Shelter Sector Reform Project
Newly Independent States of the Former Soviet Union

An ICMA Report

Prepared for the Office of Housing and Urban Programs
Agency for International Development

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TRIP REPORT

IMMOVABLE PROPERTY REGISTRATION SYSTEMS IN THE KYRGYZ REPUBLIC

February–March 1996

Prepared for

U.S. Agency for International Development
Bureau for Europe and the Newly Independent States
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Urban Development and Housing Division

By

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ABSTRACT

ICMA consultant Kathryn Rasmussen carried out this assignment in the Kyrgyz Republic during February–March 1996. The overall objective of this assignment was to complete preliminary work required to launch the pilot immovable property registration project in an efficient and timely manner. Individual tasks under this objective included preparing a detailed work program for the pilot project in immovable property registration, thoroughly documenting existing systems in the Kyrgyz Republic used to register different types of immovable property, and facilitating integration of anticipated aid from the Government of the Netherlands (GON) on the education and training aspects of the proposed registration system.

IMMOVABLE PROPERTY REGISTRATION SYSTEMS IN THE KYRGYZ REPUBLIC

1 OBJECTIVE

ICMA consultant Kathryn Rasmussen carried out this assignment in the Kyrgyz Republic during February–March 1996. The overall objective of this assignment was to complete preliminary work required to launch the pilot immovable property registration project in an efficient and timely manner. Individual tasks under this objective included preparing a detailed work program for the pilot project in immovable property registration, thoroughly documenting existing systems in the Kyrgyz Republic used to register different types of immovable property, and facilitating integration of anticipated aid from the Government of the Netherlands (GON) on the education and training aspects of the proposed registration system.

2 PERSONS CONTACTED

To complete the assigned tasks, the consultant maintained a dialogue with the following officials in the Kyrgyz Republic:

- Essenkul Aliev, General Director, Center for Land and Agrarian Reform
- Nikolai Dorosh, Legal Expert, Center for Land and Agrarian Reform
- Michel Hardon, General Director, International Land Information Services
- Fred Huston, Senior Privatization Specialist, USAID/Kyrgyzstan
- Klara Ismailova, Head of Department of Land Resources and Land Engineering, Agricultural University
- Paul Litgens, Ministry of Foreign Affairs, Government of the Netherlands
- Natalya Oronova, Chief Architect's Office, City of Bishkek
- Ludmila Popova, Chief of Department, Bureau of Technical Inventory
- Arstanbek Sydykov, Assistant Director, State Institute for Land Resources and Engineering
- Dzhekshenbek Urmanbetov, Deputy Minister of the Economy

In addition, when appropriate, the consultant met with World Bank representatives to keep the Bank apprised of the status of legislation on immovable property registration and design of the pilot project.

3 ACTIVITIES

All tasks were completed as assigned. The draft work program is attached as Attachment A, the documentation of existing systems as Attachment B, and the proposal for aid from the GON as Attachment C. It should be noted that the proposal for aid from the GON was prepared by Dutch consultants, and the ICMA consultant's only input on this subject was several meetings and telephone conversations with the Dutch consultants.

Preparatory work for the launch of the pilot project is proceeding, albeit slowly due to a lack of funding. Up to now, the main effort has been to establish a legal basis for the proposed immovable property registration system. As of late March 1995, the "Draft Law on the Registration of Rights in Land and Immovable Property" had been circulated to the concerned ministries, state committees, and government agencies for review and comment. The working group on immovable property registration considered these comments for the final version of the draft law, which was to be presented to the administrations of the President and the Prime Minister for final review before introduction to Parliament. To provide government officials with a better understanding of how the draft law will be implemented, the working group, with some assistance from ICMA and USAID, prepared a status report on the immovable property registration pilot project (see Attachment D).

Included in that document is a draft of a government regulation ordering the creation of a Project Management Unit (PMU) to coordinate implementation of the pilot registration project. According to the system design, a Project Management Unit (PMU) staffed by local experts and assisted by a technical assistance group comprised of foreign experts will be responsible for project implementation. The PMU will oversee the creation of registration offices in the pilot districts and the training of personnel hired to work in those offices.

The proposed system is a unified, parcel-based system, which will include all types of immovable property (urban and rural land, residential and non-residential buildings) and feature a single permanent record of title for each object of immovable property. All interests (ownership, easements, restrictions) held in an object of immovable property will be recorded at the local (rayon-level) registration office, if those holding the rights choose to register them. The registration of interests held in a property guarantees legal protection for that right. The documentation to be used by the registration offices will include (1) an index map showing all registered objects of immovable property within the registration office's jurisdiction and (2) a registration card for each object of immovable property. The card is indexed to the map, and all interests held in the object of immovable property are registered on this card, provided that the holders of the interests want those interests protected under law. The proposed system envisions that registration offices will be created at the rayon level for most areas, and at the city level for cities with a greater number of properties such as Bishkek and Osh.

The training and education aspects of the pilot project will be supported by funding from the GON. Officials of the GON visited the Kyrgyz Republic briefly in mid-March 1996 to clarify the budget for the proposed training and education activities. The consultant reviewed the proposals

for such aid and confirms that the proposed activities complement the objectives of the pilot registration project.

4 CONCLUSIONS AND RECOMMENDATIONS

A much more thorough evaluation of technical aspects of the existing registration systems should be undertaken by the registration information systems specialist, registry operations specialist, and surveying and mapping specialist upon the start of the pilot project. A series of technical questions must be addressed by the PMU and the technical assistance group early on in the pilot project, including the method of enlarging the scale of existing maps and technology used for reproducing the maps.

During implementation of the pilot project, the PMU, technical assistance group and the local registration staff must consider how the system will be managed in the future and by whom. At present, separate systems of recording rights in immovable property are administered by the Ministry of Agriculture (for agricultural land), the Bureau of Technical Inventory (for residential and non-residential buildings), and the Local Architect's Office (for urban land). In addition, a network of notaries, regulated by the Ministry of Justice, verifies each transaction (purchase, sale, mortgage, bequeathal) involving immovable property rights. The PMU must consider whether a new Republic-level body should be created to oversee the registration function, or whether the proposed system should be administered by an existing institution, such as the Bureau of Technical Inventory, Ministry of Agriculture, Kyrgyzgeodezia, or the Ministry of Justice. There will be considerable pressure to answer this as soon as possible, but the group is urged to consider lessons from the pilot project before giving a final recommendation on this question.

In addition, high notary fees charged on transactions with immovable property will potentially discourage people from registering transfers of rights in immovable property. At some point, the PMU will likely have to confront the issue of high transaction costs and the constraint that they place on the system of immovable property registration.

ATTACHMENT A

PILOT IMMOVABLE PROPERTY REGISTRATION SYSTEM
DRAFT WORK PROGRAM
FOR THE
PROJECT MANAGEMENT UNIT

Attachment A

Immovable Property Registration System
Workplan for PMU
February 29, 1996

A pilot project to develop an Immovable Property Registration System (IPRS) will begin May 15, 1996. The project is scheduled for 12 months and will be implemented in two to four rayons of the Kyrgyz Republic with the following objectives:

1. Legislative base for creation of immovable property registration system

2. Creation of Immovable Property Registration System

3. Land Market Policy Development

A. Preparatory Work for Working Group on Immovable Property Registration (which will serve as advisory group to PMU throughout the pilot project)

1. Initial Tasks

Initial tasks include finalizing the work program and budget of the PMU. This will be done by the Working Group (the working group on registration) and should be completed by May 25, 1996. Since an illustrative budget and illustrative workplan will have been prepared by the start of the project, 5-7 days should be adequate for the Working Group to finalize these two documents.

