatory organizations; and
- *Professional Capacity Building.* Professional capacity building to rapidly train local professional capacity in all areas related to land titling and registration and land markets, resulting in performance based subcontracting mechanisms with local organizations and private Armenian consultants; over the first year most expatriate staff phase out with their duties assumed by trained local staff under contract to USAID's contractor.

These activities were further broken down into two additional tasks: **Land Titling and Registration Roll-out; and, Enterprise Land Titling and Sales.**

B. Project Implementation

The original LRT work plan was designed to be implemented in two phases. Phase one consisted of introduction of a favorable legal and regulatory environment, including deregulatory initiatives, and in collaboration with the then named Cadastre Department, the development of a simplified system for titling and registration that would result in a roll-out of a rapid, country-wide titling and registration process.

Phase II was contingent on the acceptance of the simplified system for land registration and titling. This phase included assisting the GoA to title and register all agricultural and urban land; developing the Armenian private sector professional capacity in such areas as surveying and titling, appraisal, and mechanisms/instruments for leasing and sale of land with an emphasis on agricultural land; and, finally on building a constituency through a public education campaign to inform Armenians on agricultural and urban/industrial land privatization issues and ownership rights.

Key to the success of the LRT program was the acceptance by Cadastre Committee officials of the need for the LRT implementation process. Without the political will to carry out decisions necessary for LRT implementation, including institutional changes and sharing of data, any attempt to move forward with the LRT would be systemically flawed. In addition, the passage of laws and regulations impacting the real estate sector was dependant on a reform minded National Assembly and Government. As will be elaborated in the body of this report, both of these needs were only partially obtainable. The first, because of a centralized and inflexible Cadastre Committee decision-making process with its own agenda and the second because of frequent Ministerial changes, a less than reform approached National Assembly and assassinations of the Prime Minister and four members of Parliament.

C. General Recommendations

The role of the state in property rights should be to provide the public a good set of rules and their enforcement designed to lower transaction costs. Included should be a set of property rights to encourage production and trade, a judicial system to settle differences, and enforcement procedures to enforce contracts. No legal initiative or legislation should ever grant discretionary powers to the members of the land management system.

Real estate administration should be a local concern and not subject to national political control. The land administration system should be characterized by a number of requirements that will establish it as a functional, user-friendly organization. The undertaking of the institution must be clearly set forth in legislation that also must take into consideration fiscal realities. This must be reviewed from time to time to assure that the work performed is consistent with reality. The organization of the land administration institutions must similarly be clearly defined, public, and should be open to public input. Furthermore, the institutions must avoid concentration of authority and must rationally reflect its undertakings.

All processes should be easy to comprehend and transparent. The public must be aware of the processes and rules and should reflect public needs, not perceived governmental requirements. If certain processes can be privatized, they should be. Fiscal support should be rational and realistic. The national government should supplement user fees with annual grants.

Personnel need to be trained and should not be retained if they are from previous administrations hostile to reform. Institutions must be free from political pressure and flexible enough to change.

Training should be provided exclusively by the private sector and testing must be objective, either with multiple choice or yes/no responses. If an appraiser achieves a passing grade – and the applicant must have access to test answers as well as his/her own test if the grade is deficient – then a license must be issued automatically. Continuing education should be required to maintain standards.

If it is clear that weak institutions and policies are the norm, technical assistance must focus on strong support to reformers and not on the disbursement of money either directly or with expensive equipment. Failing a finding of an imperative for reform, conditional assistance will not produce long-term, sustainable results.

Technical assistance must be structured with optimum flexibility, first to transmit knowledge and capacity to support institutional and policy change and only following strong evidence of those policy reforms, to provide other types of technical aid.

Finally, recognition must be taken that in distorted environments, longer time frames are required to adjust public and governmental attitudes.

**SECTION I
INTRODUCTION**

A. Background to Economic Reform in Armenia

The Land Registration and Titling (LRT) project represented one of five interrelated

market sector reform initiatives instituted by USAID in 1998 as part of its economic development agenda to assist Armenia in several key areas, including development and support of the real estate market.

Real estate is a fundamental component of a nation's wealth. According to World Bank estimates, capital value of real estate exceeds half of a nation's total wealth, at times approaching 75%. Clearly, the efficient use and management of real estate is key to economic development. The centralized management and control structure of the former Soviet system demonstrably failed to an inordinate degree; but, although the outward structure of the command economy disappeared, its sociological and psychological foundations permeate Armenian society. Any real estate market reform project must devote substantial time and effort to the working with, and at time establishing private sector stakeholders to achieve success. By allowing market forces to determine ownership, user and, subject to planning/zoning and environmental considerations, use of land and buildings, competition and price mechanisms will gradually move the key economic resource of real estate toward its highest and economically most efficient use. There is no question that this is a long term process and that only the foundations for its success can be accomplished within two or three years.

Since 1991, Armenia has embarked on an economic reform process that is slowly beginning to take hold. There is an extensive privatization program and ongoing legal reforms evidenced by a restructuring of the judiciary, numerous new laws and regulations all resulting in a relatively strong and stable economic growth – albeit from a very low base. As will be apparent, however, the social and psychological hold of the old command market remains a serious impediment to implementation of any economic and legal reforms.

Following a comprehensive assessment of overall market reform prospects in Armenia in January 1998, USAID recommended that the US Government finance and concentrate resources on a core program to further deepen market reforms covering the following activities:

- Registration and titling of land as part of a real estate market reform package.
- Comprehensive tax reform.
- Comprehensive capital markets development.
- Accounting reform.
- Privatization of strategic enterprises.

Of these crosscutting programs, registration of title is fundamental to the creation of a foundation for an active, viable real property market. Access by private individuals and corporate interests to land, security of tenure and the purchase, sale and mortgage of real estate are key components of a successful market economy. Real estate market reform affects tax collections, values, capital market development and privatization through domestic and international investment.

The LRT project was designed to support land market reform by making reliable, transparent and integrated information regarding real property publicly accessible at decentralized locations. In the private sector, the program targeted sustainable capacity building to begin the gradual attenuation of government interference in the market by promoting accountability and reducing the State's role to mediator and ministerial functions. LRT was composed of four strategic objectives: (1) Legal and Regulatory; (2) Titling and Registration; (3) Public Education; and (4) Professional Capacity Building. None

of the components could be dealt with in a vacuum and each contained corresponding elements impacting other Task Orders within the total USAID economic reform package.

Implicit to the T.O. was the concept of transparency. In general, Armenia suffers from unique economic practices that are markedly different from international practice. Although the economic system has developed methods that exist outside formal legal and administrative procedures, this is not a rare occurrence in transitional economies. What is different in Armenia is the systemic nature of the extra-legal practices. These unique conventions have become normal and accepted. Transparency and clarity are routinely evaded. Clearly, decisive steps are needed to alter this environment. Failure by the GoA to achieve this goal will result in further isolation; lack of investment, a sluggish economy and inability to attract much needed foreign investment. Currently, the Armenian economy is dependant on international largesse. The current system works well for Armenians in a unique environment. It is simply unacceptable behavior for those whom the GoA and many Armenians would like to do business.

Implementation and enforcement of existing laws and regulations is a serious problem, not the laws themselves. The enactment of a title registration law to secure title is an important step in the creation of a rational real estate market. Inefficient implementation substantially reduces its efficacy. Courts routinely fail to understand underlying concepts in their own laws, resulting, for example in poor enforcement of mortgages.

Institutional incapacity to fairly apply regulations spawns corruption. The GoA cannot afford to pay civil servants, resulting in what are politely called "facilitation payments" by those needing to do business with the government. There is inadequate flow of information from one government agency to another, much less to the public. Training of civil servants is microscopic.

Finally, the economic structure of Armenia is severely hampered by an inability to shed old administrative control mechanisms. Information is restricted; civil servants view any public 'client' as a potential violator of the country's laws. User-friendly elements are missing.

It is within this universe that the economic reform program of USAID started in 1998. Each of the problems cited above was noted in the structure of the respective task orders. In the case of this project, the charge was clear - to introduce transparency, responsiveness, and simplification into the title registration system while at the same time providing substantial assistance and capacity building to the private and public sectors.

B. Project Objectives

The stated purpose of the T.O. was to develop a collaborative partnership with the Government of Armenia (GoA) to engage in all aspects of land reform and the development of land markets. Four overall objectives were targeted for implementation over a planned two-year period. These four objectives consisted of the following:

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registration of land titles as evidence of land ownership followed by an implementation of the roll-out of a national simplified titling and registration process;

- **Public Education.** Public education to help develop a broad base of support among key Armenian policy makers and the public on urban land privatization issues through a program of public education and the development of self-regulatory organizations; and
- **Professional Capacity Building.** Professional capacity building to rapidly train local professional capacity in all areas related to land titling and registration and land markets, resulting in performance based subcontracting mechanisms with local organizations and private Armenian consultants; over the first year most expatriate staff phase out with their duties assumed by trained local staff under contract to USAID's contractor.

A further breakdown of these objectives covered two additional tasks:

- **Land Titling and Registration Roll-out.** Provide a land evaluation expert to educate Cadastre Department and local professionals on land evaluation, land appraisal and pricing based on market principles. Work with the Cadastre Department to issue titles to those land plots in Armenian not covered by the European Community or World Bank Programs utilizing simplified procedures developed early in the T.O. Finally, to assure that the procedures developed can form the basis for a full cadastre at a later time.
- **Enterprise Land Titling and Sales.** Design a methodology, with documents and procedures, for the privatization of enterprise land and work with the Cadastre Department to implement it.

The project was extended from its original completion date of December 31, 2000 through June 30, 2001 with a primary goal of identifying and securing title of the real estate assets of the four state owned energy distribution companies (DISCO'S) scheduled for privatization. Ronco was the only team with the institutional ability to work closely with the State Cadastre Committee and private sector surveyors to implement this key component of the privatization of the DISCO'S. This privatization goal was a conditionality of the World Bank SAC IV program. The privatization tender failed when the final two bidders withdrew.¹ A secondary activity during the final 4.5 month period was to continue legal and legislative reviews and recommendations, primarily in connection with the energy distribution sector privatization and the proposed Land Code. The latter was in its fourth iteration, poorly drafted and contained many inconsistencies, lacked clarity and remained anti-market.

C. Purpose and Organization of this Report

This report describes the Land Registration and Titling project implementation through June 8, 2001. It covers the objectives, planning, methodology and results achieved. The report concludes with a description of the lessons learned and recommends future courses of action.

Any report of the LRT project requires a descriptive framework of the political, economic, legal and organizational environment that existed in July 1998 and its evolution over the next few years. In light of the fluid nature of Armenian politics and legislation, no

¹ The World Bank has agreed, nevertheless, to release all but approximately \$15 million USD – out of \$40 million, and extended the time for privatization by one year.

report would be complete without a description of the environment within which the project needed to function.

Section II covers the environment leading up to and surrounding implementation, setting forth the results to date and future work in the proper context.

Following the contextual description of Armenian political, economic and legislative atmosphere, Section III explains the strategy adopted by Ronco to implement LRT.

Section IV covers project implementation leading to the results and benchmarks achieved under each of the four major objectives.

Section V outlines the lessons learned during the project and recommendations for future work.

SECTION II

Political, Economic and Legal Environment

A. Political and Economic Overview

The USAID Task Order Scope of Work was based on the report issued in January 1998 by a USAID assessment team that found Armenia's market reforms exceeded that of several other NIS countries and that opportunities existed to further deepen those market reforms. In many respects, political and economic reforms were far in advance of any other FSU country. The primary impediments remained one of enforcement and implementation within the social structure resistant to change.

A1. Political Structure

The present system of governance is based on the 1995 Constitution. Of the three powers of the State, the Executive developed relatively more rapidly. There were certain reasons to this. First, there was an urgent need for the replacement of the Communist system. Second, the country was under huge stress brought about by the Nagorno-Karabakh conflict, the blockade imposed by neighboring countries, the economic collapse, the consequences of the 1988 earthquake, and the overall instability of the region. These were challenges that required immediate response. Third, there was an issue of redistribution of wealth. From 1991, the new political and economic elite wanted to obtain the executive power in order to be in a more beneficial situation after privatization and the establishment of market economy. The new officials applied all the leverages of the executive power for attaining a party-clan monopoly in political and economic fields. The President of the Republic is the supreme authority that ensures "the normal functioning of the legislative, executive and judicial powers." The Constitution bestows vast authority upon the President: nomination of the Prime Minister and of the ministers upon presentation of the Prime Minister, nomination of the Prosecutor General, dissolution of the Parliament upon consultation with the Prime Minister, representing the State abroad and signing treaties, acting as the Chief Commander of Armed Forces, etc.

The Constitution set the structure of the judicial power, outlining the judicial reforms, largely completed by 1998. However, although the Constitution stipulates that the judges are independent and non-politicized, this is clearly not the case. The President influences the judiciary through the constitutional authority of appointing four members of the Constitutional Court while the National Assembly appoints five. The Constitutional Court, created on December 6, 1995, rules on, among other things, the constitutionality of the laws, presidential decrees, and government resolutions. The Justice Council, another novelty introduced by the Constitution, is at the top of judicial system and is chaired by the President, while the Minister of Justice and Prosecutor General are vice-chairmen.

The Constitution initiated a decentralization process in Armenia. A three-level system of territorial administration was established: central government, regional administration, and local self-governance. The country was divided into ten Marzes and Yerevan, which was also granted the Marz status. The extension of the central executive power is vested in the regional governors, appointed by the President of the Republic upon presentation of the Prime Minister. The authority of local self-governance is vested in elected Community Councils. The Chairmen of the latter, however, are not independent. Upon the recommendation of the Regional Governors, the Government can dismiss them. In other words, top executive authorities can dismiss somebody who was elected by popular vote. Meanwhile the dependence of the judicial system does not allow recourse for these decisions. Institutions representing strong executive power are the Governors' Offices. The system of regional government and local self-governance replicates the presidential model of the Republic. Currently, the local self-governance bodies are in a difficult situation. The lack of their present authority does not allow them to collect enough revenues for the implementation of the local budget, whereas the regional and central authorities are not concerned enough with the needs of the communities.

A2. Economic Environment

The GoA began building the basis for economic stability and the reform process starting with the introduction in November 1993 of the national currency, the dram. By the

end of 1994, with financial support from Bretton Woods institutions and bilateral donors, the Government embarked on a comprehensive program of macroeconomic stabilization and structural reform. Overall, by regional standards, during the last few years, Armenia has made progress in macro-stabilization and the recent rates for economic growth are encouraging. As far as structural reforms are concerned, Armenia remains, according to the World Bank, among the best performing countries in the CIS, showing substantial progress in budget management, tax administration, central-bank regulation, privatization and reforms in various sectors, namely energy, education, health, and social protection. It should be pointed out that Armenia's performance is distinctly relative. The CIS group remains one of the poorest performing groups on the planet.

Domestic investment is constrained by low national savings. The latter have been estimated at a negative 15% of GDP in 1998, reflecting the high public deficit and large private transfers and remittances inflows. As a result, investment as a share of GDP is low at 14%, and reliance on external financial assistance is, to be charitable, significant.

Substantial investment flows into Armenia (especially in industry) are constrained both by poor investment promotion programs and by a shortage of capacity to absorb and use the substantial financing available from domestic and international sources. If Armenia fails to attract sufficient investments, its further economic growth will be jeopardized.

Agriculture represents a major sector of the Armenian economy. It contributes to more than 30% of the GDP and satisfies about 65% of the domestic demand in agricultural products in spite of the fact that agricultural resources are limited due to the country's size. As a result, 321,000 of private farmers and some 256 co-operative farms emerged instead of the former 900 state and collective farms. Land privatization, multifarious forms of ownership and economic management, price liberalization, and decrease of state intervention at the micro-economic level have created serious prerequisites for the development of market relations in the sector. On the other hand, however, land privatization has had its adverse effects, creating farms of small land plots that have low economies of scale of agricultural production and do not allow the effective use of land, especially at the present stage of extremely low level of development of agricultural unions and cooperatives.

Polarization of the society is deepening, disparities are growing among various social strata, and some groups of transitional poverty are stepping towards structural poverty. More than 53% of GDP per capita generated in the country is consumed only by 10% of the population, while the poorest 10% get only 0.3% of the total income per capita. Finally, the exodus of people escaping abroad belies the wildly exaggerated population figure of 3.8 million. Needless to say, the economy is severely hampered by emigration that has, by some reliable estimates, reduced total population to less than 2 million.