2. Rayon Selection and Negotiations with Rayon Authorities

Secondly, the Working Group will begin work on selecting the pilot rayons. Criteria for selection include the following factors:

a. a rich mix of land uses, both rural and urban properties
b. well-organized rayon administrations
c. absence of other major conflicts that will impede the registration process
d. reasonable communications with Bishkek
e. support from the rayon administration and rayon kenesh
f. local support for pilot project and local capability to implement project
g. geographic distribution of rayons

The participation of these rayons in the pilot project will be accompanied by a written agreement (letter of intent) between the PMU, the rayon administration, and the rayon kenesh. Prior to the signing of this agreement, discussions will be held with the head of the rayon administration

and speaker of the rayon kenesh to ensure their full understanding of the commitment to the project. This should be completed by June 15, 1996.

B. Organization and Staffing of PMU

1. Staffing of PMU

The core staff of the PMU will consist of approximately six professionals and four support staff. Requirements for professional staff include a university degree and a minimum of five years of work experience in their respective areas of specialization. Professionals needed in the PMU include the following: General Manager, Survey and Mapping Specialist, Legal Advisor, Registration Specialist, Logistics Specialist, and Policy Specialist. Support staff hired will include two secretaries, two drivers, and two permanent interpreters/translators. Short-term consultant services for database management, legal advice, field surveys and initial registration will be required. Such staff however, will be hired for temporary work on an as needed basis, and are not considered permanent PMU staff. The hiring process will be completed by May 30, 1996, and PMU staff will begin work immediately thereafter.

2. PMU Handbook

A staff handbook regulating the operation of the PMU and outlining the responsibilities of each staff member will be prepared.

C. Legal Enactment

One issue that will have to be addressed before the final version of the draft law is sent to the administrations of the government and the president is the function of the notary in the IPRS. The draft law must consider the function of the notaries as laid out in legislation and current requirements for documents on purchase, sale, bequeathal, and lease of properties to be signed by a notary. This review should occur before the design of the pilot registration system, and all PMU staff and expatriate consultants should have a clear understanding of the notary function in Kyrgyzstan before finalizing the draft law and before designing the pilot system. Further, in the design of the pilot system, consideration should be given to the question of how to have a notary as part of the registration office staff, to make the system more easier and convenient for the user. This action should be completed by May 30, 1996.

1. Review Existing Legislation

Because the draft law on immovable property registration will provide a legal basis for the creation of a single system to register rights in land and property that have been previously recorded in a different manner under various systems, there is a need to review existing legislation which the draft law may impact. Both existing and draft legislation such as the Constitution of the Kyrgyz Republic, Civil Code, Land Code, Law on Pledge, Law on Mortgage, Law on Mining, Law on the Preservation of Nature and Environmental Protection, and the Law on the

Protection and Use of Water Resources should be reviewed to ensure that these laws are not in conflict with the draft law on immovable property registration concerning existing provisions for registration of immovable properties.

Furthermore, draft laws in these areas should be reviewed to prevent the adopting of any legislation that contradicts the provisions in the draft law on immovable property registration. This should begin immediately upon the start of the project, and be completed by May 30, 1996.

2. Final Draft of Law on Registration of Immovable Property

The working group on immovable property registration is close to completing the draft law. It is expected that by mid-March 1996, the group will have considered all changes to the draft law suggested by the concerned ministries, agencies, and state committees, and prepared a final version to be sent to the Administration of the Government. The draft will likely be introduced to parliament by May 30, 1996.

3. Seminar for Parliament on Draft Law

A short one-day seminar will be conducted for the parliament to ensure that parliamentarians understand the concept of immovable property registration before being asked to discuss the draft law. The seminar will describe the concept of immovable property registration and why it is necessary in the Kyrgyz Republic, and the need for a legal basis for such a system. The seminar will be conducted at least one week prior to the introduction of the draft law into parliament, most likely in late May 1996.

4. Draft Implementation Regulations for Law on Immovable Property Registration

Specific details on implementing the draft law will be contained in the implementation regulations. The implementation regulations will define standard formats for: registration card, certificate of ownership or rights to immovable property issued by the registrar, registration books, legal and fiscal cadastre, cadastral maps and index maps, and archives (paper, magnetic, electronic). Responsibilities of the registrar, financing of the registration offices, registration fees, procedures for registration, surveying standards and procedures, compensation for damages incurred by errors in the registry, procedures for entering changes in the registry, and many other questions will be addressed in the implementation regulations. The initial implementation regulations will be prepared. This should be completed by October 1996. In addition, a Law on Survey and Mapping should be drafted as soon as possible, no later than December 1996.

5. Corrections to Law on Basis of Pilot

The pilot project will provide an opportunity to evaluate the draft law on immovable property registration as well as the implementation regulations. On the basis of recommendations of the PMU, amendments to the draft law will be proposed. In addition, implementation regulations and any other legislation related to immovable property registration will be amended accordingly, if

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necessary. On-going critical analysis of the draft law is expected throughout the pilot project, but formal recommendations on changes to the draft law will be made only after a complete analysis of the law following implementation of the pilot project. Recommendations on any necessary changes to the law will be submitted in April 1996.

D. System Design

Issues considered by the PMU and Working Group prior to designing the pilot registration system itself include: fees charged for transactions, role of the notaries, the balance between private rights and public information as it concerns public access to all information in the registry, and the possible interface of this system with the local tax authority. In addition, the PMU and Working Group will determine the staffing levels and specialists needed at the rayon registration offices. These issues should be considered before work begins on the design of the pilot system, and the Working Group and PMU should indicate its opinion on these issues by May 15, 1996. Lastly, the PMU should devise the outline of a workplan to be prepared by each pilot registration office. This will be completed by August 30, 1996.

1. Review of Existing Systems for Recording Rights in Immovable Property

The PMU will review the systems for recording rights and interests in immovable property currently maintained by BTI, Giprozem, and Architectura. In addition, the notary function will be studied, and the PMU staff will familiarize themselves with documentation and recording of liens and mortgages on land and buildings. Before starting work on designing the immovable property registry, PMU staff will be familiar with all types of transactions conducted with immovable property. This will be completed by June 15, 1996.

2. Review of Existing Maps and Mapping/Surveying Capability

The surveying/mapping component of the initial system design must assess the maps, survey procedures and equipment used under the existing system, and determine the capability of the existing mapping/surveying infrastructure of the country to adequately serve the new immovable property registration system. Along with the review of records systems, this will be completed by June 15, 1996.

3. Selection of Test Area for System Design

If considered necessary, the Working Group and the PMU should choose an area in or near Bishkek, with a mix of land uses, for the test of the system design. It may be necessary that during the system design phase, the PMU will need the cooperation of a local administration to conduct several tests of different versions of the system. This area could be near the Agricultural University (AU), since the AU may house the IPRS training center envisioned under the project. A formal agreement in this case should be concluded between the rayon administration and the PMU.

4. Initial Design of Paper System

a. Creation/Adaptation of Indexing System for Parcels

A feature of the parcel-based system will be a scheme for indexing objects of immovable property, such that each object has a unique number, not repeated on the territory of the Kyrgyz Republic. The system currently used by Giprozem, which employs a code identifying a parcel by: oblast-rayon-rural committee-field-parcel-size (ha.) should be evaluated for its adaptability to the proposed system. In addition, the National Statistics Committee, Architectura, and BTI likely have additional systems for indexing properties. This action will be closely tied to the development of a system of index maps. Thus, it will be completed at approximately the same time as the creation of the index maps. This task will be completed by mid-August 1996.

b. Creation/Adaptation of Index Maps for Registration Sectors

The system will be created on the basis of index maps, on which each individual parcel or object of immovable property will be identified. In rural areas, it may be best to create one map per rural committee while in urban areas one map may cover several city blocks. The maps will be at a scale of 1:2,000. It is likely that existing maps at scales of 1:5,000 or larger may be photographically enlarged to the 1:2,000 scale for these purposes, rather than re-surveying all these areas. The processes for creating the index maps will be finalized by mid-June 1996.

c. Registration Card

The pilot project will introduce a parcel-based registration system. The registration card—the record kept for a single unit of immovable property—indexes a land parcel, a building, a house, or an apartment to a map, so that those interested in securing an interest in a property can easily determine whom they should consult just by looking at the property registry. The records kept now for agricultural land are done on an owner-based system, with records indexed not by the parcel but by the name of the owner (enterprise using the land). BTI records are kept for private homes and buildings; Architectura maintains records for use-rights to urban land parcels. BTI's system is an owner-based system. Architectura has a parcel-based system. Still it is unlikely that the documents used to record rights in any of the existing systems can be used in the system proposed by the pilot project.

The registration card must include an initial section to identify the property by geographical location and size, a section where information on ownership is recorded, a section for restrictions on the land parcel, and a section for other secured interests in the parcel. The card will be indexed both to a parcel map (index map) and a registration book. Design of the registration card will be completed by August 1, 1996.

d. Registration Book

A registration book will be kept at each pilot registration office, as a permanent record of the rights held in objects of immovable property in the rayon. The registration book will be parcel-based and include a bound copy of all registration cards, maintained by index according to registration sector. The design of the registration book should be completed by mid-June 1996.

e. Certificate Given to Holders of Rights

Each person who registers his property under the new system may request a Certificate documenting the rights held to the parcel. This Certificate will not be the legal proof of the rights held in the property; rather, that function will be served by the registration card. Design of the Certificate will be completed by mid-August 1996.

f. Creation of Archives System

A system for archiving the registration books and other documents generated by the IPRS must be developed. The registration books must be stored in a fireproof place, and there should be several copies of the documents stored at different locations in the rayon center. This must also be completed by mid-June 1996.

g. Fees Assessed by the Registration Offices

The registration offices are expected to be self-financing in the long term. While it is true that the national government will have to support the rayon registration system initially, a fee structure should be determined that will enable the system to be self-financing in 5-7 years. The fees should not be prohibitive, such that they discourage transactions from being registered.

Secondly, the PMU and Working Group must determine whether to charge a flat fee on transactions throughout the country, or whether registration fees should vary among rayons. First registration should be free of charge, as private individuals and enterprises having already registered their properties under the current system will not likely be interested in going through another registration process at their expense.

h. Test of Paper System in Training Center

The initial system design will be tested in the training center (or in the case that the training center is not yet established, in the PMU office). It is important that the system be as sound and flawless as possible before it is introduced to the rayon registration offices. All components of the system (index maps, registration card, registration books, and archive system) will be completed before the system is tested. Careful documentation of the problems with the paper system and corrections needed to make the system more efficient and easier to use are required. The testing will be done by July 15, 1996.

i. Modifications of Paper System for Pilot Rayons

Testing of the system will allow the PMU to make corrections to the system before it is introduced into the pilot rayons, and before rayon staff are trained on the system. Careful documentation of changes introduced at this stage (not only the changes but why they were necessary) is required. The modifications should be completed by August 1, 1996.

j. Procedures for Transfer of Records from Other Agencies

k. Procedures for Transfer of Cartographic Information

2. Initial Design of Computer System

Before design work begins on automating the registry and digitizing the index maps, the PMU must procure all necessary equipment. This is covered in the Logistics section of the work-plan. The software (Oracle?) should already be available in Russian, should be easy to use, and should lend itself to possible future GIS.

a. Index maps
b. Registration card
c. Registration books
d. Archives system
e. Test of computer system in training center
f. Modifications/finalization of computer system for pilot rayons

E. Establishment of Rayon Registration Offices

Agreements with local administrations and local keneshes should be concluded before beginning work on establishing rayon registration offices. Job descriptions for registration office staff as well as a budget must be finalized before logistical arrangements are made. Each office will have a compendium of laws, decrees, resolutions, and orders on matters relating to land policy, land use, land privatization, privatization of buildings, the lease, collateral, and mortgage of immovable property. Such a compendium of laws will be created in order for registration office staff to have access to regulations governing transactions with land and immovable property, and should be understood or used as a tool that enables the registrar to make decisions on the use or allocation of objects of immovable property (land, buildings). In addition, a standard handbook on procedures and responsibilities of the rayon registration office will have been prepared by the PMU before the rayon office is established.

1. Finalize Budget for Rayon Registration Offices

Each rayon registration office will have a staff of __?__, x professionals and x support staff. Additionally, the office will have x desktop computers with software for automating the registration records and digitizing maps as well as communications software for exchange of informa-

tion with the PMU in Bishkek and other pilot registration offices, one laser printer, and one photocopy machine. The budget will be discussed with the head of the local administration and the speaker of the local kenesh on an ongoing basis in order to arrive at a baseline annual budgetary allocation which can be realistically maintained by the rayon administration with subventions from oblast and national budgets for an initial period (three to five years). The budget for the pilot registration offices will be finalized by July 31, 1996.

2. Provide Job Descriptions for Rayon Registration Offices

Each registration office will include a head registrar, deputy registrar, clerk/cashier, and secretary. Qualifications of the head registrar will include a minimum of seven years' experience in records management, preferably with the Bureau of Technical Inventory, the Architect's office, the Center for Land and Agrarian Reform (formerly Giprozem), or the office of the notary at either the oblast or rayon levels. The head registrar will have experience with transactions concluded on objects of immovable property such as lease, pledge, and bequeathal. The head registrar should have a minimum of three years' management experience as head of an office or department and experience in drafting budgets and administrative procedures and regulations. The deputy registrar will have a minimum of five years' experience in records management with one of the offices listed above and should have technical experience in surveying and mapping. An official document with detailed job descriptions for rayon registration office staff will be completed by July 1, 1996.

3. Select Staff for Rayon Registration Offices

Staff will be selected by the PMU on the basis of an open competition. The PMU will objectively select the best-qualified candidates for the above-listed positions. Announcements of the position descriptions for registration office staff will be posted on June 30, 1996, at an appropriate public place in the rayon administration building. Resumes and letters of interest will be accepted until August 15, 1996, and interviews will be held the following week. Staff selection will be completed by September 15, 1996.

4. Train Staff at Rayon Registration Offices

The staff selected to work in the rayon registration offices will receive initial training in Bishkek from the PMU staff beginning October 1, 1996. Staff will only be trained on the paper registration system at this time. In addition to the records management and survey/mapping components of the registration system, rayon registration staff will be trained in accounting principles and office procedures established by the PMU. (These principles and procedures will be outlined in the rayon registration office manual developed by the PMU.) The group to be trained will include all staff from all rayon registration offices, and thus the first two weeks of training will be conducted in Bishkek at the training center of the Agricultural University. After initial training in the basic concepts and components of the registration system, staff at the separate rayon registration offices will receive an initial week of training at their respective rayon

offices if deemed necessary by the PMU. Initial training will be completed by October 30, 1996, and additional training will be finished by December 15, 1996.