B. Legal and Legislative Environment

The status of the legal framework for real estate administration had moved forward by July 1998, so that the basis on which future work would be implemented depended on the existing structure that was not particularly susceptible to change.

In July 1998, the Government was already considering adoption of a Law on State Registration of Rights to Real Property. The Ronco legal team worked closely with the legal staff of the SCC, reviewing and commenting on various draft laws. Ronco's initial goal was that Parliament would adopt a registration law reflecting fundamental principles necessary

to support an open and active real estate market. However, it quickly became apparent that in addition to the registration law, amendments to existing laws, as well as new laws, were necessary.

The legal environment for the private sector has been significantly improved on paper. A new company law and laws on real property, banks and banking, collateral, bank insolvency and commercial bankruptcy have been adopted. By mid-1999, over 85% of small enterprises and 75% of medium and large enterprises were privatized. The share of the private sector in GDP increased from 11.7% in 1990 to 75% in 1998. In agriculture, almost 98% of output is provided by the private sector while its share in industry, construction, and services is lower (57% of total output). However, the private sector remains embryonic. It is too weak to fuel economic growth. New policy formulation is required in many areas. There is a need to redefine the relationship of the State with micro-economic circles in order to ensure that the free market becomes an enabling basis for economic development.

B1. Introduction

In addition to the 1995 Constitutionⁱⁱ, in July 1998 the following laws, draft legislation and regulations were either in effect or so far along that attempts at modifications would, in most cases, clearly be problematic:

- Draft Law on State Registration of Rights to Real Property^{iv}
- Land Code (1991)
- Proposed Drafts of a New Land Code
- Law on Local Self-Government (1996)
- Law on Urban Development (1998)
- Law on Enforcement of Judicial Decisions (1999)
- Laws on Privatization:
 - Law on Individual and Collective Farms (1991)
 - Law on Privatization of State Property (1997)
- Civil Code (1998)
- Law on Real Property (1996) *Repealed by Civil Code*
- Law on Ownership (1990) *Repealed by Civil Code*
- Law on Pledge (1995) *Repealed by Civil Code*
- Parts of the Civil Procedure Code

With regard to registration of rights to real property, many Government Decrees and regulations promulgated by the then State Cadastre Department were in effect prior to T.O. implementation, including:

ⁱⁱ The fundamental rights to property and the guarantee of the protection thereof by the Republic of Armenia are set out at Article 8 of the Armenian Constitution.

^{iv} This law was enacted as one for registration of rights to *Property* – this included personal (moveable) property.

- Decree 237 (1997 – establishing the Cadastre Department);
- Decree No. 465, Regulation on Inventory, Monitoring, Valuation and State Registration of Real Estate.
- Decree No. 466, On the Approval of the Formats of the State Register of Real Estate, Certificates for Registration of the Real Estate Ownership (Use), Mortgage (Hypothec) and Lease Titles.
- Methodological Instructions On the Conduct of the Unified State Register of Real Estate, dated February 27, 1998, issued by Mr. Vardanyan of the State Unified Cadastre of Real Estate (Instructions on filling our Registration Card; issued pursuant to Govt. Decree No. 466).
- Registration Card Form.
- Govt. Decree 155 On Data Provision on the Unified Real Estate Cadastre (March 3, 1998) [*including which offices issue what information about title to real estate].
- Govt. Decree No. 91, On the Procedure on Real Estate Codification in the ROA (February 17, 1998).
- Govt. Decree No. 98, On Scales and Forms of Real Estate Cadastral Index Maps and Cadastral Plans (February 18, 1998).
- Regulation on Real Estate Recording Regulatory Procedures (deals with surveying; by Mr. Vardanyan, Cadastre Dept. February 20, 1998).
- Draft Decree on Establishment of Professional Attestation Commissions for Real Estate Surveyors, Appraisers, Cadastral Cartographers and Realtors & Approval of Their Membership (M. Vardanyan, Cadastre Dept.) & Forms.
- Guidelines for Valuation Procedures (M. Vardanyan, July 28, 1998).

By definition, real property in Armenia includes land as well as immovable property attached to the land for permanent use – buildings, public utilities, trees, etc. All physical persons and legal entities, including foreign citizens and legal entities have the right to possess, use and alter real property – with the exception of land. The owners of real property are also entitled to exclude the right of others to the property, and to sell or mortgage the property. In addition, if the owner of real property (in this case immovable property) is not the owner of land then he has the right to use and alter the part of land parcel on which the immovable property is constructed.

The 1991 Land Code has two broad provisions for land use through lease arrangements:

a) Permanent use, under which land is allocated for an indefinite period of time. Lease arrangements under this category are restricted to only Armenian citizens and legal entities.

b) Temporary use, under which land is allocated through lease arrangements open to all, including foreign physical persons and legal entities. Under this category, there are two types of lease arrangements:

- Short-term arrangements (up to three years),
- Long-term arrangements (from three to ten years).

The Law of Privatization of State Property, 1997, regulates all activities relating to

sale of State property. State Property includes shares of state-owned enterprises with State participation, and elements of State property including land and real property. The law establishes that foreign and Armenian legal entities enjoy equal rights when participating in the privatization sale process, with the exception that foreign entities cannot purchase land. Foreign physical persons (including citizens and stateless persons), foreign legal entities and entities which are registered in Armenia but do not have a status of a legal entity are not permitted to own land, however, they can access land through lease arrangements with State or Municipal governments or private owners.

B2. Administrative framework of the State Committee of Real Property Cadastre

Ronco's GoA counterpart, the State Committee of Real Property Cadastre, at the commencement of the project was called the State Cadastre Department, attached to the Ministry of Justice, and was responsible for land administration. The organization was, and remains, highly centralized with little or no decision-making powers outside the Chairman. Over the period of the LRT program, the Department was converted by the GoA to a State Committee, removed from the control of the MoJ, and given strong, far-reaching powers. In late 1998, the SCC was given control of all land legislation development, testing, licensing and training of surveyors, appraisers and brokers. This development would be dangerous even in a benign, market oriented government agency. The SCC is neither benign nor particularly market oriented. It exercises excessive control over the market and its stakeholders. The effects of this concentration of power will be discussed in the final section.

The SCC was established with a far-reaching statute providing for the preparation of all legislative, organizational and administrative measures for land policy and administration. It is responsible for title registration and to implement and maintain a real property cadastre. Since the summer of 2000, one of its departments is responsible for all aspects of land use planning and consolidation. ^v

^v To give an idea of the scope and authority of the SCC, the following is a partial listing of its activities:

- Management of a unified cadastre.
- Registration of rights and restrictions on the property.
- State inventory and its implementation.
- Real property cadastral mapping and digital map production.
- The Cadastral appraisal of real property and the creation of a tax base for the land and property.
- Development and introduction of registration codes and real property code system.
- Study of international experience regarding title registration, inventory, cadastral mapping, appraising and licensing.
- Organization of real property monitoring, the analysis of the real property market and providing publicity of that information.
- The creation and management of a database concerning real property, registered rights and restrictions upon property, maintenance of the cadastral files and state registration documents.
- Licensing of the surveyors, realtors and real property appraisers.
- Introduction of an automated cadastre system.
- Management of local offices and training of the staff.
- Develop principles of land policy and land administration.
- Creating general layouts of settlements and land utilization schemes
- Approval of fees levied for the services furnished by the entire system, including registration and information on registered rights.
- Drafting of regulations controlling activities in the field, development of the normative technical documents (state standards, instructions, manuals, orders etc), and the development of recommendations to be submitted to the government or the Prime Minister.
- The creation and publication of a real property state unified cadastre reference book.
- Co-operation with international organizations in the implementation of real property cadastral projects.

Furthermore, GIPROZEM (Land Construction Planning Institute) the former "State Institute of Land Planning" has been subordinated to the SCC. It is now under the "supervision and leadership" of the Chairman of SCC and will:

- Propose strategies to develop and implement land use planning;
- Develop planning and implementing methodologies of urban and rural development; and,
- Test these methods within the context of pilot projects.

SECTION III STRATEGY DEVELOPMENT

A. Project Implementation Strategy, Introduction

The TOR was designed to be implemented in two phases. Phase One consisted of introducing a favorable legal and regulatory environment together with deregulatory initiative and (in collaboration with the Cadastre Department) development of a simplified system of titling and registration. The latter was to be designed so that the system could be rapidly rolled out on a nationwide basis.

Overall, the work covered a wide array of matters within the framework of three main components: (1) assisting the GoA to title all urban and agricultural land (excluding agricultural land covered by the European Union technical assistance program); (2) development of the private sector's professional capacity; and, (3) a public education campaign to inform citizens of agricultural and urban/industrial land privatization issues and ownership rights.

Phase II implementation was contingent on the acceptance by the GoA of the simplified registration and titling system. Specific work associated with Phase II and excluded of Phase I were: (1) Public Education; (2) Land Titling and Registration Roll-out; (3) Enterprise Land Titling and Sales; and, (4) Professional Capacity Building.

As will be discussed in this Section III the two-phase approach rapidly became impractical. This was largely due to the working methodology of the GoA counterpart and actual field conditions in the legal and legislative arenas. As a result, based on findings and recommendations contained in a confidential "Project Status and Recommendations" paper presented to USAID by Ronco in September, 1998 Ronco and USAID decided to begin implementation of Phase II in December 1998, rolling it into the Phase I work. ^{vi}

Both Ronco's COP and the USAID CTO had concluded by early 1999 that the working relationship set forth in the TOR had been heavily influenced by the Chairman of the SCC so that, despite the fact that the Ministry of Justice and the Head of the Legislative Committee of the National Assembly were logically positioned to assume counterpart or joint-counterpart status, they were excluded. Indeed, two months following Ronco's arrival, this counterpart designation was identified by Ronco and USAID/Yerevan as a major impediment to implementation of any streamlining, simplification or decentralization. This original conclusion proved more than true as the project moved into the second year. Long term strategic planning could be maintained, but required frequent short-term operational shifts

A1. Joint Planning and Development

To develop a long-term strategy to implement LRT Ronco, in consultation with USAID, designed a plan that could meet contractual requirements while dealing with a fluid legal and political environment that was complicated by the secretive and overly centralized bureaucracy at the SCC. The latter's non-market oriented positions on many issues (unless providing direct, tangible benefit to the SCC) and lack of, or disinterest in, planning methodology only became clear after the team was fielded and sufficient discussions had taken place. Although a long-term strategy to implement the original two phased project was not difficult *per se*, it became clear that the government counterpart was not inclined to follow any structured implementation nor to constructively participate in the planning stage.

Nevertheless, Ronco, with the active assistance of the USAID Mission, pressed forward with planning so that by the end of the initial 30 days a project work plan had been approved by the Mission. This work plan, it was agreed, would be highly flexible to anticipate and react to actions of the GoA through the SCC.

A2. Legal/Legislative Action Plan

By July 1998, the Government was considering adoption of a Law on State Registration of Rights to Real Property. Ronco's key goal was adoption of a registration law reflecting fundamental principles necessary to support an open and active real estate market. In addition to the registration law, amendments to existing laws, as well as new laws, were also necessary.

^{vi} The confidentiality was required because an important caveat in the decision was to maintain the leverage afforded by the conditional second phase *vis a vis* the SCC until the time when cooperation was evident.

The benchmark deliverable for the Legal/Legislative component of the T.O. was a report to USAID within 30 days of fielding that required the compilation, review and analysis of all existing and proposed laws, regulations and orders. Anticipated as a relatively straightforward task in the T.O., this process clearly would be a protracted endeavor. This task ran into immediate problems when it was discovered that translations provided were either out of date, incorrect or both. In addition, between the time of the TOR development and fielding of the team, many new regulations, draft laws and modifications to existing rules had been enacted or proposed, requiring additional translation. Finally, the benchmark assumed a static legal atmosphere, something that is simply not realistic. Therefore, Ronco and USAID decided that the most practicable methodology for handling the fluid status of legislation was to target key laws and regulations, issuing a report of findings and following-up with secondary reports.

A3. Capacity Building Planning

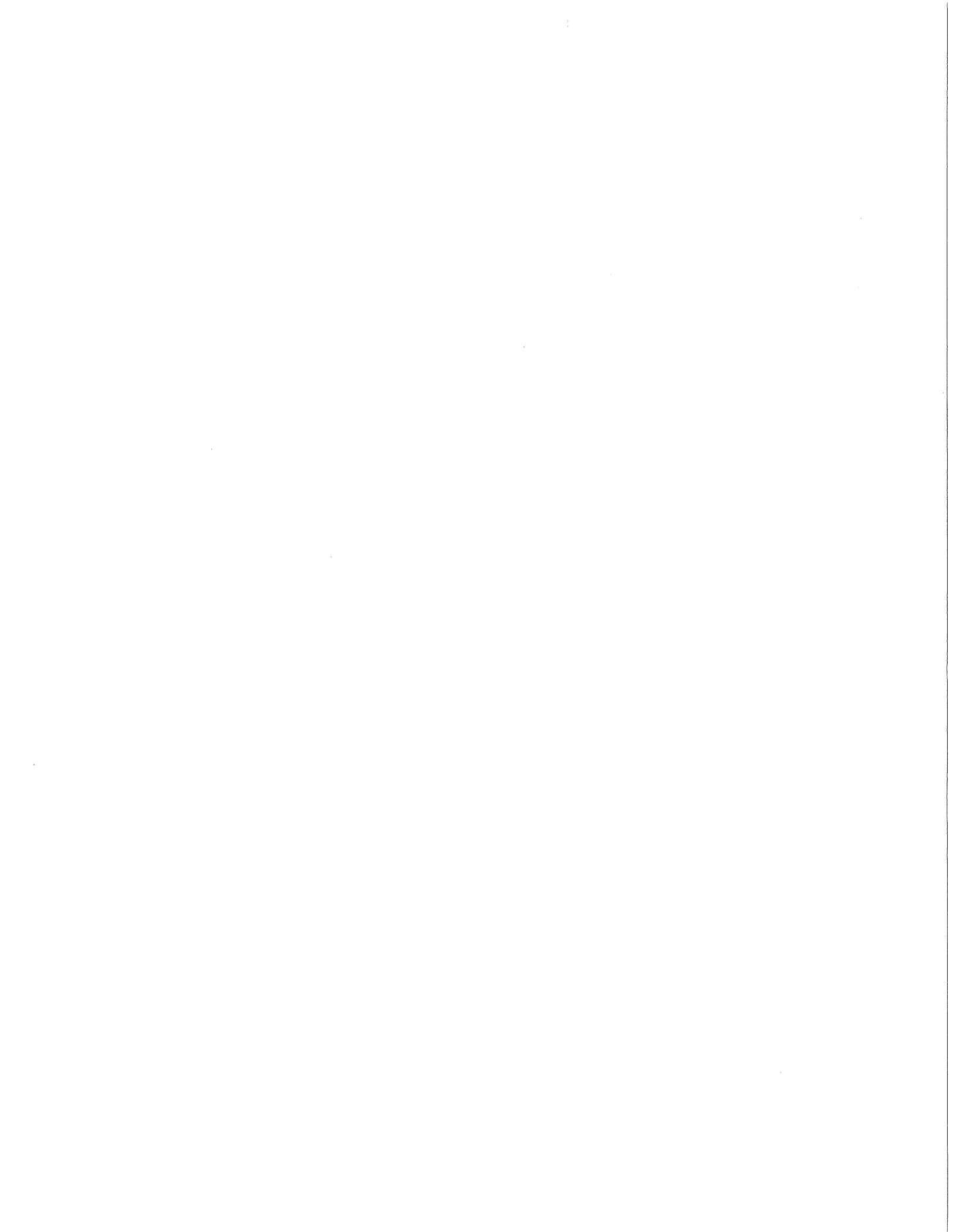
The component for capacity building included both the SCC and the private sector. Despite pressure from the SCC for immediate implementation through provision of hardware for training, the Ronco team devised an incremental plan that included a 'user needs' analysis to identify key areas to address. Following the analysis, which was reviewed with the SCC and USAID, a determination would be made of the hardware necessary to accomplish the training requirements within the SCC staff. Implementation would then proceed in a structured format. Planning included on the job training and in-depth training through visits to other countries to study how and why certain practices were used in title registries

Private sector capacity building was part of the Phase II implementation and the USAID recognized the need for a vibrant, independent private sector. The T.O. specifically provided for technical and financial assistance to the private sector utilizing a sub-contractor methodology for implementation. The Ronco plan therefore, provided for a longer-term analysis of the sector through public opinion surveys and discussion within the nascent private sector participants. The strategic plan anticipated about a six-month "user needs" analysis prior to implementation. Taking into consideration the goals of the T.O. within this component, planned implementation included provision of equipment and other support to identified firms and individuals that indicated sustainability over the long term and beyond the end of the T.O.