5. Develop Workplan for Rayon Registration Office

Upon completing training, each pilot registration office will prepare a workplan for completing initial registration in the rayon and further implementing the registration system in their respective rayons. The workplan will conform to a standard outline designed by the PMU in Bishkek. The main components of the workplan will include: first registration, survey and mapping requirements, project documentation, and other issues determined by the PMU. Each pilot registration office will submit a workplan to the PMU by December 15, 1996. A final version of the workplan, reflecting any changes made by the PMU, will be returned to the registration office by January 30, 1997.

F. Implementation of Immovable Property Registration System in Pilot Rayons

1. Survey to Establish Baseline Borders/Markers of Registration Sectors

If there is no agreed-upon system for legally describing the physical location of the different types of immovable property (i.e. agricultural land, buildings, houses, apartments), a survey will need to be conducted to establish a minimum of baseline points to serve as borders for legal description of the immovable property objects. The surveys will be conducted in the pilot rayons immediately after the staff of rayon registration offices are selected and will be completed for all pilot rayons by December 15, 1996.

2. Preparation of Maps for Each Registration Sector Within Rayon

Index maps (at a scale of 1:2,000) will be prepared for each registration sector in the pilot rayons. The index maps may be photographically enlarged on the basis of existing maps covering urban districts or for rural committees (former state and collective farms). Each parcel/unit will receive a unique number, and a registration card will be created for each parcel/unit.

3. First Registration

First registration is the process by which existing rights in objects of immovable property are recorded in the registry. Existing records and newly created index maps will provide the information base for conducting first registration. Before any information on existing rights is entered into the property registry in pilot rayons, such information will be displayed in a public place. In the case of disputes over use-rights to land or ownership rights to property, the registration authorities will take no action on disputed objects for a certain period (i.e. 30 days) to give all parties to the dispute a chance to clear the matter. If there are no disputes on parcels or objects, the object is entered into the registry. Members of the Working Group on Registration have discussed the concept of public information on rights held in immovable property and many are wary of making such information public. The PMU should take this into consideration when

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devising procedures for initial registration. Another method may be more desirable in this situation. First registration will be completed in all pilot rayons by April 30, 1997.

4. Transfer of Existing Records from BTI, CLARs, Architectura

To be completed by April 30, 1997.

5. Computerization of Records

To be completed by May 30, 1997.

6. Digitization of Maps

To be completed by May 30, 1997.

G. Training

1. PMU Training: Initial

a. Organizational/Administrative

In regard to organizational and administrative responsibilities, PMU staff will require initial training in accounting and reporting procedures required by USAID and ICMA. This will be completed within one month of the hiring of PMU staff.

b. System Training

PMU staff will be trained on the property registration system throughout the design period. This will occur at the training center in the Agricultural University, provided it is established in a timely manner. All professional PMU staff are expected to have a general understanding of all aspects of the pilot registration system before the pilot system is finalized and introduced into the rayon registration offices. The initial training will be completed by August 15, 1996. By this time all professional staff should have sufficient understanding of the pilot system, such that any modifications introduced after that time will be quickly understood by the PMU staff.

2. PMU Training: Ongoing

PMU staff will receive more sophisticated training from foreign experts in their respective areas of specialization. Short-courses in records management, cadastral information systems and surveying and mapping techniques (others) will be offered. The training will continue throughout the duration of the project.

3. Establish Training Center at Agricultural University

Upon agreement with the administration of the Agricultural University, a training facility will be established under the Department of Land Engineering. The design of the center will be identical to that proposed for the rayon registration offices. Training for PMU staff as well as testing of the paper and computer registration systems will be done at this center, provided it is established in time to serve these purposes.

a. Staffing the Training Center

The training center will be staffed by faculty at the Agricultural University, with input from appropriate PMU experts provided on an as-needed basis. Number of staff, remuneration, and payment for rent of facilities are to be determined.

b. Training Staff at Training Center

Staff of the training center will attend seminars conducted by PMU staff upon completion of the initial design of the pilot registration system. These initial seminars will be identical to those planned for the rayon registration office staff. Thus, they will serve as trial seminars, so that by the time the PMU staff prepare the seminars for the rayon staff, they will have had some experience with training. The PMU staff will continue to conduct short seminars for the training center staff, until the PMU feels that the training center staff are adequately prepared to serve as the basis for future training programs when the IPRS is implemented nationwide. This initial training of the training center staff will be completed by September 1, 1996, but the additional training will continue until mid-April 1997.

4. Develop Training Modules/Training Seminars

Instruction modules will be developed for training staff of the registration offices in the pilot rayons. The modules will be developed after the completion of the design phase (paper) of the pilot registration system. The PMU will use these modules to train the staff at the training facility of the Agricultural University. The training seminar conducted for the staff of the training center at the Agricultural University will provide feedback on how to improve the seminar and the instruction modules prepared for the rayon registration offices. These modules and the seminar design will be completed by August 15, 1996, with corrections and modifications to be completed by July 1, 1996.

5. Train Staff of Pilot Registration Offices

Pilot staff will receive initial two-week training in Bishkek during September 15–30, 1996. Additional training in the pilot rayon registration offices will continue, if needed, until December 15, 1996.

H. Land Market Policy

A second objective of the pilot project is to cultivate a local capacity for designing policy initiatives to battle the two negative aspects of land markets: concentration of land among the wealthy and environmental degradation.

1. Experience from Other Countries

The PMU will evaluate strategies used in various countries to control these negative aspects of land markets.

2. Analysis of Emerging Patterns of Property Ownership and Use-rights

The PMU will analyze patterns of landholdings and property ownership and use-rights to determine the distribution of use-rights. Upon the conclusions drawn from the analysis, the PMU will make recommendations on tax policies and other economic means that can be used to encourage a fairer distribution of immovable property and better opportunities for access to land among poorer sections of the population. Additionally, the PMU will prepare policy recommendations on possible economic incentives used to preserve natural resources and encourage more land-use practices that preserve the natural state of land and other natural resources. The PMU will review the experience of other countries in these two areas and prepare a brief document on this subject by September 1, 1996. Further, the PMU will conduct the survey of landholdings in Kyrgyzstan and offer policy recommendations on how to correct the current course if necessary. This will be completed by December 1, 1996. A third document on sustainable land use will be completed by April 1, 1997. A fourth and final report on land market policy from the PMU will consist of policy recommendations, for presentation to the government. This document will be completed by May 1, 1997.

It may be desirable for the PMU to form a working group on these issues with representation from the State Committee on Nature Protection, the Ministry of Finance, and the Ministry of Social Protection.

I. Information Systems Management

Narrative records

Cartographic records

Fiscal cadastre

Legal cadastre

Physical records

Magnetic records

J. Finance

PMU accounting principles

Establish record keeping practices

Establish standard reporting practices

Establish financial regulations

Establish financial reporting regulations

K. Project Documentation

1. USAID Progress Report

The PMU will prepare a _____-weekly progress report for USAID.

2. ICMA Progress Report

The PMU will prepare a _____-weekly progress report for ICMA.