A4. Public Education/Information

Recognizing the immense need for public education and information regarding the market reform activities undertaken by the GoA and the Ronco project, the Public Education team immediately put two veteran Armenian public information experts on staff. Their previous background in public information with earlier USAID pilot projects in the real estate sector allowed their experience to be utilized by the public education team leader in developing a plan of action to penetrate the Armenian market through opinion surveys, print, television and a series of planned seminars throughout the country. The planning included coordination with the Sibley International Public Information team, which was assisting all other market reform projects.

The strategy developed targeted the introduction to the public of a new way of thinking that would heighten awareness of and respect for ownership rights and registration benefits; this would result in the public's having a better appreciation of Armenia's entire real estate transactional process.



Development of the strategy included an immediate market research survey to gauge the public's level of awareness of ownership rights, frequencies of and attitudes toward property transactions, and the general level of exposure to the title registration process. This, in turn would help to target the key areas requiring a concerted effort to inform the Armenian people of the changes that were taking place, and, more importantly, why those changes were important to them.

A5. Title Registration

The T.O. reflected the fact that a 'title registration' system existed but remained extraordinarily cumbersome. The task for this component was to establish the legal foundation for the system first. Planning, therefore, was initially prioritized in the legal/legislative component. The strategic goal was to firmly establish the legislative basis and, as that approached fruition, to provide the SCC with a plan for streamlining the system based on modern technical solutions that would result in the rapid implementation of a true title registry. The technical title registration planning and implementation is contained in a separate part of Section IV.

B. Constructive Engagement

Throughout the planning process and continually during implementation, Ronco utilized a 'constructive engagement' approach with the SCC and the GoA. Essentially, this strategy meant that discussions would be full, frank and open. It is a results oriented approach that requires that the goals of the T.O. be fulfilled and that at time the SCC would not be indulged in some of its more extravagant requests or if their approach was fundamentally incorrect due to lack of knowledge or for reasons that would benefit only the SCC and marginally the people of Armenia. Early in the planning process, the Ronco team recognized that the knowledge of the SCC in title registration as a whole was cursory. The objective was to gradually combine exposure to title registration as it operated in a market economy and a 'learn by doing' within the SCC itself.

C. Two Phase Approach Discarded

The two-phase approach, as mentioned briefly, was discarded as between Ronco and USAID, early on in the program. This was an important development since it substantially accelerated a number of tasks. The reasons for the changed can be traced to the moves by the SCC to proceed on a very broad front and the fact the primary criteria for a go-ahead by USAID - acceptance by the GoA of a streamlined registration system - was clearly evident. The decision to merge was taken quickly in December 1998.

In order to understand this decision, it is necessary to review a brief outline of the T.O. work that was anticipated only to occur in Phase II and what occurred afterward. Phase II tasks consisted largely of the following:

Land Titling and Registration Rollout: Provide a land evaluation expert to train Cadastre Department and local professionals on land valuation, appraisal and pricing techniques based on market principles. Tasks include, designing and implementing seminars and on-the-job training, issuance of title certificates to those land plots not covered by the EU or World Bank efforts, and coordinate efforts with those donor organizations.

Enterprise Land Titling and Sales: The work for this task includes the design and implementation of a methodology, development of documentation for privatization of enterprise land. In addition, the staff of the Cadastre Department will receive on-the-job training in the new methodology while local authorities will receive technical assistance to speed up registration and the issuance of title certificates.

Professional Capacity Building and Training: Three primary tasks were set forth in the T.O. The first is the development and implementation of an on-the-job training program for the Cadastre Department in surveys, registration and registration software, land management and land evaluation. Equipment and registration software are to be provided for a pilot effort. The second task involves subcontracting to private sector firms - such as lawyers, surveyors, appraisers and brokers - on a performance-based system to develop local capacity to perform their relevant tasks. The final task involves holding seminars on land assessment and valuation issues while training local speakers to conduct seminars on all aspects of land assessment and the overall effects of land markets on economic growth.

Public Education: The objective was to help develop a broad base of support for title registration, urban and industrial land privatization and public information on fundamental rights and issues through various media.

Although the early portion of the project did not develop at a speed or in a manner fully anticipated in the T.O. the agreement to maintain a flexible strategic work plan provided the opportunity to move quickly to modify timing of tasks. In addition, unlike other FSU countries, Armenia was not stalled in a legislative morass with few decisions of merit taking place. Moreover, 85% of rural land had been distributed into private ownership. The latter was a key criterion for the rapid rollout of title registration. Therefore, the added problem of allocating and distributing land is absent from the equation (unlike Moldova, Ukraine and Russia) and the methodology needed for the legal identification of land and the appurtenant rights is its survey and mapping. This is fundamental to the effort and differentiates it completely from other examples of successful or unsuccessful title registration.

As stated earlier, the SCC was independent of any ministry and controlled or was attempting to control all-important aspects of real estate reform. Additionally, the T.O. had been developed prior to authorization being devolved to the SCC, by governmental decree, to regulate activities, including the licensing, of appraisers, real estate brokers and surveyors. This decree required also that firms and individuals performing these sector services either cease, or be licensed by December 31, 1998.

Phase I rapidly became entangled in Phase II programs because of the foregoing reasons and could no longer be considered a distinct, separable component. The laws and regulations that Ronco was reviewing were subject to repeated changes and impacted other sectors - such as land use and zoning questions, policy issues on the alienation of certain state owned property, financing, privatization valuation and the like. These variables changed the parameters of the work on a daily basis and forced the team to work on issues that had been relegated to the second phase.

For example, valuation, public education and enterprise acquisition of underlying allocated land are necessarily the subject of discussion whenever securing legal rights is a topic. Valuation, for example, is partly the function of the nature and extent of a right. Privatization of enterprises impacts both the acquisition of the underlying land and the valuation of that enterprise for tax and investment purposes.

Ronco found that the segregation of these issues were either impossible or became extraordinarily difficult to justify to the SCC. Furthermore, the SCC was rapidly drafting numerous laws and regulations - licensing regulations and enterprise land acquisition for example - which could not be prudently ignored through the original T.O. formulation.

Finally, and most importantly, the exigency of demands by the EU and World Bank required that the SCC change its methodologies in connection with the overall title registration process or fail to receive funding. On October 2, 1998 the Ronco team attended a meeting that included representatives of the EU and World Bank; the Deputy Ministers of Finance and Trade and Investment; senior officials of the SCC and USAID. The major issue was the clear inability of the GoA to fulfill the numerical conditionalities for issuance of title certificates and therefore risk losing over \$11 million USD. The result of the meeting was an agreement that the Ronco team would develop by October 9 a new methodology for assisting the GoA in achieving the EU targets. It was not by coincidence that the new methodology was also made an integral part of a streamlined title registration system. On October 8, one day ahead of schedule, a second meeting was held and the plan presented. The methodology anticipated that the identification of legally acceptable descriptions to protect rights would be accelerated between four and ten times the then existing system and at a cost far less than was allocated for the field survey portion. It should perhaps be stated that the preparation and issuance of title certificates without adequate legal identification - as has been done in other NIS countries - is legally questionable at best and a gross waste of time and money. No title registration system - no deed recording system in the United States - operates without adequate and sufficient legal descriptions.

Based on all the above, USAID and Ronco agreed that certain aspects of Phase II were approved for implementation. Except for the Enterprise Land transfers and aspects of public education, such as the establishment of the press club (later also removed from the tasks to be performed by mutual agreement), all the remaining tasks in the T.O. under Phase II were authorized to start.

As between AID, Ronco and the SCC (as well as the GoA, World Bank and the EU) the project continued to outwardly operate on the basis of the conditionalities in the first phase.

D. Summary

The development of an overall flexible strategy to implement the T.O. proved to be important in maintaining a high level of interaction with the SCC, which would otherwise have proceeded without input from Ronco.

Both USAID and Ronco recognized the importance of formulating plans to deal with the rapidly changing legal environment. Planning emphasized proactive legal functions that would allow the legal team to make recommendations and draft proposed documentation based on market-oriented principals. The primary legal and legislative planning revolved around the rapid enactment of the legal basis for the title registration system.

Strategies developed for the implementation of the public education component as well as capacity building was also proactive. Both were based on a period of investigation and analysis prior to any implementation. User needs were considered paramount, whether the "users" were the GoA in general, SCC in particular or the private sector market participants.

The successful implementation of the T.O. and all deliverables was made possible by effective, flexible planning with frequent consultation among USAID and Ronco team members. The strategy developed also allowed for implementation of the intent of the T.O., ultimately including the establishment of the only nationwide, electronic title registration system in the CIS.

SECTION IV PROJECT IMPLEMENTATION

Key project objectives and deliverables, whether stated or implied by the T.O., and development of a methodology for and subsequent implementation of rolling out the title registration system were met through development of a comprehensive, flexible long-term strategic plan. In order to accomplish the tasks set forth in the contract, the tested process of analysis, design and implementation were followed.

A. Introduction

Ronco was tasked with achieving goals in four interrelated areas: Legal and Legislative; Land Titling and Registration; Capacity Building; and Public Education. The land-titling component contained two additional sub-components, a 'roll-out' of the system and 'enterprise land sales'.

By the end of the project, not only were all stated Task Order deliverables or benchmarks achieved, but those benchmarks that were logical extensions of the Task Order's overall goals were also reached.

This Section IV describes the implementation of each of the primary objectives, problems encountered and their resolution as well as the deliverables resulting from implementation. It is important to understand that the benchmarks contained in the T.O. should not be viewed as static targets. Although each were reached, the *intent* of the overall objectives, as expressed in the T.O. narrative, required very flexible implementation that

would ultimately help to establish a foundation for a dynamic real estate market.

B. Legal and Regulatory Component

The primary objective of the project has been to assist in the development of a dynamic real property market in the Republic of Armenia. Legal and regulatory reform constituted a major component and means to achieve that objective. The overall objective required the compilation, review and analysis of all existing and proposed laws, regulations and orders. Following analysis, recommendations in the form of reports and suggested modifications to laws and regulations were periodically submitted to the SCC.

Simultaneously with the development of a comprehensive workplan, the Ronco legal staff commenced a review of existing and pending legislation. Anticipated as a relatively straightforward task in the T.O. this review process became a protracted endeavor. The TOR tasks anticipated a review and analysis of laws, regulations and decrees affecting the real estate market within the first 30 days. As covered in Section III, this task required substantial re-planning due to translation issues, laws and regulations drafted prior to arrival and the generally fluid legal environment. Ronco implemented the strategy discussed with USAID to initially address key laws and regulations in the benchmark report. Following the initial report, supplemental commentaries would cover remaining laws.

Just prior to Ronco's arrival, Armenia had adopted a procedural framework defining rights that must be registered and how that registration was to be implemented. The legal basis for this procedural framework consisted of governmental decrees and SCC regulations. However, those decrees and regulations did not express fundamental legal principles to create a complete foundation for a truly open real property market that would build confidence, reliability and stability in private rights to real property.

The Ronco legal team reviewed the tenure structure and all adopted and proposed laws, regulations related to real property. The key legislation targeted for enactment by the T.O. naturally was the proposed law on title registration. Beginning on July 23, 1998, the following, as well as the 1995 Constitution^{vii} were reviewed and commented upon:

- Draft Law on State Registration of Rights to Real Property
- Land Code (1991)
- Proposed Drafts of a New Land Code
- Law on Local Self-Government (1996)
- Law on Urban Development (1998)
- Law on Enforcement of Judicial Decisions (1999)
- Laws on Privatization:
- Law on Individual and Collective Farms (1991)
- Law on Privatization of State Property (1997)
- Civil Code (translation was not available until December 1998)
- Law on Real Property (1996)
- Law on Ownership (1990)
- Law on Pledge (1995)

^{vii} The fundamental rights to property and the guarantee of the protection thereof by the Republic of Armenia are set out at Article 8 of the Armenian Constitution.

^{ix} This assumes there is an adopted substantive law with regard to tenure, real property rights and interests, as well as a corrupt-free fully competent judicial system in place to enforce those rights.

- Parts of the Civil Procedure Code

With regard to registration of rights to real property, many Government Decrees and regulations promulgated by the SCC were reviewed, including:

- Decree 237 (1997 - establishing the Cadastre Department);
- Decree No. 465, Regulation on Inventory, Monitoring, Valuation and State Registration of Real Estate.
- Decree No. 466, On the Approval of the Formats of the State Register of Real Estate, Certificates for Registration of the Real Estate Ownership (Use), Mortgage (Hypothec) and Lease Titles.
- Methodological Instructions On the Conduct of the Unified State Register of Real Estate, dated February 27, 1998, issued by Mr. Vardanyan of the State Unified Cadastre of Real Estate (Instructions on filling our Registration Card; issued pursuant to Govt. Decree No. 466).
- Registration Card Form.
- Govt. Decree 155 On Data Provision on the Unified Real Estate Cadastre (March 3, 1998) [*including which offices issue what information about title to real estate].
- Govt. Decree No. 91, On the Procedure on Real Estate Codification in the ROA (February 17, 1998).
- Govt. Decree No. 98, On Scales and Forms of Real Estate Cadastral Index Maps and Cadastral Plans (February 18, 1998).
- Regulation on Real Estate Recording Regulatory Procedures (deals with surveying; by Mr. Vardanyan, Cadastre Dept. February 20, 1998).
- Draft Decree on Establishment of Professional Attestation Commissions for Real Estate Surveyors, Appraisers, Cadastral Cartographers and Realtors & Approval of Their Membership (M. Vardanyan, Cadastre Dept.) & Forms.
- Guidelines for Valuation Procedures (M. Vardanyan, July 28, 1998).

Following the initial review, the Ronco legal team came to certain conclusions regarding the law on registration in particular and real property in general, as they related to economic reform.

B1. Title Registration User Analysis and Recommendations

The concept for the streamlining of the title registration system emphasized user needs. These included four key components:

- Clear laws and procedures regarding the establishment and subsequent transfer of private real property rights.
- Simple and low-cost title registration rules and procedures.
- A public, permanent, open, easy-access record-keeping system.
- Legal protection of private real property rights.

Following the identification of user needs, a simplified picture of what a title registration law should contain was presented to the GoA through the SCC.^{ix} To create a sustainable system, the following minimal requirements were recommended:

- a. Open, transparent records offices (public notice):
 - Easy access to data; complete access to (and low costs for) all title information

(copies, reports, etc.).

- Relatively simple methods to determine ownership and other rights to a particular real property unit.
- b. Requirement that all rights and interests must be registered in one registry – typically at the local level.^x
- c. Legal protection for those who register their rights. The preferred method is a government guarantee of the accuracy of the title information maintained by the registry.
- d. Less protection for those who do not register.
- e. Protection of third parties (those who rely, in good faith, upon the registered information).
- f. Institutionalization of the Priority Principle (“c”, “d” and “e” above).
- g. Implementation of the Curtain Principle (need not look behind the register for historic data).
- h. Parcel based (mapping component).^{xi}
- i. Registration process includes registration of rights to real property and not the collection and registration of extraneous matters such as soviet style inventory data.
- j. Simple, efficient administrative procedures and competent bureaucrats administering the system.^{xii}
- k. Appropriate mechanisms for determining and correcting administrative errors in the Registry and/or Certificates.

In addition to providing a draft registration law to the SCC, the Ronco legal team reviewed and commented on the several governmental-generated draft registration laws circulating in late 1998 and early 1999. Our comments reflected the principles outlined above.

B2. Land Market Supporting Legislation

A working registration system is meaningless without the creation of clear, stable and fundamental rights to real property. In Armenia, several laws relate to these rights. The following are the principal laws that were the main targets of Ronco’s legal analysis.