L. Future Planning

The one-year pilot registration project will cover two to four of Kyrgyzstan's 47 rayons, with a view to realizing nationwide implementation over the course of three to five years. Thus, one of the main tasks of the PMU will be to prepare an Action Plan to be presented to donors (World Bank, Asian Development Bank, USAID, EC-TACIS) for financing separate portions of the implementation program. The Action Plan will be completed by June 21, 1996, and presented to individual donor organizations between mid-July and August 1, 1996. Additional proposals on separate portions of the Action Plan will be prepared from August 15 to November 15, 1996.

M. Project Evaluation

The PMU will evaluate the pilot project on several grounds: legal, technical, efficiency, financial, and on the possibility of implementing the project on a nationwide basis. This report will be completed by March 3, 1997, and will be presented to the government by March 15, 1997.

N. Logistics

1. Office Space, Equipment and Furnishings

a. PMU

Initial tasks in establishing the PMU include renting office space and equipping and furnishing the office. The PMU office must be in a central location, have a steady power supply and adequate communications capabilities, and provide an environment conducive to work. The space should be adequate to enable up to 10 people to work simultaneously, approximately ____ square meters. Office space should be arranged by June 1, 1996.

Adequate furnishings, including lighting, chairs, desks, conference table, file cabinets, telephones, bookshelves, etc., necessary for the PMU to function efficiently must be procured. In addition, the PMU will have x desktop computers of x type (Pentium, 16 MB memory, processor, internal fax/modem) and x laptops of x type (486 at least, ? MB, ? processor, internal fax/ modems), one laser printer, one inkjet printer and one photocopy machine. The PMU will be connected to an electronic mail system and will have international telephone and fax capabilities. Further, x digitizers, x plotters, x scanners, and a large copier for altering maps will be procured by the PMU. Software purchased by the PMU should include a database program for automating the registry, preferably a program already in Russian. Secondly, digital mapping software must be purchased. Additional software packages needed include word processing, spreadsheet, and communications software.

Procurement arrangements must conform to USAID, ICMA, and GOK regulations. Purchase and delivery of equipment for PMU will take up to two months. The PMU office will be fully furnished and equipped by August 15, 1996.

b. Training Center

The training center at the Agricultural University will have ___ computers, digitizer, plotter, scanner, and all furnishings similar to those planned for the rayon registration offices. Software will be shared with the PMU, inasmuch as the training center will serve as a laboratory for PMU design and training work. It is planned to have all equipment and furnishings by September 1, 1996.

c. Rayon Registration Offices

Rayon registration offices will include ____. They will be fully equipped by May 1, 1997.

ATTACHMENT B

EXISTING REGISTRATION SYSTEMS IN THE KYRGYZ REPUBLIC

Attachment B

Notes on Existing Registration Systems in the Kyrgyz Republic

At present there are three separate systems, administered by three different agencies, for recording rights and interests held in different types of immovable property in Kyrgyzstan. Records for agricultural parcels are maintained by the Ministry of Agriculture through the Centers for Land and Agrarian Reform (CLARs) at the rayon level, while homes and buildings are recorded at the Bureau of Technical Inventory (BTI), and urban land is recorded at the local Architect's office (*Architectura*). All three systems have branch offices at the rayon and oblast levels. Actual recording of rights in properties in most cases is done at the rayon or city level. While the consultant did not visit oblast-level BTI and *Architectura* offices, it is assumed that these offices monitor the work of the rayon offices and compile reports from the rayons on the number and type of landholdings or properties and pass this information on to the republic-level offices, where it is analyzed and used for policy purposes.

Of these various organs, BTI serves a function most closely related to that of a registration office. BTI serves only to keep records on buildings and houses and does not appear to have a role in formulating policy. The Ministry of Agriculture and *Architectura* on the other hand are responsible for policy on agricultural land and urban land respectively. A function new to all three offices is the recording of mortgages against a given property or land parcel. BTI seems to have the most experience in this and the strongest links with the notary offices in communicating the existence of mortgages as well as other restrictions on a property. *Architectura* is just beginning this process. The CLARs have introduced a new registration card with sections devoted to recording mortgages and other restrictions, but in practice CLARs have little experience in this area.

The existing systems of recording rights in immovable property are outlined in more detail below.

A. The Bureau of Technical Inventory

This agency was formerly under the Ministry of Communal Affairs, but a recent change has moved it out of the Ministry. It is unclear whether BTI operates independently or under the guidance of the local administration. A person pays a visit to BTI to have the absence or presence of property verified. Rights to private homes, apartments, and buildings are recorded by BTI.

Records held by BTI include:

- *Kartoteka* - This is a card catalog of properties, alphabetized according to owner and address. A person can consult the *kartoteka* about the status of a property: whether there are any restrictions on transactions with that object of immovable property and whether the property or owner is under "arrest." The *kartoteka* offers a brief summary of all existing interests in a property.

- Folder - Each property has a folder containing all documents (building permits, agreements) issued for structures (buildings, houses, or apartments) built on that property. The folders are catalogued according to block, then street address of the structures. The folder contains a map of the property, information on technical characteristics and property value of the structures, and all such information on the parcel of land attached to the structures. The folder contains records on mortgages, restrictions, and court decisions on the property or owners' rights to conduct transactions with the property.

BTI has close ties with notary offices and Tax Inspectorate. All BTI records are linked with records of the Tax Inspectorate. BTI records all restrictions and "arrests" on persons. Notary offices inform BTI of mortgages and record them in a database. Sometimes this notification happens within a few days; sometimes it takes 15–20 days. The database is computerized; there are 4–5 terminals but only one computer operator due to financial issues. There is no backlog of data entry, however.

BTI's fees depend on the time taken for the transaction. Fees for urgent transactions (those recorded in the course of one hour) are 52 som; in the course of one day, 31 som; and in the course of one month, 10 som.

BTI has five survey brigades. Records are archived according to block, and the folder is indexed to a map. Maps of the properties are analogous to those kept by *Architectura.*

There is a numbering system for properties. Each property is numbered according to block, parcel, and owner. For example, a certain property has the following number: 1440 24 45902, where the block number is 1440, the parcel number is 24, and the owner's registration number is 45902. The name of the owner is also written on the front of the folder. When ownership changes, it is not clear whether the registration number remains the same and the new owner's name is substituted for the old name, or whether a new folder is created with a new number.

A person who registers a property receives a copy of the folder with a stamp placed on the registration paper when the process is complete.

B. Chief Architect's Office (*Architectura*)

The Architect's office carries out a land use management and planning function within the limits of a locality and is subordinate to the local administration. Use-rights for parcels of urban land are issued and recorded by *Architectura*. *Architectura* has maps for the entire city (in the case of Bishkek) at a scale of 1:10,000, and for separate districts at 1:2,000. Air photos are provided by *Kyrgyzgeodezia* (the State Committee on Mapping and Geodesy), which has recently been placed under the State Committee on Geology and Minerals.

Rights to Use Land

A person goes to *Architectura* to obtain use-rights to land. *Architectura* keeps records on property according to a map (*planschetta*) at 1:2,000 scale. A block is divided into parcels, and each parcel has a unique number. There is a card catalog, which is indexed to a map of properties at a scale of 1:5,000. The card lists who has use-right to the land parcel, what rights they have on it, and which documents permit the person to use that parcel of land. If a house is remodeled, etc., the blueprint must be approved by *Architectura.*

A folder is created for each parcel. The number of the folder is the parcel number. The folder has a map and lists what structures are allowed on the land (an administrative building, garage, etc.). The ownership rights to buildings are granted by another agency, the State Property Fund (SPF). SPF issues certificates on the ownership of buildings, while *Architectura* deals only with the land surrounding such buildings.