The Land Code, Introduction

^x The number of “local” offices must be decided with reference to the particular geography and expected transactional rates of a given nation. As seen in Armenia, it is probably unnecessary to maintain all 47 local offices. However, it is important to consider the convenience to the public – and also for the communities maintaining the registries, maps and cadastral works. There should be some level of local administration. In addition to the local offices, Armenia has a central information office located in the capital. Such a central office makes sense in Armenia in that it will provide convenience and thus enhance the system, particularly from the perspective of the potential investors and banks located in Yerevan that may be interested in real property located outside the city. However, this should not supplant all local offices.

^{xi} The Registry should be organized based upon real property units within the geographical jurisdictional boundaries of the Registry/local office. The way to make sense of the relationship among rights, rights-holders and the real properties to which the rights relate, is to identify the parcels geographically and assign some kind of identifier to the parcels. Note, however, that the identification of a parcel does not (usually) include a guarantee of its boundaries. A parcel is merely *represented* by the identifier (e.g., in Armenia by a cadastral number, or as in Minnesota, by a mathematical legal description) which in turn gets its meaning from the approximate dimensions of the parcel as depicted on the cadastral index map. Collection and depiction of spatial data, through mapping and surveying, is not title registration but is used to support the system. It is an essential tool.

^{xiii} Title registration systems are overwhelmingly administrative in nature. If the administrative features do not operate smoothly, the system will prove cumbersome and may ultimately fail.

In 1991, the RoA adopted a Land Code (LC). The LC governed the rights of permanent and temporary users of state-owned lands, allocation of lands for certain uses (agricultural lands; populated areas; lands of industry, transportation, communication, defense, and other lands of natural protection, sanitary, resort, sports and historic-cultural importance; lands of forest stock; lands of water supply; lands of reserve stock) and provisions regarding maintenance of lands.

Upon adoption in 1995 of the new Constitution many parts of the LC were no longer effective given the. For example, throughout the LC reference is made to several governmental bodies that no longer existed, such as the "Supreme Soviet", the "Council of Ministers" and "Local Soviets of People's Deputies." In addition, several provisions of the LC conflicted with the new Civil Code. Moreover, the repeal of the Laws on Real Property, Ownership and Mortgages by the Civil Code created gaps in the law on real property and land relations. As will be discussed below, several of the issues covered by those repealed laws have been proposed in the new LC.

The Land Code Development Process and Enactment

As an alternative to including all land issues in one code, Ronco had frequently recommended that the government consider adopting several separate laws on specific issues. This became a question of political expediency. The SCC's position was that rather than dealing legislatively with one issue at a time, with a view toward the most significant needs, a more complex and all-encompassing 'code' that would govern every aspect of land was the desired approach. The political expediency was founded on the theory that few in the National Assembly would bother to read the draft and it would have an easier passage - a theory that proved to be true.

Ronco made extensive comments to three drafts of the proposed Land Code over two years. Ronco determined that the first two drafts either repeated or contradicted many provisions of the Civil Code. The third draft contained few improvements and did not address issues thoroughly. A fourth, much-improved version, was submitted to the National Assembly, approved after two readings and will be signed into law by the President prior to June 8, 2001.

The Land Code, in its fourth version has been adopted by the Parliament and is now awaiting the signature of the President. This version of the Land Code effectively converts allocated use rights to rights of lease. It authorizes the tenant (including privatized enterprises) to acquire ownership rights to the land by the one-time payment of the cadastre value of the land. It incorporates the Ronco recommended streamlined procedure for registration of the rights of ownership. Although it does not authorize foreign ownership of land, it does authorize long-term leases, for up to 99 years. However, it continues to prohibit the privatization of some types of land (e.g., lands allocated for health resorts, electrical transmission lines and other transportation networks) and, as we have continually warned the GoA, the World Bank and USAID, that prohibition may hinder the future privatization of those sectors. The provision on servitudes has improved over earlier drafts given its broader language, but it still does not contain a clear exemption from payment for those pre-existing utility servitudes that are critical to the privatization of the energy sector in Armenia. Although certainly far from perfect, the adopted Land Code represents a radical improvement over the first three draft codes and represents a stronger commitment

to market reform in the area of land and real property law.

Although the Land Code permits foreigners to lease non-agricultural land for up to 99 years, it is important to note that the prospective tenant must negotiate the right of assignment and the right to mortgage or pledge the lease right. Under Article 620 of the Civil Code, the tenant may acquire those rights, but only with the consent of the landlord.

Law on Local Self-Government & Law on Urban Development

This Law on Local Self-Government was adopted following the enforcement of the new Constitution. Its purpose is to set out the general goals of local self-government, local self-government bodies, their powers and the rules governing their relations with State authorities. Chapter Five of the law governs the property and economic activities of communities. Chapter Two establishes mandates related to community obligations regarding urban development and land use plans. (Chapter V of the "Law on Urban Development," discussed below, makes reference to this law.) Chapter Two (Article 12) addresses community power to lease and transfer property and to approve rent amounts and minimum prices for community property to be sold by auction. The RoA adopted the Law on Urban Development in 1998. It supplements those parts of the Land Code that remain effective.

Privatization of State Property (Except Land)

Under the task order, Ronco was to "design a methodology for the privatization of enterprise land and work with the Cadastre Department to implement it." From the outset, Ronco attempted to achieve consensus on this issue. Privatization of enterprise land is particularly sensitive and political. Over the term of this task order, Ronco produced and discussed several drafts and approaches. Early efforts to adopt such a law were unsuccessful. However, the most recent iteration of the Land Code provides for.

Although the process of privatizing state-owned enterprises is well underway, the current law on "Privatization of State Property," does not include the right of ownership of the land. In addition, as noted above, the 1991 Land Code does not include enterprise land as an object of ownership. Furthermore, the 1991 Land Code does not authorize foreign ownership of any type of land. The current (fourth) draft of a new Land Code provides for the privatization of all enterprise land by Armenian citizens and legal entities for a price that is not to exceed the cadastre value. The latter is a compromise between allocating the land for free and charging two times the annual real estate taxes (the Georgian model). Foreign ownership remains excluded, but foreign individuals and legal entities may obtain a 99-year lease. Since leases in general are transferable and may be used as collateral, this new provisions is the equivalent of ownership.

Various Land Privatization Laws

Unlike other FSU countries, ownership of almost all the land of former state and collective farms was distributed to former farm members, pursuant to the Law on Individual and Collective Farms (1991). At that time, approximately twenty percent of arable and other farmland that was held in reserve to be privatized after the first stage of land reform. As part of the European Union's Food Security Program, the Government agreed in November 1997 to define a policy and legal basis for the further privatization of the "reserve" land that was not privatized during the first phase of land reform. The Government agreed to a goal of privatizing 15-16,000 hectares of reserve land in 1998, 30-35,000 hectares in 1999, and

completing the privatization of all reserve land in 2000.^{xiii}

Soon after the teams' arrival, it reviewed a draft law regarding the alienation of reserve lands within the boundaries of rural communities. Prior to the adoption of the Law on Alienation of State Reserve Lands Located Within the Boundaries of Rural Communities, Ronco submitted comments to the draft to the Cadastre Department and to the National Assembly.

The law as adopted is quite narrow. It only addresses alienation of reserve lands^{xiv} within rural communities and seems to have been adopted in order to satisfy the Government's promise to the European Union to complete privatization of agricultural reserve lands by the end of the year 2000. It has no impact on privatization of enterprise land. Because of the narrow focus of the law, Ronco's comments to it were limited to some technical, legal matters as well as a recommendation that a separate law would also have to be adopted to establish procedures for alienation of non-agricultural lands.

Because the policy issues associated with alienation of state-owned enterprise land differ from the issues involved in, for example, condominium or other state-owned rural land, we have recommended that Armenia adopt separate laws for each or have separate chapters dealing with each in a comprehensive Land Code.

Alienation of State Owned Enterprise Land

One of the more controversial issues is the amount of land to be allocated to an enterprise. The argument for restricting allocated land to something less, and at times substantially less, than *all the land* originally allocated, is that transferring ownership or lease rights to the entire originally allocated parcel will result in an unfair windfall to enterprises. However, the costs - in both time and financial resources - of (1) deciding how much land constitutes a windfall, and (2) subdividing (surveying costs) far outweigh the potential benefits to the government in retaining ownership over the land. Moreover, it is dubious at best to argue that the government is in a better position than the private market place to manage and develop potential "excess" land. Experience has shown, particularly over the past 10 years in Armenia, that the government has *not* been successful in developing its land resources.

B2.1 Laws Regulating Private Sector Real Estate Activities

The State Cadastre Committee is responsible, by government decree, for licensing of realtors, appraisers and surveyors. This broad grant of power included testing and, as a natural result although not mandated, training. During the T.O. implementation, Ronco actively opposed the creation of laws that granted excessive control over the real estate sector by any government agency. Ronco's position was that the government should support the creation of self-regulatory organizations that would be responsible for training and discipline, and upon certification by an association, the State Cadastre Committee

^{xiii} As of the date of this report, those targets have not been met.

^{xiv} Although the term "reserve land" is sometimes used to refer to the approximately twenty percent of agricultural land not privatized during the first phase of privatization, it is defined in Article 45 of the 1991 Land Code as all state-owned land, not allocated with the right of ownership or use, including agricultural as well as non-agricultural land. Reserve land is most likely vacant land that is owned by the State and has not been privatized or allocated to a community or private person or legal entity for use. By contrast, the land upon which most enterprises are situated has been allocated for permanent use, or has been leased to the owner of the enterprises, and this not a part of the "reserve fund."

would be required to issue a license. The State Cadastre Committee expressly rejected this approach reasoning that the industry in its early stages needed strict control. As a result, two laws were enacted that regulated the activities of realtors and appraisers.

The argument that surveyors should be licensed and monitored by the State Cadastre Committee was less critical inasmuch as almost all private surveyors were involved with performing surveys under the title registration program involving government guarantees of title. Therefore, their qualifications and quality of work were important to the SCC, which was responsible for completing all parcel identification and community maps.

Law on Realtors

The Law on Realtors required that testing and licensing be carried out by the SCC. Licenses could be terminated for 'cause' but the term was used in a very subjective manner. Licenses are renewable annually with a requirement that training be undertaken as well. Although the system might be theoretically implemented in a fair and objective manner, the entire process is open to a wide abuse of power and 'rent seeking' opportunities by the SCC.

Law on Appraisers

As in the Law on Realtors, identical provisions can be found in the Law on Appraisers. In addition, training was affected because the current valuation methods of the GoA require the use of cadastral valuation techniques. Therefore, although tests contained concepts of market appraisal, the basic requirements emphasized the former, non-market valuation methods.

Illegal Construction

Illegal construction of dwellings, garages, balconies and other structures is rampant in Armenia. Any dwelling found to have any illegally constructed element is prevented from registration and the owner cannot receive a certificate of title. Several recommendations for abating the problem were put forward by Ronco. One proposal suggested that as property is registered those owners with illegally constructed elements be notified that their property could be registered, but that the real estate taxes would be adjusted to reflect the illegal improvements. Contemporaneously, any illegally constructed structure that was found to be unsafe would be removed at the cost of the owner. This remains a very sensitive issue and the GoA has avoided dealing with the problem, without making any suggestions on its resolution while simultaneously taking the position that it is too serious to leave unattended.

C. Titling and Registration Component

The design, development and implementation of a streamlined title registration system were the core of the project. This component involved numerous aspects that needed to be addressed if the system as a whole was to succeed. The results of the work culminated with the only nationwide electronic title registration system in the CIS.

C1. Legal and Legislative Aspects

The technical aspects of land titling and registration could not take place without the enactment of legislation that would form a legally acceptable foundation for the activity. The Law on Registration of Rights to Property (RRP) was the key element in the process and

its enactment in April 1999 permitted the process of 'first registration' and the delivery of title certificates to take place.

The RRP contains key provisions that are required in a true title registration system. The basic principle is that it covers registration of *rights* to real estate, not merely the recording of documents that *evidence* title (as in the United States). A system that records transactions provides the entire history and evidence of title. Prospective purchasers or mortgages must examine all the records to draw their own conclusions about ownership and whether that ownership is subject to encumbrances. In a registration of rights system, the registry discloses the ultimate fact of conclusion regarding who owns a particular parcel of real property. Only those matters registered affect a particular parcel. Furthermore, the government guarantees that the title information disclosed by the registry is accurate. If either the actual owner or a third party suffers a loss as a result of the registry disclosing inaccurate title data, the system afford the aggrieved party relief in the form of monetary damages. The latter guarantee requires that parcels be accurately identified in relationship to other parcels but boundaries are not guaranteed only the rights to a parcel. Therefore, surveys must be accurate in establishing the location of one parcel vis a vis adjacent parcels.

C2. Technical - Overview

The role of the Technical Team expanded quite dramatically over the life of the project with substantial results achieved that were well outside those expectations for the technical component of the project as were initially set down in the task order. The provision of technical assistance was not restricted to the SCC but also included private sector businesses and NGOs.

A major achievement for the Technical Team through its work with the SCC was the implementation of the automated registration software, Armenian Land Register (ALR). Within a space of 12 months an off the shelf software solution was fully customized for operation within Armenian title registration system and subsequently deployed into all 39 local SCC offices for utilization. The project also ensured all staff of these offices was trained in the operation of the software so as to ensure that it was used correctly and efficiently. Tests carried out showed the software to be two and a half times quicker than manual procedures for the processing of registration transactions.

The Technical Team was responsible for the management of three major survey tenders from December 1998 through December 2000. These surveys covered more than 50 separate communities in eight Marzes throughout Armenia. The results of these surveys have been used for the creation and issuance, free of charge, more than 100,000 title certificates. This figure is likely to reach at least 150,000 if surveys carried out in Yerevan are recounted to reflect individual units rather than just multi unit apartment buildings.

Twenty-one newly formed, private survey companies were responsible for carrying out the work mentioned above. The Technical Team also assisted the SCC in the training of more than 200 surveyors as part of the licensing program tied to the establishment of a strong private sector surveying industry. The bulk of these surveyors work within, the more than 120 private survey companies that now exist.

The Technical Team maintained a strong working relationship with the SCC through the life of the project with many recommendations and proposed initiatives adopted by the SCC after put forward by technical representatives in reports such as the Mapping Report, or during discussions between both parties. One key recommendation that was adopted was

the introduction of the cadastral mapping regulation manual. All surveyors use this manual for works associated with cadastral surveying whether funded by USAID, the World Bank or the European Union Food Security Program.

The purpose of this section of the report is to summarize the achievements reached and tasks performed by the Technical Team of the project. It is broken down on a chronological basis for major technical components/achievements of the project. The report also references key reports that are included as attachments.

C2.1 Introduction to Technical Work

Throughout the project, the Technical Team managed to maintain a good working relationship with all relevant divisions of the SCC. There were of course times when relations became strained due to differing positions taken by both parties but this did not adversely affect the ability to move forward with major technical initiatives.

This section will summarize all significant contributions made by the Technical Team as well as assessing the level of success experienced as far as acceptance of technical recommendations/suggestions are concerned. There will also be a section devoted to outstanding/additional recommendations that should be considered by the SCC as part of its endeavors to deliver a streamlined title registration system while maintaining its security and transparency.

C2.2 Mapping Report

The Mapping Report was the first technical report submitted after the inception of the project and it represented a major analysis of all technical aspects of associated with the SCC. The purpose of the report was to present an analysis of the mapping aspects of the current Armenian real property registration system, and to suggest improvements to speed up property titling throughout the country.

The report included an introduction plus sections on cadastral mapping, cadastral surveying, cadastral workflow (synchronization of maps and surveys with legal registration), mapping infrastructure, data collection, entry and conversion, and equipment and software. The report also includes annexes. The sections on cadastral mapping, surveying and workflow each include three parts: a description of international practice and general recommendations, status in Armenia, and next steps for improvement in Armenia. The other sections omit the general recommendations and go directly to status and recommendations for Armenia.

In general, many of the recommendations from this report were not accepted at the time, with the SCC only realizing the value of concepts contained in the Mapping Report toward the end of the project. An extensive review of the status of the recommendations laid out in the Mapping Report was carried out in June 1999 with results presented in the technical report "Armenia Survey Issues".