To accord the right to use land, *Architectura* issues a State document (an *Akt*). The Akt contains information on the conditions under which land use-rights are given and on allowed and unallowed uses. Information recorded on the Akt includes: the size of a parcel (in hectares), boundaries, the person to whom use-rights are being issued, the issuer of the rights, and the conditions on which the rights are issued.

Before an Akt is given out, a resolution is proposed by *Architectura* on the granting of land for the requested purpose. To initiate the process, the head of the local administration makes a formal written request to *Architectura*, and *Architectura* prepares documents on the allocation of a land parcel. *Architectura* then issues a resolution along with a map of the parcel in question. The resolution includes such information as payment for the land parcel, restrictions on use-rights to the parcel, and whether permission is granted. Temporary use rights are documented with a "Certificate on the Right to Temporary Use of a Land Parcel."

State Akts are issued in two copies: one is issued to the user, and the second is kept by *Architectura.* A physical description of the parcel, a map at a scale of 1:500, and the amount of payment for the parcel are included. Official coordinates are only written on the copy of the Akt that is kept by *Architectura.* The Architect's office then serves as arbiter in disputes over property boundaries.

After an Akt is issued, the information on it is recorded in a "registration book." The registration book contains the following information: Akt number, name of applicant, client, and location of land. The example that the consultant was shown had the following information: applicant - small enterprise, client - office, and location - Moscow street. The number of the parcel is recorded in the registration book and is the same as the number of the folder. Included in the folder is the document that grants the right to use land.

Mortgages

For purposes of recording mortgages, *Architectura* does not closely interact with BTI or the notary offices, but with the banks. A bank sends a letter to *Architectura* asking for confirmation that the person or entity applying for a mortgage does indeed have a use-right document for the parcel. *Architectura* has created a mortgage book for this purpose. The information recorded in this book is the name of the use-right holder, the land pledged, the address and amount of the mortgage, and the folder number.

Architectura receives very little information from the notary offices—most information is obtained from the banks. *Architectura* provides banks with the guarantee that the land parcel does not have another mortgage against it. However, *Architectura* officials admit that they can only give this guarantee if banks report mortgages to *Architectura*. There is still no absolute guarantee that a parcel does not have another mortgage against it.

Use-rights to urban land parcels are given for the following terms, as stated in the Land Code:

- Undefined term (99 years)
- Fixed term (one, three, or five years; in rare cases for 10 years)

Land and buildings are recorded separately. For example, SPF may sell a building , but land around the building can only be granted by the local administration. In the case of privatization, the building is privatized first, and then the issue of the land parcel is addressed. If an organization has not purchased use-rights to land, the mayor or head of the local administration may confiscate a parcel without compensation to the user, if the parcel has not been used.

Geodesists

Architectura has two divisions of geodesists:

- Topographic division - These surveyors maintain records and maps on what exists at the present time. Old parcels are mapped at scale of 1:2,000.
- Implementation division - These surveyors provide maps of buildings, new constructions, etc.

A commission decides on the granting of land. The implementation division produces a sketch map of information related to heating systems, communications, etc., from the moment that the parcel enters into use. This information is entered on a topographic map.

C. Centers for Land and Agrarian Reform (CLARs)

These offices were created in late 1994 to implement the government's land and agrarian reform program. Their registration function is limited to agricultural land. The CLARs exist at the rayon, oblast, and republic levels. Until recently, rayon and oblast CLARs were organs of the local administration. Now they report to the republic-level CLAR in Bishkek, within the Ministry

of Agriculture. A project institute in Bishkek, the State Institute for Land Resources and Engineering, provides methodological assistance to the oblast and rayon offices.

The CLARs are responsible for the survey of land parcels allocated to farm units and the issuance of the State Akt on the Right to Use a Land Parcel. State Akts are in theory issued only for those enterprises holding land in 99-year use but in practice are also issued for short-term rent agreements. For rent agreements, that is, all land use arrangements for less than 99 years, CLARs are supposed to issue a Certificate on the Right to Temporary Use of a Land Parcel. In addition, the CLARs issue Certificates on the Right to Use a Land Share to heads of households. These Certificates are in principle issued for abstract shares of land located within a larger parcel of land belonging to a collective. In practice, however, these Certificates are sometimes issued for physical parcels of land, surveyed by the CLAR.

Information in the State Akt includes a sketch map of the parcel at 1:10,000 scale, with boundaries of neighboring parcels labeled on the sketch map. The purpose of use, period of use, name of the land user, and the enterprise from which land has been given in use are recorded on the Akt. Each Akt has a unique number, and each time the boundaries of the enterprise's landholdings change, a new Akt is supposed to be issued. In practice, however, the existing State Akt is merely updated to reflect the change.

All information is entered into a registration book, which is a catalog of all agricultural landusers and the size of their landholdings broken down by land category (hayfields, orchards, pasture, irrigated, etc.).

Maps at a scale of 1:5,000 are maintained by the rural committee for each former state or collective farm. (The rural committee is the farm-level organ charged with implementing the land and agrarian reform.) Land allocations are marked on the map, and parcels are labeled with a five-character code (e.g., N-Dzh-10-N4-61, where N = Naryn oblast, Dzh = Dzhumgal rayon, 10 = zone, N4 = parcel number four, and 61 = order [State Akt?] number 61).

There is a section in the State Akts and Certificates for noting transactions with the land share or land parcel. Mortgages so far are recorded only with the local notary office (one office per rayon).

D. Notary Offices

Notaries, which operate under the Ministry of Justice, certify all documents on transactions involving immovable property. There is one notary office in each rayon. The legislative body at the farm level, the rural council is empowered to perform some—but not all—of the functions performed by the notary offices. The notary determines who owns a piece of property according to legal documents.

A person will come to the notary office if, for example, he wants to sell an apartment privatized in 1992. The notary will investigate whether that person is indeed the owner (presumably by

checking with BTI). If the person is married, the transaction requires the signature of his spouse; if he is single, he alone signs. In the case of apartments owned by an enterprise, two people must sign: the enterprise owner and the owner of the apartment at the time of sale.

Under a 1991 government order, the procedure for sale involves the formation of an appraisal commission under the head of the local administration. This commission's purpose is to evaluate the cost of the property and to determine taxes. After the property is appraised, both parties to the transaction come to the notary. At that time, the owner must present a certificate from BTI that gives the size of the property and a technical description; the notary will ask to see a receipt for payment of fees at BTI.

The appraisal commission consists of the deputy head of the local administration, BTI, the Tax Inspectorate, *Architectura,* and others and consists of no less than seven people. Their task is to make sure that the correct property value is reported for the transaction because sellers will try to underestimate the value of their property to pay lower fees to the notary.

The commission convenes each time there is a transaction. Now there is a move to abolish the commission and empower notaries to appraise property. The fees are 10 percent of the value of the transaction if it takes place between strangers; 3 percent if the transaction is a gift or inheritance, or buying or selling between relatives; 20 percent if the transaction is a gift to a stranger. When appropriate, the notary verifies that the two parties are indeed related. Of the fees collected, 10 percent goes to the Ministry of Justice to fund the development of courts, and 90 percent goes to the local budget.

The rural council performs notary work in rural areas and charges the same fees for transactions. Competencies of the rural councils are restricted; they may not handle inheritance transactions, only purchase-sale transactions involving properties on the territory of the rural committee. Inheritances are transacted through the notary in the rayon administration.