It should be noted that one major benefit for the Technical Team was the presence of local specialists that were part of the USAID ICMA Pilot Registration Project along with expatriate staff that had been involved with technical analysis for the SAR of the World Bank Land Titling Project. One of the key documents used in assisting with the analysis of the technical situation and creation of the Mapping Report was the World Bank Appraisal of the Armenian Title Registration System carried out in 1997.

C2.3 Tsiatsan Cadastral Surveying Pilot Project

As part of the ongoing cooperation between USAID/Ronco, the World Bank and the EU-FSP, Ronco agreed to carry out a pilot, surveying project aimed at streamlining existing cadastral data collection techniques. Technical specialists from Ronco developed the preferred data collection model for testing in the small rural village of Tsiatsan. Originally planned for two villages, the additional village was abandoned due to technical difficulties.

The principle reasoning for developing streamlined data collection methodologies was the lack of modern surveying equipment from the side of the SCC. A limited number of total stations were provided by the EU-FSP and the World Bank so a strategy was developed that would see total station use being limited to carrying out surveys for the geodetic network and boundaries of cadastral blocks. A detailed description of the concept is provided in the Annex, "Pilot Tests of Streamlined Land Title Survey Methodology", and "Methodology for Rapid Production of Titles to Agricultural Land and Issuance Free of Charge under the EU-FSP and the USAID-LRTP".

During the life of the project, the Ronco/ILS Technical Team evaluated field and office works in an endeavor to find the best solution for data collection and processing. In December 1999, a report (see Annex) was compiled that summarized the results and recommendations from the pilot project.

The report covered the two major components that made up the mapping element of the pilot project. These two components are; field work, comprising of geodetic and cadastral surveys; and office work, which involves data processing and map production. The report also gives an outline of training courses that were being run by the SCC at that time and also presented recommendations for the production of a training reference manual that could be used for training related issues.

Results presented in the report showed that the proposed methodology was successful in achieving the goal of keeping the number of total station days per village to a minimum while maintaining the required spatial accuracy. The overall number of days spent in the field was kept to a minimum, as was the number of total station days. At the time, the fact that 40% of parcels were surveyed with the total station was considered to be quite reasonable. It was however pointed out that future surveys in villages like Tsiatsan should aim for a figure of 20-30% total station use.

Also, of special note is the fact that Tsiatsan is located in a very flat section of the Ararat Valley and is therefore very easy to survey. Villages with harsher topography will obviously take considerably longer to survey and total station use is likely to be much higher. The pilot project also concentrated on methodologies employed for data collection and processing by surveyors. Working efficiency for the Information (Mapping) Center was not evaluated at this time and it was anticipated that this was most likely to be the source of a bottleneck in the registration process.

C2.4 Yerevan Urban Cadastral Surveys

The SCC asked Ronco to carry out a new cadastral survey tender to cover the Kentron administrative division of Yerevan. Since this area is purely urban there needed to be a new approach developed that would see the most efficient method of data collection. The Technical Team had extensive discussions with representatives that lead to the

development of a compromise solution in terms of technical specifications. It must be said that there was strong opposition to many of the concepts presented by the Technical Team due the insistence on collection of excessive data that is considered to be irrelevant for title registration.

The Technical Specifications called for the extensive use of pre-existing cadastral information that was to be collected from all relevant government agencies. The surveyors' task was to be limited to clarifying and updating the pre-cadastral information so that there could be a rapid turn around from start to finish for the entire process.

However, the SCC had serious difficulty in gaining access to the pre-existing information and generally extended the performance of its contractual obligations. A prime example of this point was the fact that surveyors were forced to visit local offices to compile list of ownership information. This in itself was not possible for some months until the SCC agreed to issue letters giving the surveyors the authority to access these records.

Even with the introduction of the Technical Specifications, surveyors were still collecting extraneous amounts of data. An example of such extraneous data was the surveying of tree locations on footpaths or the measurement of water fountains, monuments, etc. located on Government property. Compared to other Ronco tenders the Yerevan surveys presented one major anomaly in that multi apartment dwellings were given the status of being one individual real estate unit. Due the large number of these building types in Yerevan the number of actual apartments is likely to be between ten and twenty times greater than the number of units referenced in the table below.

Table 1 - Yerevan Survey Data

Marz	S e c t i o n	Winner	Initial Estim ated # of units	Tender time (days)	Start date	Total contract price (\$)
Kentron	1	Garush Hovsepyan	746	85	8-1-99	\$2,762
Kentron	2	Hakob Petrosyan	500	75	4-1-99	\$2,667
Kentron	3	Haykaram Khachataryan	660	90	5-1-99	\$3,200
Kentron	4	Kamo Mkrtchyan	239	85	4-1-99	\$2,667
Kentron	5	Vahag Papyan	406	90	2-2-99	\$5,000
Total			2551			\$16,296

C2.5 Scotland - Netherlands Study Tour

In January 1999, two representatives from Ronco/ILS and six representatives from the SCC visited both the Registers of Scotland and the Dutch Kadastre over a two-week period. This study tour gave the SCC specialists the chance to evaluate two very different registration systems and see what concepts may be adapted to their own system.

In technical terms the approach used by ROS appeared more suitable to be applied to Armenia than the Dutch system since it applied a more appropriate concept of general boundaries. The Dutch system demands a very high level of absolute spatial accuracy while the Scottish system is more concerned with ensuring relative spatial accuracy between parcels.

The Technical Team has continually recommended a lower level of absolute accuracy be used in Armenia so as to assist in the lowering of costs associated with surveying individual parcels, while also speeding up the nationwide surveying of all parcels. This recommendation has been continually rejected with the SCC sticking to its belief that everything must be surveyed to a high level of accuracy to avoid future problems with the system.

C2.6 May 1999 Regional Cadastral Surveys

A tender was launched at the beginning of May 1999 for provision of cadastral surveying services under the program of first state registration for 16 locales within two Marzes. During the period of signing contracts with the winning parties USAID requested an urgent review of the prices being paid per parcel for the cadastral surveys as they were considered by USAID to be quite high in comparison to similar, ongoing projects funded by USAID.

Subsequently, the Technical Team carried out an analysis of the bids through an extensive questionnaire that was given to contractors to be filled and returned. Results of the analysis showed that the majority of firms did not have a strong grasp on fundamental concepts such as budgeting and costing out survey jobs.

Through protracted negotiations the Technical Team was able to lower the bid prices for several of the companies before USAID reexamined its position on survey costing based on comparisons between Armenia and the USAID projects underway in Georgia and Moldova, as provided by the Technical Team.

The major issue of concern for USAID was that the average prices submitted in the tender for Armenia were approximately five times greater than that which was being paid by the USAID Project to Develop Land Markets in Georgia. However, comparison of the scopes of work relevant to cadastral surveying for Georgia and Armenia showed marked differences and suitable justification for the obvious difference in survey costs. The full analysis of the tenders is included as Attachment 7 and a comparison matrix for surveying in Armenia and Georgia is included as Attachment 8.

A key role for the Technical Team during this tender period was visiting surveyors in the field to perform checks on the products that were to be submitted to the SCC. These quality control checks were carried out in conjunction with representatives from the SCC and revealed much inefficiency in the processes of data collection and its subsequent processing. One area that consistently caught the attention of the Technical Team was the level of data being collected in the field by surveyors. Features such as swimming pools, monuments, gardens and footpaths are definitely not required for the purpose of title registration yet the SCC persisted with requiring this information from surveyors. Two reports have been attached in the Annex as examples of findings from the quality control visits.

The 16 locales represented almost 64,000 parcels surveyed at an average cost of \$6.92 per parcel. Although the average contract duration lodged with the tender bids was 5 months, many surveyors went over their contract period. The factor responsible for this was an increase in numbers of parcels in several locations due to inaccurate pre-cadastral information provided by the SCC and this resulted in approximately \$17,000 being paid for additional units. However, one company was responsible for fieldwork that was of very

poor quality and which was submitted well past its contract deadline. Since there were no additional units there was a subsequent penalty applied which amounted to just over \$8,000, in accordance with payment conditions of the contract. For complete tender summary, see the Annex.

C2.7 July 1999 Technical Report - Armenia Survey Issues

Armenia Survey Issues (Annex) was a major follow up report to both the Mapping Report and the Tsiatsan Pilot Project Review. Other areas also covered by this report were analyses of workflows for the tender process and data collection by surveyors. A summary also outlining the results from a visit to the Echmiadzin SCC Office is provided.

The Technical Team analyzed the tender procedures that were used by the SCC and it felt that the existing procedures were responsible for higher survey prices being paid per parcel. The procedures were found to be open to collusion between bidding parties and gave no leeway for negotiations between donors and surveyors. Some of the key recommendations for streamlining the tender process included:

- Grouping villages together to form blocks of villages for tender to ensure a more systematic approach to surveying and registration.
- Bids from individuals and companies should include breakdown of line item expenses.
- When bids are opened, prices submitted should not be read out. This allows greater levels of confidentiality, along with giving the tender committee the option to negotiate contracts based on bid information submitted.
- If a surveyor/company wins a contract based on initial criteria but does not want to negotiate prices, the surveyor/company who had the second lowest price is offered the chance to better the current price being negotiated.

The SCC had agreed to group several villages together for a survey tender that was to be carried out by Ronco, but it did not go ahead. The SCC has not taken the initiative in grouping villages together for any of tenders sponsored by the EU or WB. Bids still do not include a breakdown of line item expenses so it is unknown exactly what overheads or profits exist for surveying companies.

The SCC still insists on reading out bids when tender documents are opened, however due to the increased level of competition amongst survey companies, results from recent tenders have indicated a decreased likelihood for mass collusion between bidding companies. With the increased competition, there has also been a marked decrease in survey costs per parcel even with many villages being located much further from the larger urban/regional centers. Ronco has employed negotiation tactics quite successfully and has stood firm when companies do not wish to negotiate. This led to the removal of four villages from the tender list in the last round of tenders sponsored by USAID.

The issue of surveying and all processes associated with it has been the subject of much discussion between the Technical Team and the SCC. Analysis of the fieldwork techniques employed by surveyors during the pilot project and May 1999 tender led to the formulation of recommendations presented in the Armenia Survey Issues Report. The issue of surveying will be discussed further within this document with specific reference to the tenders funded by Ronco/USAID.

The visit to the Echmiadzin SCC Office was carried out in May 1999 to examine what sort of interaction existed between the Central SCC Office and local offices. Many of the concerns raised in the report were based around materials being sent from the Information Center that were to be used during the preparation of title certificates. The bulk of these concerns have been addressed through the introduction of the ALR registration software and ARPAC mapping software. The section on follow up to the Mapping Report and Tsiatsan Pilot Project Review examines the status of recommendations made within those reports.

C2.8 Automated Registration System - Armenian Land Register

RONCO received verbal authority from USAID to work with the SCC in identifying suitable options for the introduction of an automated registration software system at the beginning of September 1999. This evaluation included preparation of a concept paper (See Attachment 13) and comparing the pros and cons of several off the shelf packages rather than contemplating the more expensive and time consuming option of development of a new system from the ground up. (See Annex - Comparison Matrix for Property Registration Software)

In the first week of November 1999 Richard Shepard (COP) informed the Chairman of the SCC that the project would proceed with the funding of the localization of LandRegister. Initially, localization of LandRegister was to create a basic system conforming to existing Armenian legislation that supports a secure and transparent system for protection of rights to real estate, with minimal functionality for mapping and appraisal. RONCO signed subcontracts with ASD Group (formerly Intelligent Systems and a Ukrainian firm that began with a USAID project in 1994) and Arminco (an Armenian company) for the localization of LandRegister on November 16.

For the period of December 1999 and January 2000, the SCC started placing greater demands on the LandRegister software that went outside the original scope of work agreed to by ASD Group and Arminco. In February, the SCC also requested that LandRegister be delivered earlier than the original contract deadline. In the second half of February ASD Group and Arminco signed extensions to the original subcontracts to cover the early delivery of software, building an application programming interface for a third party appraisal module, integration of a third party mapping module and integration of LandRegister Image Storage with the SCC's own Electronic Archive.

Armenia LandRegister (ALR) was completed and final version delivered according to schedule on May 16 with the ability to print complete title certificates in Armenian. Technical difficulties from the side of the ARPAC development by Arminco restricted the inclusion of cadastral plans into these certificates. This problem was quickly rectified before training specialists from ASD Group arrived in Yerevan at the start of June to carry out a two-week training of trainers course on ALR. Having been involved in several demonstrations the SCC indicated that software was satisfactory for registration purposes and printing of title certificates.

July 19 saw the software being demonstrated for the representative of the EU-FSP, with very positive feedback given upon completion of the demonstration. However, this trip to Yerevan by representatives from ASD Group yielded a new set of requirements for the software as defined by the SCC. Principally these requirements were aimed at expanding the functionality of the system past that which RONCO and the SCC had already agreed upon. Some of the new requirements also went outside the law with the position of the SCC being

that some of the existing legislation was wrong and their approach should be adopted. Such requirements have been rejected by RONCO.

An example of such a requirement is the canceling of several rights to property without the affected parties knowing. The requirement laid out by the SCC was that a Registration Clerk must have the ability to terminate lease, mortgage, servitude and encumbrance rights without reference to any supporting documents. Ultimately this means the right could be terminated without reason. Legislation requires that documents be lodged that supports the termination of these rights.

As suspected, the software has proven to be an extremely valuable medium for highlighting problems and contradictions between existing SCC operational procedures and current Armenian legislation. Problems purely within the SCC workflow, and previously pointed out by RONCO, have also been highlighted, with the SCC now forced to develop logical solutions. RONCO is assisting by suggesting solutions but things such as new requirements and contradictions with legislation have pushed back delivery of a software package that was identified as being ready for installation and testing in the middle of May.

The SCC agreed to the concept of a Registration Working Group toward the end of August so as to develop the solution for any outstanding problems that were hampering the refinement of some of the registration procedures within the software. The RWG held its meetings between September 4 and September 8, 2000.

It had been proposed that a working group within the SCC be established to define the Armenian registration process so that it matches the legislation that is currently in place. Part of this work would also include the definition of the workflows based on all scenarios that may occur during transactions with real property. The findings of this working group would then be handed to the developers from ASD Group to use as the basis for completing the localization of LandRegister. However, due to the number of outstanding issues, the RWG was only to discuss the existing list of requirements/comments that was compiled between June and August. Results of the RWG can be seen in the "Registration Working Group Report" (Annex).

In the meantime, the SCC had agreed to push forward with a pilot project whereby the software will be used in the real life environment of a local SCC office. The Masis office, which is reasonably close to Yerevan, was chosen as the location for the pilot project and at the end of August, there had been approximately 500 title certificates created using the LandRegister and ARPAC software packages. To assist in the rapid printing of these certificates RONCO provided the SCC the use of a high-speed printer. The printer also has a duplex facility and 500 sheet feeder that allows large volumes of certificates to have data printed on both sides of the certificate paper automatically. A certificate ceremony that was attended by representatives from USAID, WB and EU was carried out in the Masis office on November 10, 2000.

Although USAID had agreed to the procurement of registration software for a nationwide rollout in February 2000, a suitable roll out plan was needed before final approval could be given. Accordingly, a software deployment strategy was compiled and presented for approval in September.

The software deployment strategy was developed in such a way so as to ensure that the software would be installed and utilized by the SCC before the end of the project. Ronco wanted to avoid buying a large batch of software for the SCC without also providing the

relevant support mechanisms that would guarantee the successful implementation of the automated registration system. To this end, the Technical Team developed a phased deployment approach that incorporated software installation and training for all SCC offices over a three-month period. The approach also ensured that the required funding was broken down into stages with funding for each new stage only coming after the successful completion of each of the previous stages. The Software Deployment Strategy is included as Attachment 16.

USAID approved the deployment strategy at the end of September with Stage 2 of the proposed rollout commencing almost immediately. This stage saw the provision of software training for staff of 14 local SCC offices by representatives from ASD Group. One of the major problems encountered during this period was the lack of knowledge from the side of local SCC staff on registration procedures or the use of computers. The trainers from ASD Group were in effect, teaching these staff from scratch on procedures that they should have known better than the trainers themselves. A delay with the delivery of hardware security locks that are needed for the software to be able to operate saw a delay of 2 weeks for the installation of the software in offices covered by this first stage.