Rural councils performing notary functions do not necessarily have training or specialization in the notary/law area; the draft law on notaries will give rural councils fewer functions. All buying and selling transactions will be handled by notaries under this law.

ATTACHMENT C

GOVERNMENT OF THE NETHERLANDS
PROPOSAL FOR TECHNICAL ASSISTANCE IN
INSTITUTION BUILDING, EDUCATION, AND TRAINING
TO THE
GOVERNMENT OF KYRGYZSTAN

PROPOSAL TO DGIS
MINISTRY OF FOREIGN AFFAIRS
GOVERNMENT OF THE NETHERLANDS

FOR

TECHNICAL ASSISTANCE IN INSTITUTION BUILDING, EDUCATION AND TRAINING TO THE GOVERNMENT OF KYRGHYZSTAN

1. GENERAL

a) This proposal is for *Technical Assistance in Institution Building, Education and Training to the Government of Kyrghyzstan* under the DGIS Eastern/Europe/Central Asia programme. It is designed to complement a current programme of Technical Assistance from USAID to the Government of Kyrghyzstan (GOK) in the field of land reform with particular reference to cadastral surveys and mapping, land registration, and the management of land information.

b) The proposed programme of Technical Assistance will be undertaken in Bishkek, capital of the Republic of Kyrghyzstan, with the exception of certain educational and training functions to be implemented in The Netherlands.

c) It is proposed that the period of implementation commence no later than 1 September 1996. Activities within the Republic of Kyrghyzstan will be completed within twelve months. Post-graduate educational programmes in Dutch post-secondary institutions will be completed within 12 months from the date of commencement of the appropriate course.

2. JUSTIFICATION

2.1 The genesis of the project proposal

2.1.1 Geographical, economic and demographic setting

The Republic of Kyrghyzstan in Central Asia is bordered by China to the south-east, Kazakhstan to the north, Uzbekistan to the west and Tadjikistan to the south-west.

Kyrghyzstan is dominated by the Tien Shan mountains. The highest peaks are permanently snow covered, with glaciers in many valleys providing a source of water for irrigation. The mountains are interspersed with valleys suitable for grazing and, in some cases, cereal/arable crops. The lower valleys and other lowland areas have soils suitable for a wide variety of arable, horticultural and fruit crops. The climate is continental with hot, dry summers and cold winters. Rainfall is light and variable, and irrigation is necessary for all but subsistence farming. The irrigation systems are primarily of dams with distribution canals, and there are some sprinkler systems.

The area of the country is 198 850 sq km (19 850 000 ha). The agricultural land area is 10.9 million ha, or 55 percent of the total area of the Republic, of which 9 million ha (approx 82 percent of total

agricultural land, or 45 percent of total area of the Republic) is pasture land. Of the 9 million ha of grazing land, 3 million is stated to be government owned forest land, of which 843 000 ha are said to be pure forest (4.2 percent of total land area). Forests are now protected, and there are no plans to privatise any of the state-owned forest land.

The 1990 Census indicated that the population of Kyrghyzstan was approximately 4.37 million of whom 1.66 million are urban and 2.71 million live outside the main urban centres. The population of the capital city of Bishkek is about 625 000.

Soviet style agricultural production was initiated during the 1920s and 1930s, and took the form of the land being divided into large collective farms. Some became state farms. The grazing land of each state farm (sovkhoz) or collective farm (kolkhoz) was allocated by the local Soviet (Rural Council) for its perpetual use, although all land was state owned.

2.1.2 Policy of the Government of Kyrghyzstan in Land Reform

The President and Government are committed to a programme of privatisation of land and private ownership of property. Land privatisation began in 1991 when several hundred families exercised a new right to withdraw from state and collective farms and claim new parcels from those enterprises. Additional private farms were created during 1992 and 1993. In 1994 government decrees effectively abolished the state and collective farms. The majority of residents of state and collective farms received private land shares or parcels between October 1994 and March 1995.

The Government is retaining ownership of the land but 'privatising' it by means of transferable land use rights which are effectively conditional leases of 49 years duration. Though only use rights are being created at present, these will form the root of future full ownership. It is therefore essential that a modern, efficient system of registering rights in land, backed by suitable legislation, be introduced as quickly as possible. Such registration should be located at the administrative level of the rayon in order to be accessible to the people; cover all land in both town or country; include all immovable property (e.g. buildings); and be oriented to protecting the legal rights of the people, rather than serving the interests of government, in order to generate the confidence which will lead to the growth of a market in land.

Four factors have delayed the withdrawal of farmers from collective and state farms, and the creation of new, individually-owned plots of land:

a) The level of confidence in the policies of the government.
b) The delayed decision by government to break up the former state and collective farms.
c) The continuing influence of former leaders of the state and collective farms.
d) The present policy of charging the farmer for the survey of a new, individually-owned plot of land.

Elimination of these factors; decisions by rural residents to sell or rent their land shares or parcels; and the need for secure land titles to enable agricultural credit to be raised; would result in the current staff in rayon offices being unable to cope with the resulting workload of documentation of land rights and cadastral surveys. It has been estimated that using the existing survey capabilities of these offices, it would take more than 30 years to survey the land parcels alone[1].

2.1.3 Relationship of the project proposal to the assistance programme of the Government of The Netherlands

The proposal is a programme of technical assistance to strengthen selected institutions of the Government of Kyrghyzstan so that the Government's programme of *land reform* may be expedited. The proposal makes provision for complementary *short training courses*, most of which will be held in Kyrghyzstan using domestic institutions and trainers, so that the execution of land reform may make early and effective use of appropriate technology and methodology. Finally, the proposal provides for *assistance to selected post-secondary institutions* which has two aims: to strengthen their abililities to support the training programme, and to strengthen their educational programmes in support of land reform and the sustained operation of a modern cadastral system within an emerging mixed market economy. The objectives of the proposal are consistent with the policy of DGIS to help strengthen those parts of the governmental framework and of related institutions which are critical to the successful transition from a centrally planned to a free mixed market economy.

2.1.4 Related assistance from other donors

Several important initiatives in assistance to land reform have been taken or are in progress:

1. The *EU TACIS* Agricultural Sectoral Support Programme financed a preliminary review of Land Privatisation, Survey and Registration with the following abbreviated Terms of Reference:

    1. To investigate and elaborate the implementation plan for land and agrarian reform from the survey, registration and land/share point of view.
    2. To start to develop a workable timetable for the implementation of the reforms with a view to producing an acceptable action plan for the implementation of the reforms.
    3. To identify specific implementation problems including resource problems in the current reform process and to recommend appropriate approaches to their resolution.
    4. To start to identify the requirements for establishing appropriate legal (land registration systems) and fiscal (taxation lists) cadastres.

    The consultant visited Kyrghyzstan in January 1995 and reported immediately thereafter.

2. The *World Bank* funded a technical assistance project on land reform for which a team of two long-term specialists from the University of Wisconsin Land Tenure Centre was mobilised in early 1995. The Design Proposal for the technical assistance project envisaged a core input for six months concentrating on legal, economic and sociological expertise, supported by short term inputs on land titling, registration and information systems.

3. It was reported that a Land Reform Implementation Support (LARIS) Project was also under consideration by the *World Bank* for the latter part of 1995[2]. This would include land registration and cadastral mapping, with training and technical support.