Due to the delay in software installation, there was a resultant amendment to the deployment strategy that would result in procurement and training on ALR for another 14 local in Stage 3, while the training component of Stage 4 was removed with procurement of the final 10 copies of ALR being carried out at the same time as Stage 3. The Technical Team concluded that the SCC has staff capable of providing the training for staff of the final 10 offices after the conclusion of the project.

The nation wide roll out of the registration software is a laudable accomplishment for a country within the CIS and it is likely to stand as a model for other land reform projects within the region. Good governance of the software's customization from the side of Ronco and USAID ensured that the SCC did not use a haphazard approach in developing its automated system. This result is unlikely to have occurred if the WB-PIU or EU-FSP was responsible for managing the customization of the software. One constraint that will no doubt have a major effect on the efficient use of the software however, is the EU-FSP's failure to meet its earlier guarantee that the SCC would be provided with the necessary printing hardware for all its local offices.

Other documents relevant to the automated registration software are included in the Annex to this report as:

- ALR Development and Customization Contracts (copies only)
- ALR User Requirements Document
- Rabley Trip Report February 2000
- Taylor Trip Report April 2001

C2.9 ARPAC Mapping Software

During its discussions with the SCC regarding the automated registration software in November 1999, Ronco agreed to fund the development of a specialized software application that was to be used in the creation, editing and updating of cadastral maps and floor plans (ARPAC). The introduction of ARPAC was viewed as an important component of the automated system as it eliminated many important mapping functions that were open to errors when done manually such as unique codification of real estate units.

The Technical Team immediately commenced the definition of system requirements for ARPAC and started contract negotiations with Arminco for the development of ARPAC. During the first two weeks of December, these negotiations broke down and a subsequent tender was launched in February 2000 to carry out this development. The ensuing tender evaluation and negotiations resulted in a development contract being signed with Arminco on February 22 after addressing the concerns raised by the Technical Team in December.

Development of the software was run in parallel with Arminco's localization support being provided to ASD Group for ALR. There were several technical difficulties that hampered the interaction between ALR and ARPAC, with the major issue being the connectivity between the databases of the two systems. There was also some concern regarding the format for file exchange between the two systems with agreement on this issue not being resolved until November 2000.

Documents relevant to the development of the ARPAC mapping software are included in the Annex to this report as:

ARPAC Development Contract (copy)
ARPAC General Requirements Document

C2.10 Back File Archive Conversion

Currently within Armenia, there are 47 archives that hold approximately 1.2 million folders containing information about real property. With advances in digital image capture technology and introduction of an automated registry the SCC began a back file conversion program of its paper based legal files with low-end techniques in November 1999.

During November, the SCC also requested that the Project Technical Team carry out an assessment of this back file conversion process. This rigorous assessment included forecasts for completion of the program along with recommended workflows and technology options. See Annex "Concept Paper for an Archival System for Cadastral Files at the Cadastre Committee".

After reviewing the recommendations of the Concept Paper, the SCC lodged a request for assistance from RONCO in February 2000. The SCC specifically asked RONCO to purchase various items of software and hardware to be used for the creation of the electronic archive. While many of the items on the list such as DVD writers and book scanners were viewed by the Technical Team as not being necessary, a revised list of scanning equipment and associated hardware peripherals was drawn up and agreed to.

The scanning equipment was purchased through Kodak with one high volume and one medium volume scanner being the principal pieces of equipment. A total of seven computers were purchased to facilitate the efficient processing and storing of digital images once scanned. In addition, a Kodak training specialist from Moscow conducted a one-week training course for staff of the Archiving Division within the Kentron SCC Office. As of the beginning of December 2000, the SCC had scanned approximately 3000 registration documents that will be linked with the automated registration software. Further references to the archiving system within the scheme of the automated registration system are included in the Rabley Trip Report February 2000.

C2.11 July 2000 Regional Cadastral Surveys

Toward the end of July 2000, the SCC requested an additional survey tender to cover more communities located in rural areas. Ronco agreed to the tender for surveying in 36 more communities on the understanding that the number of real estate units in each village was not to exceed 1500. This number was set as the limit because the imminent cessation of the project meant that there was limited time for the surveyors to finish the fieldwork while also allowing the SCC to process the data and prepare title certificates.

Although the SCC initially submitted a list of villages that complied with the limit of 1500 units, the final number of villages increased by 13,348 which represented almost a fifty percent increase over the initial total, with a commensurate cost increase.

The reasons behind this increase were due to an extreme lack of communication between the SCC and village Heads. Rather than consulting with the Heads of villages, the SCC used figures supplied by the local SCC offices. Immediately after signing contracts, many surveyors asked for time extensions from Ronco with letters from village heads supporting their claims for increased numbers of units. In one village the actual number of units was three times greater than the initial estimate supplied by the SCC.

Due to the large increase in numbers of units, the deadline of November 8th for final submission was not achievable for all surveyors. Despite this, though there were still some surveyors that did not have extra units and submitted after the deadline. The total sum for penalties came out at just under \$2,000. In total, this tender represented just over 42,000 units at an average survey cost of \$5.55 for a total expenditure of \$232,490. Although there were problems from the side of the SCC not supplying contractors with accurate information the project is pleased to have been able to fund the issuance of additional title certificates within a period where time was a major constraint. The May 1999 and July 2000 surveys combine for a total of 105,000, the number of certificates issued through funding from USAID. A comparison between these two tenders is drawn in "November 1999 - August 2000 Technical Assistance Summary" (see Annex). A full summary of tender data is also included in the Annex.

D. Conclusion

Overall, the project views the assistance provided on the technical front as very successful with measurable indicators to support such an opinion. The technical component of the project has provided key assistance in five major areas. They are:

D1. Automated Registration System & Archive Conversion

Perhaps the most significant achievement for the project as a whole has been the introduction of the automated registration system. The introduction of the registration software into all local SCC offices is a feat not yet matched by any other country of the Former Soviet Union.

Not only does the software automate many of the procedures associated with processing real property related transactions, but also ensures a higher level of security for the entire registration system. Security features such as password controls and the audit and log trail make it impossible for any illegal transaction to take place without a record being kept.

Productivity of the staff in the 39 local offices where the software is installed will also be much higher with many of the procedures now automated by the software. Tests carried out by the project have shown the software to be two and a half times quicker for processing transactions over the existing manual approach.

The fully automated system also includes a unique software product specifically developed for the purpose of creation, editing and updating of cadastral maps that will be linked with Armenia Land Register (ALR). In addition, ALR is also connected to the back file archive conversion program currently utilized by the SCC. The Technical Team assisted the SCC through the provision of scanning equipment and an in-depth concept paper outlining the recommended archive conversion solution. This has resulted in scanning and conversion of over 3000 registration documents.

D2. Surveying to Support Title Registration

Through analysis of pilot project results and ongoing reviews of fieldwork methodologies, the technical team has assisted the SCC in developing a manual to be used as cadastral mapping regulations. All surveyors funded by the World Bank, EU-FSP and USAID are currently using this manual.

One of the key concepts behind development of the manual was the introduction of streamlined data collection techniques so as to allow a quick turn around from the time of surveying to the issuing of title certificates. A key indicator for progress in the development of private surveying companies has been the reduction in prices paid per parcel for cadastral surveys. Increased competition in this sector has forced companies to re-evaluate their position in the market and this has subsequently lead to a 20% reduction in prices paid per parcel for cadastral surveys under the USAID program.

Of great importance is the fact that although the manual and cost reductions are significant developments, the issuance of more than 100,000 title certificates at no cost to landowners in more than 50 communities is a more meaningful achievement.

D3. Technical Reports and Recommendations

Throughout the life of the project, the Technical Team has submitted numerous technical reports covering all technical aspects of the project. Many of these reports have a strong focus on recommendations based an analysis of issues such as cadastral mapping, back file archive conversion and title registration software. These reports have a direct impact with many key recommendations adopted by the SCC in its endeavors to ensure that Armenia has a very efficient, secure and transparent title registration system.

D4. Private Sector Capacity Building

The Technical Team has assisted several private sector enterprises through recommendations on business planning and provision of equipment. These entities have all had a real estate/surveying focus. The Technical Team assisted the Consolidated Land Exchange in designing a database and internet site that allows online searches for real estate that is currently for sale or investment. Toward the end of the project CLE also established, with direction form the Technical Team, a mapping division that will allow it to carry out all its own mapping work from field to finish as well as being able to participate in future tenders for cadastral surveys.

The project helped establish a professional surveyors association that will give surveyors within Armenia and avenue for professional development through exposure to developments in the international field of surveying and mixing with other surveyors within

Armenia. The association has produced several brochures and written numerous papers on real estate issues in Armenia and is in the process of becoming a member of the International Federation of Surveyors (FIG).

Due to the close interaction with surveying companies the Technical Team has been in the position to pass on recommendations to many companies on how they can improve their companies in terms of both field work and business management. Some of these companies have taken up the recommendation of foregoing payment for services to be provided with equipment necessary to strengthen their position in the surveying market. Such equipment has included computers, printers and mapping software. It is these companies that will become the most self-sustainable well after the donor agencies have departed Armenia.

The project also assisted in training of surveyors in modern techniques so as to become licensed for cadastral surveying under the first registration program. A key achievement was the privatization of all surveyors before they could participate in survey tenders. The total number of private surveyors now licensed has increased from zero in November 1998 to well over 200 in December 2000. Most of these surveyors make up the more than 120 surveying companies that have formed in the last 2 years.

D5. Interaction with the State Cadastre Committee

The Technical Team has coordinated closely with the SCC from the very beginning of the project and it has been closely linked to the other four key areas of technical assistance that are described above. The Technical Team's interaction with the SCC became strained at times but both parties managed to maintain a healthy working relationship for the life of the project. The SCC continually asked for recommendations and assistance with a very wide variety of technical matters from mapping to software.

The SCC has shown itself to be a forward thinking government body and has embraced the most recent advances in modern technology that affect surveying, mapping and registration. Although many recommendations put forward by the Technical Team have not yet been adopted those that have, have resulted in improvements in data collection for surveying, archiving procedures for back file conversion, processing of transactions in the automated system and streamlining of data processing within cadastral mapping procedures.

E. Appraisal Training

Although technically part of the Capacity Building component of the T.O., the provision of an appraiser to train the SCC staff and private sector in modern, market oriented appraisal techniques was contained in the Title Registration Roll-Out task of the T.O. As a consequence, it will be discussed in this Section E.

During the spring, late summer and late fall of 1999 and again during the fall of 2000, appraisal training was provided in accordance with the T.O. deliverable to the SCC and private sector appraisers.

Seminars were provided to SCC appraisal staff as well as to the staff of the Ministry of Privatization (at the request of IBTCI, implementing partner of the Privatization T.O.) on discount cash flow and present value techniques. The specific topic on the valuation of partially completed construction was added at the request of IBTCI. Other seminars were

provided on capitalization rate derivation and regression analysis with instructions on the use of the NCSS 2000 software for mass valuation. Private sector appraisers, as well as several staff of the SCC, took part in an appraisal report writing seminar intended to provide an outline of the typical appraisal in the United States.

During the fall 1999, additional training was provided to both private appraisers and SCC appraisal staff. Principles of Value, additional coverage of capitalization rate development (at the request of the SCC), use of the NCSS 2000 statistical program to analyze sales data and value property and, finally, a seminar on advanced report writing.

In spring 2000, Ronco implemented a program to reinforce and leverage previous training of appropriate State Cadastre Committee staff in market valuation techniques. Emphasis was placed on evaluation methods that would gradually convert the existing cadastral appraisal system to market oriented methods that more accurately represented true values. Following the establishment of a methodology, the training targeted the ability of the State Cadastre Committee appraisal staff to continue training additional personnel and to integrate the new appraisal method into the overall operation of the Committee's Appraisal Department.

Finally, five intensive, consecutive seminars were presented to stakeholders, in particular, private sector appraisers and brokers. The appraisal courses emphasized the transitional market oriented methodologies developed to value real estate. Testing of participants in the courses was required and a certificate of attendance was presented to all those who took part in the course work.

F. Public Education Component

Key to the long-term sustainability of any market reform program is to achieve a buy-in by the public. The challenge was to shift the public's perception of the real estate transaction process and to explain the benefits of title registration.

As part of its T.O. to promote the creation of a viable land market in Armenia, Ronco recognized that public awareness of rights in land was essential. Accordingly, public education has been an integral facet of its work.

F1. Television

Six scripts were prepared and distributed internally as well as to the SCC and USAID. These short (50 - 60 seconds) spots introduced the legislation, such as the Law on Registration of Rights to Property that protect property rights. The spots began airing in August 1999. They were broadcast sequentially, 3 times a day at prime times. Three phases of broadcast took place with the final broadcast in June 2000.

During August and October 1999, two programs of 30 minutes each covering title registration and real estate rights were produced and broadcast. These were immediately followed by filming of 12 TV programs of 5-10 minutes in length each covering different aspects of real estate rights. Issues addressed in the programs included discussions on rights of inheritance, mortgages, leases, title registration, easements and the like. The 12 programs began airing in November 1999 and ended in January 2000.

Following the final broadcast of the original six spots on June 18, 2000 previously

prepared videos of 30 minutes promoting title registration and land rights were broadcast on June 23 and 24 on National TV.

Finally, a 30-minute 'infomercial' was prepared in cooperation with the SCC in August 2000. The infomercial included 'success stories' of title registration in Ararat Marz. Interviews with buyers and sellers were used to show the importance of title registration and the increased prices that could be commanded when the buyer was assured that rights to the purchased real estate were guaranteed by the GoA.

The COP also took part in a live TV broadcast on real estate issues together with the Chief Registrar at the SCC, a local banker, appraiser and property owner. The forty-minute broadcast concerned secure title and its relationship to values and ability to use real estate as collateral.

F2. Seminars

The initial plan anticipated delivery of at least 11, but up to 22 seminars, 1 in each marz plus another in a village of marzpet choice. These seminars immediately encountered substantial interference from the SCC, which insisted on planning the content and presentation. At one seminar, the public was not permitted to attend and evaluations of the effectiveness of the seminar were not distributed. As a consequence, presentation revision and more effective planning came to a halt.

One vehicle for avoiding the manipulation of seminars by the SCC was to work within the confines of the Sibley International (Accounting Reform) T.O. This was outside the control of the SCC and as a result, the first seminar in the spring of 1999 was well attended by over 130 members of the public, condominium owners' associations, appraisers and the press.

Following the initial seminar, an aggressive series of programs was initiated, sometimes requiring direct opposition to SCC demands. These seminars were held in various towns and villages. Initial seminars indicated a high level of satisfaction with the seminar content. Indeed, during the first two seminars, almost 89% of the attendees indicated that they had learned something new. Videotapes of the seminars were presented to the local marzpet for use on local TV stations.

In order to avoid further interference by the SCC, beginning in February 2000 as part of its sub-contract with "New Century" Law Firm (discussed below under Capacity Building) Ronco pushed forward with nationwide seminars on real estate rights. The seminars were highly successful and utilizing a private sector firm substantially reduced the ability of the SCC to adversely influence content of the seminars. In particular, New Century convened a two-day conference in Yerevan for the public and real estate professionals in March 2000. A combination of presentations and breakout sessions was highly effective and necessitated government officials attending (in particular staff of the SCC) to engage sector leaders who were not reticent about criticizing government regulations and lack of substantive action in the market.

F3. Brochures and Printed Materials

An initial brochure designed by the Public Information team and approved by USAID. It described the project and its goals. One thousand of the brochures were distributed to the public, press and government officials.

The predilection of the SCC to impose content and format changes on public education materials forced Ronco to modify its strategy in order to implement the intent of the task order. Fortunately, the capacity building component permitted Ronco to utilize private sector professionals to fulfill the requirement of the T.O. with respect to public information. In fact, by utilizing the private sector, materials that were published were in a form with which Armenians were comfortable. Furthermore, feedback guided future publications, allowing a greater degree of focus on specific issues, such as market appraisal techniques.

An extremely successful publication, and one that will continue, was the magazine "Real Estate Market". Four issues were published at very low cost, each consisting of contributed articles on appraisal, brokerage, title registration and transaction. The magazine was screened and edited by TOSP, Ltd., a sub-contractor developed as part of the capacity building component. Over 4,000 copies of each issue were distributed free of charge to universities, American University of Armenia, government ministries, the SCC and the public.

Other materials providing the public with "how to" publications were produced by the Consolidated Land Exchange and New Century law firm. Brochures and flyers were distributed on property rights and the procedures for title registration.

One publication that was the result of a cooperative effort with the SCC was the publication of twelve brochures covering multiple areas of rights. The brochures were designed in a question and answer format and were available to the public free of charge at 41 local SCC offices. Topics included rights of inheritance, mortgage, leasing, purchase and sale of land and buildings as well as explanations of the new title registration procedures and why they were important to the public. Forty thousand brochures were distributed to the offices. The twelve TV broadcasts referred to above were based on the content in the brochures.

F4. Public Awareness Surveys - Conclusion

In order to measure the effectiveness of its education campaign, Ronco commissioned public surveys designed to gauge expansion of land rights awareness. The following sets forth some of the relevant findings from these commissioned surveys.

The Sample: One thousand (1000) interviewees were randomly selected reflecting a representative cross-section of the Armenian property-owning population. In addition to 350 interviewees from Yerevan, 650 were divided about evenly between towns and villages across ten *marzes*. Each respondent was interviewed and asked to respond to a Questionnaire prepared and presented by trained interviewers from the Armenian Sociological Association, in the years 1999, 2000, and 2001. Thus, a baseline was established against which changes in attitude over time could be measured.

Questions focused on five areas: 1) Property Transactions; 2) Prospective Behavior; 3) Real Estate Agent Services; 4) Information Sources; and 5) Attitudes toward Local Cadastre Offices. Salient survey results in each of these areas will be summarized below.

Property Transactions: Measuring awareness of the incidents of ownership, i.e., powers to buy, sell, lease, bequeath, exchange, and donate, were the objective in the opening set of questions. More than one-half (55% in 2000) knew of the right to purchase property. There was not much change in this figure in the surveys. Lesser percentages of respondents

knew of the right to lease (17% in 2001), exchange (20% in 2001), and pass by inheritance (13% in 2001). (About 40% of the respondents in 2001 reported having engaged in some form of property transaction.) Only a very small fraction in 2001 (2.6%) indicated awareness of a right to use their real property to secure a loan.

Seventy percent of those responding declared themselves aware of the State Department of Cadastre. Interestingly, during the survey period, a shift occurred regarding the primary sources of information about the Department of Cadastre. While initially TV public service announcements (psa's) served as a prime source, in 2001 "relatives and friends" became the chief source of information. This may reflect a decrease in the use of television spots by Ronco following 2000, as well as the public placing greater reliance upon trusted personal resources as collective experience accumulated. On the other hand, the number of transactions actually registered during the time in question revealed a steady decrease in the registration of transactions (35.3% in 2001; 49.2% in 2000; and 50.1% - rural, 78.6% -Yerevan in 1999). One may suspect that people's oral reports have not been consistently positive. The foremost rationale for registration was a general desire "to legalize the transaction" (71.6% in 2001). Other goals hovering around 5% were: "avoid disputes," "to sell in the future," "to get certificate of ownership," and "to insure recognition of rights." (This Question could perhaps have been more specifically tailored.) Unsurprisingly, there was a direct correlation between respondents' educational level and an awareness of the specific legal benefits associated with registration.

Non-registration of property was reported as the chosen alternative mainly out of apprehension regarding the high cost of doing so, either because of direct registration costs or increased tax liability (19.8% and 2.2% in 2000, respectively).

Prospective Behavior: This section of the survey is designed to measure individuals' future intentions regarding their property. For example, 18% in 2001 intend to lease property. Smaller percentages expect to mortgage or sell property (7.7% and 6.7% in 2001, respectively). (Little change in these figures is seen between 1999 and 2001.) Responses indicate that a relatively high percentage of those engaging in such transactions expect to register them. Thus, 63.5% planning to sell in 2001, 83% planning to purchase in 2001, and 47.7% planning to lease in 2001, express an intention to register their respective transactions. From this one may fairly conclude that when confronted concretely with participation in actual transactions, behavior conforms more consistently with a recognition of the benefits of registration, than when the same question is considered abstractly. Once more, apprehension regarding costs is the chief reason given for non-registration, while at the same time this group indicates awareness of the detriments of non-registration (73.3% in 2001). Naturally, when the question is posed whether a reduction in costs would produce greater willingness to register, the number of those consenting to register increases correspondingly.

Real Estate Agent Services: Only a small fraction of property transactions at this point in the development of Armenia's property market entails the participation of a professional realtor (11.3% in 2001). Nonetheless, 67.6% in 2001 express satisfaction with the services received, primarily because it facilitated the transaction (29.4%), usually by expediting the time required. In 2001, only 8.8% expressed dissatisfaction with the services of the realtor. This was a sharp decrease from 2000, when 28% indicated dissatisfaction. The prime reason given for dissatisfaction was the belief that the services were extraneous to the clients' needs (63.2% and 47% in 2001 and 2000, respectively). The three main remedies suggested to overcome the drawbacks to use of realtors were: positive word-of-mouth (41% in 2001); effective government licensing (25.3% in 2001); and use of written contracts (19% in

2001).

Information Sources: Television is consistently reported as a primary source of information concerning real property rights (29% and 38.1% in 2001 and 2000, respectively). This is the case more among men than women, more among younger people than older, and more among the better educated than lesser educated. Presumably, this reflects both greater access and interest in television viewing in the respective groups. There is likewise a positive correlation between both perceptions of reliability of television announcements/willingness to register and exposure to TV psa's. A high correlation also exists between TV information and awareness of Cadastre offices (80% in 2001). Twenty percent in 2001 acknowledge having read about property rights and/or registration (up from 13% in 2000). In 2001 45.9% obtained information from State Cadastre brochures (an increase over 27.7% from the preceding year). Although a preference is expressed for TV-supplied information over printed material (58.7% in 2001), there is no way of determining from the survey which means is more effective as an information source. Almost twice as many persons who have actually engaged in property transactions have read about their rights compared to those who have not engaged in any transactions. Once more, when faced with a genuine need, people will pursue needed information sources more actively. The same demographic tendencies observed with regard to television (as an information source for real property rights) hold true for printed materials.

Attitudes toward Local Cadastre Offices: As a first alternative, respondents were about evenly divided regarding who they would turn to for information about property rights and registration between government offices (25.2%) and "someone who had a transaction" (22%). An additional 12% indicated "friend/relative," which presumably could include persons in the latter category above. Thirty-four and four-tenths percent (34.4%) had experience with Cadastre offices as a consequence of their own property transactions. Residences, both homes (29.8%) and apartments (40.1%), were the primary types of property transactions listed. Fifty-eight and three-tenths percent (58.3%) of respondents said they had never consulted a Cadastre office because their transactions were problem-free. Overwhelmingly, those who consulted the Cadastre office expressed satisfaction in the 2001 survey with the quality and extent of information provided, as well as the courtesy of the employees (68% said service was polite, and 89% indicated they got the desired information). Nevertheless, bureaucratic delays (40.8%), high costs (62.1%), and staff unpreparedness (15.5%) were singled out as problems by a significant percentage of respondents in 2001. Unhappily, 47.6% in 2001 reported having been required to pay extra-legal fees. With regard to whether it is understood that state registration is gratis where the cartography is completed with foreign assistance, 37.2% indicated yes, while 67.3% stated no. This suggests a need for increased dissemination of this capability.

During the early spring 1999, varieties of public information vehicles were developed. Throughout the T.O. implementation, the SCC attempted to control all aspects of the public education component. Although initially successful, by the end of 1999, Ronco had developed a procedure to neutralize the SCC attempts to control content and public discussion by utilizing private sector sub-contractors to implement the educational component.

H. Professional Capacity Building

USAID recognized that the development of both the public and private sectors was important if sustainable reform in the real estate market was to be achieved. The T.O. anticipated the need for training of SCC staff in two critical areas: appraisal and title

registration. The private sector capacity building goals combined on-the-job training with the establishment and support of new market players in the regions, where the rural public had little or no access to the professionals concentrated in Yerevan. Arguably, next to the development of the nation-wide title registration system, this work was the most important aspect of the program.

H1. State Cadastre Committee

Capacity building in the SCC focused on two areas: appraisal of real estate and title registration. Secondary targets were assistance in developing a more organized structure through business planning and influencing the direction of training and testing of appraisers and real estate brokers.

The secondary target of developing a more organized structure through business planning was approached in early 1999 by using SWOT analysis (Strengths, Weaknesses, Opportunities, Threats). Initial findings concluded that the SCC, as a young organization, was free from many long-standing traditions holding back other agencies. The staff was comparatively young with the potential for a high degree of flexibility. The network of 47 local offices provided good coverage throughout the entire country.

Weaknesses included a shortage of up-to-date computer equipment in the central as well as regional offices. The staff clearly required additional training in title registration, mapping and appraisal methodology. Additional weaknesses were personnel management policies that contributed to a high staff turnover resulting in scarce resources expended to train new staff and a low level of public awareness of the role or even the existence the SCC. Budgetary constraints, endemic in the GoA, represented a serious weakness for the SCC.

There were evident opportunities for the SCC. It had the potential to become a self-financing organization, divorced from the perennial central budget shortfalls. In turn, self-financing would be useful to adjust salary structures and decrease turnover, purchase needed equipment, conduct additional staff training and allow for management independence and flexibility. The then draft Law on Registration of Rights to Property appeared ready for enactment and activity and interest in the real estate market were growing ultimately resulting in additional demand for SCC services.

Threats were significant. The failure to permit the privatization of urban enterprise land could adversely affect the market and minimize foreign direct investment. The expensive fee structure for SCC services threatened to curtail demand. Public information activities might be unsuccessful in increasing public awareness levels of the importance of registration.

The SWOT analysis was reviewed with the SCC, which found it useful. In general, Ronco and the SCC agreed that the annual SCC draft business plan be reviewed with Ronco. Following a full analysis, the objective was to assist with business planning and recommend an optimal structure.

Between February and mid-May 1999, frequent meetings with the Head of the International Cooperation and Program Implementation Department and the Chief Accountant of the SCC were held. Although an outline of the business plan format was settled by the end of March, so little data was provided to Ronco's staff that only general recommendations could be provided. By mid-April, Ronco staff assigned to this effort concluded that the SCC had shown very little interest in seriously working with the project

on any type of concrete business planning.

Other areas of SCC capacity building produced far greater results. These included training in appraisal methodology mapping and surveying training and training in title and registration systems. The results of the capacity building through hands-on training are a deeper understanding of the concepts involved in the development of market oriented real estate sector and the needs of the users of the services offered by the SCC.

In addition to the study trips to Scotland and The Netherlands mentioned earlier, several members of the SCC staff attended the USAID supported Central European Real Estate Associations Network conference in Prague. They were accompanied by two senior Ronco attorneys as well as private sector appraisers and brokers. The conference focused on modern real estate and land administration subjects over a period of four days.

H2. Private Sector

Private sector capacity building represented a significant effort under the T.O. In general, government organs throughout the FSU retained substantial control over the activities of private entrepreneurs. USAID identified the need to support the private sector, not only to promote a market economy, but also to lessen the interference of the government in many activities that are more efficiently handled by private sector participants.

As previously mentioned, the strategy to support the private sector required that an initial 'user-needs' analysis narrow the scope to most effectively utilize the support to be provided. Early in the project, the interrelationship between various tasks, such as public information and training, were integrated in the plan to provide support to private sector real estate firms, particularly in the regions. Ronco's implementation of this component targeted the following: (1) real estate services; (2) legal assistance; (3) public information; (4) sector professional associations; and (5) private surveyors. Where possible, women were encouraged to establish firms. Both New Century & Rights as well as Dolphin Publishing were formed by women.

The T.O. called for the training and utilization of Armenians, so that the expat presence would be substantially reduced with function taken over by Armenians through performance based sub-contracts. Ronco's plan called for utilization of existing firms as well as the establishment of new firms largely outside of Yerevan to provide services in regions where such private sector firms were not available. A model performance sub-contract was developed that contained specific scopes of work for every sub-contractor and deliverables. To establish a presence in regions as quickly and efficiently as possible, combined services firms (real estate brokerage, legal, appraisal and consulting) were the preferred vehicles.

Ten real estate broker offices was the goal set forth in the SOW. At the end of the project, Ronco had assisted in establishing firms in Vayk (broker), Yeghednadzor (consulting), Ararat (consulting), Echmiadzin (consulting), Masis (broker), Gyumri (2 combined services), Abovian (2 combined services) and Armavir (2 combined services).

H2.1 Consolidated Land Exchange

A primary goal of the T.O. was to expand the presence of private sector real estate professionals in the regions. Largely rural and farm oriented, regional communities had little access to private sector real estate firms without requiring a trip to Yerevan. Yerevan

based real estate firms conversely, had little interest in working in the regions and, in any event, had no capital to make such an investment. Consequently, on October 29, 1999 Ronco implemented a pilot office in Yeghednadzor (an urban center in an overwhelmingly rural marz) to provide a variety of real estate services, including land consolidation, investment promotion, and development. CLE was sub-contracted as a pilot to help establish criteria for future tenders in this field. The pilot period was for six months, after which time a determination would be made on how and where to proceed.

Within one month, CLE arranged for eight transactions. This resulted in purchase/sale values of \$19,500 (Armenia's agricultural parcels range in value: \$500 -\$3,000 hectare) and a consolidation of agricultural parcels from 71,550 square meters to 98,420 square meters – a concentration increase of 27%. During the next 30 days, CLE cooperated with a small local broker, established as result of CLE's presence, in completing 11 transactions comprising 28,300 square meters resulting in purchase/sale values of \$21,200 and consolidation of parcels from 48,700 square meters to 68,000 square meters, or an concentration increase of 72%. The pilot showed that rural areas were receptive to private sector real estate services and the lessons learned were incorporated in to a tender procedure.

Tenders for the form of regional full service real estate office were issued. In light of the tender requirements that the proposals evidence a strong understanding of rural and farm consolidation, ability to develop a database of land characteristics and availability and a willingness to establish and maintain offices in rural areas, few proposals were received from firms or individuals other than CLE. As a result, CLE was awarded sub-contracts to establish regional offices in Echmiadzin and Ararat. All offices are located in urban or peri-urban centers in largely agricultural regions.

All CLE offices are self-sufficient and support, other than advice and recommendations, was ended in December 2000. CLE has created a large database of information concerning agricultural land of interest to buyers and investors. It has expanded its operations into Georgia with cooperative agreements and plans to work, through Georgian partners, in Azerbaijan.

CLE maintains its own web site, providing information and properties for sale to a wide audience.

H2.2 New Century & Rights Legal Services

New Century & Rights (NCR) was formed by Ronco trained lawyers specializing in real estate matters. As in the case of CLE, NCR was initially started as a pilot office in Yerevan. The lawyers, trained within the Ronco team, were uniquely qualified to provide legal services to the public utilizing market-oriented viewpoints.

The pilot office was immediately successful and branch offices were subsequently opened in regional locations. Simply providing legal services was insufficient to promote real estate activity in the regions. As a consequence, each of the three branch offices provided brokerage services to the public. Each branch established one satellite office in the same location or in a neighboring village resulting in substantial coverage. One office, in Gyumri, provided free legal and real estate services to individuals given apartments under the USAID sponsored certificate program to provide those families whose homes were destroyed during the earthquake.

The sub-contract performance model perfected with CLE was also used to enter into sub-contracts with NCR and the independent branch offices. An example of performance requirements was the responsibility to conduct seminars in the regions on a monthly basis. Seminars covering privatization of state owned land, rights to real property and registration were held in the villages of Artashat, Gavar, Sevan, Kotayk, Ararat and the cities of Yerevan, Vanadzor, and Yeghednadzor. Seminars on a weekly basis were held at Grigro Zohrap University. In addition, NCR conducted seminars on registration and privatization to the Ministry of Urban Development.

NCR, as CLE and other firms assisted by Ronco, were expected to be sustainable and, ultimately profitable. Consequently, NCR provided legal and real estate services to individuals as well as signing contracts with the Urban Institute and other donor partners.

H2.3 Dolphin Publishing

Public information was key to the effort promoting land market reform. Dolphin Publishing, established by two Ronco trained staff, specialized in supporting the activities of real estate firms as well as NCR and CLE. Dolphin organized all seminars for both Ronco and NCR and prepared feedback questionnaires to help identify areas of concern and interest from the audiences.

In May 2000, Dolphin organized an important round table with NCR consisting of representatives of the 30 largest enterprises in Armenia. The purpose of the round table was to discuss the need and methods for privatization of urban industrial land. The vast majority of those attending supported privatization of enterprise land, while resistance to foreign ownership remained high.

Finally, Dolphin has worked with other donors, assisting in developing effective public information programs by providing advice and consultation.

H2.4 TOSP, Ltd. (MLS SYSTEM)

In March 2000, Ronco issued Requests for Proposals for regional real estate brokers, real estate appraising a broker training, and a surveyors association. The proposals submitted for brokers and the surveyors association resulted in awards. However, a review of the training proposals revealed a complete lack of local capacity to support such a private effort. Nevertheless, one organization that submitted a proposal, included within the documents a methodology to develop a multiple listing real estate system. This was a significant development because for the first time since the inception of the project the opportunity for independent cooperation among real estate brokers appeared likely.

During the following four months, Ronco worked closely with the principals of what would become TOSP, Ltd. to refine the plan of development of the MLS. Key to it's commercial success and sustainability would be the voluntary cooperation among major brokers to provide the necessary data for the system to function. Previously, despite much vocal support, real estate brokers were completely unwilling to work together in a constructive manner. When Ronco was convinced that the brokers would take part in the MLS system, financial and other support was provided in the form of computers for the system.

In August 2000, TOSP Ltd. opened its office with the participation of the eight largest brokers in Armenia. By January 2001 over TOSP, Ltd. had attracted 41 fee-paying members. The office is open to the public and other brokers on a fee basis. Software, independently designed and developed, forms the core of the MLS system. The professionalism of the organization and its independently developed software has attracted the attention of banks and the SCC. Indeed, in May 2001 TOSP, Ltd. was awarded a contract by Shore Bank Advisory Services in Tbilisi, Georgia to develop a similar database for banks in Tbilisi participating in the SAS program. Ronco considers this effort a major success and, as will be discussed below, led to the formation of a new, totally independent NGO representing real estate professionals.

H2.5 Regional Real Estate Brokers

Following results from tenders issued in March 2000, Ronco was able to award sub-contracts for the purpose of establishing broker offices in the regions. To leverage USAID funds effectively, only one of the offices was opened solely as a real estate broker office. Other offices were designed as multiple service firms. This independent brokerage office was established in the village of Masis and was a branch office of the Yerevan firm Matadyan & Sons. Owned by a woman, this site was selected because of the proximity to the agriculturally rich Ararat valley and the first SCC pilot office for installation of the new title registration software.

The multiple service offices are mentioned in the section discussing NCR. These three offices each supported one branch office in a smaller village adjoining the primary offices. All six provide real estate brokerage together with appraisal and legal services. Each office met the criteria established in a tender in March 2000 requiring, in part, a showing of professional licenses to perform the services and prior experience.

H2.6 Union of Real Estate Professionals

The Union of Real Estate Professionals (UREP) was a direct outgrowth of the success of TOSP, Ltd. Established as an NGO in March 2001, UREP was the result of two factors: (1) recognition that previous 'associations' were either controlled by the SCC or solely for the purpose of aggrandizing one individual and (2) the clear need in a stagnating real estate market for an association that would protect and promote professionals in the sector.

The core of the organization consists of the ten largest real estate brokers and appraisal firms. Ronco advised with the structure of the organization but did not need to provide any financial support. Following the close of the project, Ronco requested that USAID permit the distribution of several computers to UREP. USAID agreed to the distribution and Ronco is convinced that this effort, launched in the final three months of the project, represents the only fully independent association of real estate professionals in Armenia. Sustainability is very likely because this association was formed by the professionals themselves and not as the result of artificial promotion by a donor partner.

H2.7 Professional Association of Real Estate Surveyors

The Professional Association of Real Estate Surveyors (PARES) was established in March 2000 and is the first such association in Armenia. As more fully discussed in the

previous Technical section, PARES forms an independent alternative and balance to the monopoly held by the SCC in surveying and mapping. It has also performed work for other USAID funded programs, such as the Barents Fiscal and Tax Reform T.O. and the Urban Institute.

H2.8 Other Armenian Sub-contractors

To implement the T.O. Ronco utilized a number of Armenian firms and individuals that had been in existence prior to the start of work. One objective, of course, was to provide hands-on training in market reform. Legal work was sub-contracted out to Geo-Link, Ltd., which under the guidance of Ronco, provided concept papers on land consolidation and mass appraisal techniques to the SCC. Another firm, Ozaik, Ltd., was sub-contracted to develop concept papers on enterprise land privatization and land use planning and zoning.

The Technical section of this report references the large amount of work that was produced by independent, private sector surveyors. These sub-contractors also received training in the use of the modern equipment provided to them to perform the work efficiently and rapidly.

I. Conclusion

Implementation of this T.O. required detailed coordination with other implementing partners, the World Bank, European Union and the SCC. At the same time, ultimately it is not the administrative functions that are key to establishing a dynamic real estate market, but the users. Although title registration systems are overwhelmingly administrative, they will fail if their administration does not serve the needs of the users. Consequently, implementation also included awareness growth in fundamental concepts of a modern real estate market for both the GoA , and in particular the SCC, and the public.

The implementation of this T.O. over almost three years was successful despite obstacles that were both natural and artificial. It is always difficult to succeed in dislodging vested interests in the status quo. The USAID title registration program is a clear success because it not only laid the foundation for a dynamic real estate market, established a sophisticated nationwide title registration system and provided needed training, but also because it built the capacity of the private sector to deal with the market and vestiges of the command economy still holding power in government structures.

Lessons Learned and Recommendations

The LRT project reflected many of the problems and solutions that have prevailed over the last ten years in the all FSU and other developing countries. Development of a real estate market requires other components than just those covered by this project. These include:

1. Secure employment
2. Investor confidence
3. Work for those leaving land in the rural areas
4. A banking sector willing an able to give loans based on real estate as collateral
5. Low interest rates
6. An entrepreneurial tradition
7. An aware and progressive professional capacity – real estate agents, lawyers, appraisers, builders, surveyors and planners – all of whom are regulated by recognized professional associations and not the government or its agencies.

Of the foregoing, none is in strong evidence (or exist at all) in Armenia except for item 6 and there is excessive governmental interference, under the guise of protecting the public, in item 7.

This Section V will outline the key areas that affected the implementation of the project and similar programs. Hopefully, the following will be useful in designing and implementing future programs.

A. Lessons Learned

Technical assistance can be a spectacular success. One need only look to the transformation of Korea and Botswana in the 1960's or Uganda and Vietnam in the 90's. Assistance can play a significant role in contributing ideas, training and financial aid to support growth and build economies. On the other hand, technical assistance has had its share of failures. Zaire is a prime example. Ultimately, it is necessary to revisit the process to try to identify those aspects of assistance that are successful and why. This section of the report will select those areas from which lessons can be derived and recommend findings for future program implementation.

The lessons learned in implementing LRT can be reduced to three key areas: Legal and administrative reform; private sector capacity building; and, public awareness. Necessary corollary lessons are the need to assess the level of policy reform commitment prior to implementation of any technical work and the level of corruption.

A1. Legal and Administrative

Numerous studies have been performed that show that assistance results in higher gains in a good policy environment. A good policy environment includes a commitment to implementing reform through a variety of methods by the host government. If this is missing or a façade, then technical assistance far from lifting a country into a modern economy, actually harms the people for whom the assistance is targeted by keeping those in power who are not credible reformers.

For the most part, legal reforms necessary for a successful registration system and foundational development of a real estate market evolve organically. Few, if any, laws implemented in direct response to a particular issue succeed in totally solving the problem or accomplish exactly what is intended. One need only to look to laws enacted in the United States to realize the number of modifications, various interpretations and litigation involved to reach complete understanding. If such difficulties exist in the United States, it is not difficult to imagine the fundamental problems that arise among legislatures with no history of market orientation or democratic accountability.

Both the establishment of an adequate legal foundation and effective enforcement of agreements impact the development of the real estate market. Each influences aspects of private sector development and its relationship with market participants. Since market development depends on the evolutionary growth of these relationships, the legal foundation must form a framework to facilitate such growth without heavy-handed governmental interference.

The legal foundation must remain flexible and not dependent on strict codes that attempt, usually unsuccessfully, to control every possible issue. The codification of every aspect of market development is, more often than not, a transparent effort to control the marketplace in the same manner as the failed command economies. Under these circumstances and implemented for self-interest, codification is neither helpful nor benign and contributes to the slow progress toward integration with a world economy.

Furthermore, the establishment of excessively detailed legal structures by the government inhibits the development of the market. In other words, 'top down' law will not work. Unfortunately, and precisely as a result of the latter, land reform and the development of a true real estate market is an ideological issue; consequently, there are groups determined to erect or maintain legal and administrative barriers regardless of the cost to a country's development process. The past errors have been so huge that it is impossible for some to admit failure.

The LRT project identified numerous impediments to legal reform that were both artificially erected to protect the interests of those in power and cultural barriers that evolved under the Soviet period or earlier. Overarching the specific impediments, Armenia suffers from a largely unprofessional legislature fractured by 'clans' and ministries committed to protecting special interests and self-aggrandizement. Specific to the implementation of the project were the following:

1. An overly centralized land administration system.
2. Poor legal drafting abilities and a powerful preference for lack of clarity.
3. Inability or unwillingness to plan.
4. A judicial system where judges are not trained to handle commercial disputes thereby limiting recourse for land disputes.

How should projects deal with these types of barriers and problems? First, Ronco's experience is that even with conditionalities attached, the likelihood of sustainable change is low unless accompanied and supported with strong indigenous leadership. Lip service is frequently given to reform. Legislation that purports to accomplish the results anticipated by USAID often does not do so because of vagueness and lack of enforcement. Given short implementation periods to achieve cultural and social change, short cuts and compromises become normal routines. Indeed, legislation cannot be expected to achieve social changes unless the purpose of legislation is fully understood and accepted.

Administrative issues for the LRT program essentially can be reduced to a single barrier. The GoA has deemed it necessary to concentrate all responsibility for the real estate sector in one agency. Administrative roadblocks can be encountered regardless of the level and scope of authority. However, the scope of discretionary authority residing in the SCC is overwhelming and directly impacts the ability of the private sector to conduct business without the involvement and rent seeking by government officials.

Finally, there is an inconsistent application of laws and regulations. This can have disastrous results, as evidenced by the lack of FDI in Armenia. Many of these inconsistencies can be traced to microscopic financial resources resulting in recourse to rent seeking by those whose job it is to serve the public. Furthermore, administrative procedures continue to be based on control mechanisms arising from a deep-seated distrust of the private sector.

A1.1 Recommendations

R.1: Policy reform must have measurable benchmarks and goals. Locally initiated reforms have a much better chance at success than those imposed from the outside. In the case of legislative reforms that have little or no local initiative, then projects must focus on creating and transmitting knowledge and capacity to identifiable credible reformers.

R.2: Low cost efforts to disseminate new ideas, train new leadership and stimulate debate should be the first line of assistance, with strong resistance to providing expensive equipment or financial support until policy reforms are evidenced by suitable legislation and rule of law.

R.3: Any agreement with the host government must allow for a broad spectrum of "counterparts" to avoid special interest legislation that warps the reform process for the benefit of a few.

R.3: Reform legislation must be allowed to have an implementation period prior to moving on to successive stages of a program. In other words, there must be a showing that the reform is enforced and, more importantly, that there is evidence of the seriousness of the governments reform effort.

R.4: It is simply not possible to force governments to do what they are reluctant to do. In the development of task orders and their implementation, expectations of the type of legal and legislative reforms cannot be established completely in advance. Rather, concepts of what should be the results allows the implementing partner flexibility to achieve the results needed or report that the government is actually unwilling to accept the concepts. Additionally, artificial time periods for the enactment of specific legislation (i.e., within 180 days, etc.) do not take into consideration legislative time frames, changes in circumstances or - in the case of Armenia - frequent ministerial and government personnel changes.

R.5: The role of the state in property rights should be to provide the public a good set of rules and their enforcement, designed to lower transaction costs. There should be a set of property rights to encourage production and trade, a judicial system to settle differences, and enforcement procedures to enforce contracts. *No legal initiative or legislation should ever grant discretionary powers to the members of the land management system.*

R.6: The private sector must be consistently involved in the process of drafting laws

and regulations and cannot be treated as potential violators of the laws of Armenia.

A2. Private Sector Capacity Building

The private real estate sector in Armenia is hampered by the legal and regulatory environment coupled with a paternalistic attitude on the part of government officials unwilling to shake off the failed attitudes of the command economy. As mentioned above in A1, the private sector is often viewed with suspicion by civil servants.

Strong resistance was encountered during implementation of this private sector capacity building component from the SCC if those organizations or individuals that had some relationship to the SCC were not involved. Furthermore, there was an unwillingness to listen when private sector participants voiced concerns and opinions on laws and regulation directly affecting them. Again, this was both a paternalistic attitude as well as one arising from the reluctance to drop the control mechanisms of the past. The private sector capacity building role of Ronco was successful in spite of the government.

Finally, Armenia is capital poor. The development of the private sector in the real estate industry can only succeed if the firms and individuals are able to devote capital to growing the business. They cannot afford to allocate scarce capital to purchase even one computer or distribute information concerning the business if it means not paying staff or themselves. Such an obstacle can only be overcome with efficiently directed assistance.

A2.1 Recommendations

R.7: There must be an independent target for capacity development in the private sector that does not involve government agencies. This includes training and support to establish sustainable entities capable of resisting corruption themselves and on the part of civil servants.

R.8: Where capital is scarce it is virtually useless to advocate business expansion, much less start-ups, unless financial resources are allocated to support those efforts. Additionally, there needs to be an awareness that not every effort will succeed or be sustainable. It is not true in the United States, to expect it to be so in Armenia or other developing countries is illusory.

R.9: Associations of professionals should be supported, but only if the implementation of the association comes first from the professionals. The experience of real estate and appraisal associations in Armenia is dismal, precisely because they either were established by government interests or were slapped together as a result of goals in work plans.

A3. Public Awareness

The public attitude and awareness surveys conducted by Ronco made clear the lack of understanding of the legal rights associated with real estate, dislike of professional real estate brokers and distrust of the government. The latter distrust has resulted in business practices outside of formal legal and administrative procedures. The public uses 'facilitation payments' to get needed services. It is now a generally accepted practice that will continue to make Armenia unpalatable to investors.

Awareness of rights was low, particularly in the realm of land and ownership. Because of this, Ronco learned that it was necessary, not only to explain new laws and regulations, but to contrast those past administrative obstacles with the new market. Furthermore, as a result of implementing public knowledge and opinion surveys, Ronco was able to provide focus its entire education campaign and avoid a shotgun approach that would have wasted funds.

The market requires certain information in order to allocate resources efficiently. Information regarding the land market must be freely accessible to the user. The majority of users is within the private sector and represents true market forces.

Closely related to the provision of information, is it's potential for asymmetry. Normally, governments establish title registries and information systems to remove this potential. In every instance, the landholder has more information about the rights associated with the land than anyone else. Information asymmetry reduces real estate transactions or results in lower prices to reflect the higher risk. The entire economy suffers because the allocation of real estate to high-productivity users is restricted. However, this asymmetry can also occur when the information is hard or impossible to obtain from the very governmental institution designed to provide it.

A3.1 Recommendations

R.10: Public awareness campaigns should not begin until an adequate sample of current awareness is completed. Limited resources should not be wasted on public education campaigns if they are not targeted.

R.11: Public information campaigns should not be subject to veto or control by the government. Although it is important to involve government entities, the purpose of the campaigns should be settled in advance to reduce the possibility of manipulation.

R.12: Utilization of local expertise should be sought in designing and implementing a public information program. Although there may be an interest in hearing what a foreign expert may have to say, it is much more important for a local expert, who believes in the message, to portray it to the public in a manner that is acceptable to local custom.