4. USAID is currently financing a Land Market Project, undertaken by a consultant, the objectives of which are to

    1. Produce a Final Draft of a Land Market Action Plan. One aim is to guide and orient work

in subsequent phases through the creation of an Immovable Property Registration System, and the development of land market policy options for stimulating and guiding property markets. A second aim is to coordinate initiatives aimed at establishing land markets.

2. Finalise the design of the Immovable Property Registration System including the appropriate legislation, forms and procedures for the operation of registration offices, and development of the organisational structure of the local offices for property registration.
3. Explore alternative parcel survey and mapping methods for identifying the most cost-effective means of preparing Registry Index Maps.
4. Identify the most appropriate sources of required equipment and supplies, and acquire the equipment and supplies needed for an early start-up.
5. Implement two urban and two rural pilot immovable property registration offices.
6. Define the priority land market policy issues and prepare a strategy for their resolution.

2.1.5 The target beneficiaries of the proposed programme of assistance in institutional strengthening, training and education

The following is a listing and brief description of the institutions of the central government, and those at the oblast and rayon levels, which will benefit from the proposed programme of assistance in institutional strengthening, training and education.

1. Ministry of Agriculture

The Department for Land and Agrarian Reform within the Ministry is responsible for such matters. A new centre, The Centre for Land and Agrarian Reform, was set up in November 1994 and has 28 members. It is intended that this structure will be reflected at oblast and rayon levels.

2. The Centre for Land Resources and Land Management (*Kyrghyzgiprozem*)

Formerly called the "Institute of Land Management", this State company under the Ministry of Agriculture is now called the Scientific Production Centre. It was concerned with allocation of land between kolkhoz and sovkhoz, water resources, and all information concerning rural land, topography, land use and erosion. It was responsible for the agricultural cadastre as it was understood in a command economy. The centre previously had a staff of 557 including 22 surveyors, now reduced to 120 without surveyors. Before 1987 the Centre was responsible for mapping in both urban and rural areas, but now is concerned only with agricultural areas and, in particular, the provision of medium-scale mapping of the former kolkhoz and sovkhoz in support of privatisation.

3. The Ministry of Justice

One of the three departments within the Ministry is responsible for notaries (see 7 b) below).

4. Agency for Cartography and Geodesy

This is responsible for the national control network, small scale mapping, and production of large and medium scale topographic mapping by aerial survey. The photography is flown and developed by the Institute in Alma Ata on behalf of the Agency. It will require modernisation, and will play

a pivotal role in land reform.

5. The Ministry of Communal Affairs

This ministry is responsible for the Bureau of Technical Inventorisation (see 6 b) below) at the oblast, rayon and town levels, which keeps information on buildings and is central to a future fiscal cadastre.

6. Government offices dealing with land at the oblast level

a) The Commission of Land and Agrarian Reform

It is intended that this office, hitherto the Land Inspection Office, will be established at the oblast level with responsibility for land reform at that level, and will report to the Centre for Land and Agrarian Reform. The Centre comes under the Agricultural Administration, and has a coordinating role in the privatisation of agricultural land and property and subsequent recording.

b) Bureau of Technical Inventorisation

In Bishkek, the Bureau deals with land use rights to land in urban areas for private properties. The Bureau keeps copies of certificates of the rights granted for ownership of houses/buildings and of use rights granted for land; and keeps detailed records on apartments and privatised apartments.

7. Government Offices Dealing with Land at the Rayon Level

The various offices listed below are responsible to the Akim as executive head of the rayon, and to their respective ministries or state committees through the oblast administration.

a) The Commission (or Centre) of Land and Agrarian Reform

It is intended that there will be a Centre at the rayon level. The office is now responsible for managing the process of privatisation of agricultural land and recording the interests created.The Centre issues state acts to families allocated land separately. The office is expected to survey the parcel on the ground, though often it is understaffed and is generally poorly equipped for survey tasks, and prepares the plan of the parcel attached to the act. The office keeps a record of the acts and of cooperatives, and may keep a record of the decisions of the rural committee.

b) The Notaries

The notaries are at rayon level under the Ministry of Justice. The notaries are concerned with the buying and selling of apartments, dwellings, commercial premises and property in general. The notary maintains a record of prohibitions (on dealings) from the court or private citizens. The notaries have a function as witnesses, keep records of transactions witnessed, and certify photocopies of documents.

c) The Architectura Office

This Office in the rayon is responsible for the design of buildings, for the 'general plan' of villages and keeps copies of the large-scale plans of the towns, unless the towns have their own town council. They carry out surveys on request, usually for proposed buildings.

d) The Bureau of Technical Inventorisation

The office may be at the level of the rayon or town, and maintains records of buildings, particularly of apartments. The office usually has the most comprehensive, up-to-date and accessible set of such information on buildings, and is central to a future fiscal cadastre.

8. Educational Institutions Concerned with Land Survey and Registration

a) Agricultural Institute (University)

In the absence of an educational programme in higher geodesy and photogrammetry within Kyrghyzstan, this Institute must play a critical role in the programme of land reform. One of the three specialisations in the Institute is Land Management. This includes the Land Cadastre as understood in the command economy, which is in a course of four years duration in which 25 students a year are enrolled. There is a Department of Geodesy which also covers cartography and photogrammetry, but it does not offer a course exclusively for surveying.

The Technical College, under the Agricultural Institute, provides secondary education level courses in geodesy and land management, sufficient to qualify students as technicians.

The Agricultural Institute may well be able to provide short courses to groups identified above, and will be the principal beneficiary of the support to educational programmes as envisaged by this proposal.

b) Other educational institutions

The International University is reported to have a Faculty of Geodesy but with few specialists in Geodesy, and is being considered for possible transfer to the Agricultural Institute. This also has a potential role in providing short courses to groups identified above.

Surveying is also reported as being taught at the Polytechnic Institute and Building Institute as parts of other courses.

2.2 The general objective

The general objective is to strengthen selected institutions of the Government of Kyrghyzstan in close cooperation and coordination with other donor agencies, and specifically USAID's consultant, in such a manner that GOK's programme of land reform may be expedited, the newly acquired rights in land may be documented properly, and the development of a land market may be encouraged.

2.3 Description of the present situation

The EU TACIS consultant stated in January 1995[3] that the privatisation of land as a major element of land reform "has been slow, uncertain and variable across the country". The two decrees[4] issued on 22 August 1994 required time to take effect. Several factors have delayed the withdrawal of farmers from collective and state farms, and the creation of new, individually-owned plots of land. Institutions at the local level needed to support the programme of land reform are often understaffed, poorly supplied with instruments, and just able to cope with the current workload in recording new interests in land and surveying new parcels. The workload could be increased substantially if the current impediments to withdrawal from the state and collective farms are removed. Additional staff are needed in the Centres for Land and Agrarian Reform at the rayon level to register the new parcels. There is opportunity for computerisation to assist in managing the greatly increased volume of information on land parcels, rights, and owners. T here is an estimated requirement for 80 to 120 field teams for agricultural land privatisation in the short term, and up to 400 in the longer term if the rate of privatisation is increased. There is an immediate need for 80 - 120 surveyors or land managers for updating and setting out new parcel boundaries. There is some scope for re-assignment of staff in order to achieve a more appropriate distribution, and the use of survey technicians for making field measurements. Improved techniques of mapping might be attempted.

In the urban areas many single-family dwellings have been built by individuals on land owned by the State, whilst the State has provided apartment accommodation. Some 165 000 urban apartment units have been privatised since 1992 with individual rights in these units being recognised. Although arrangements have not yet been made for registering the common elements of apartment buildings, a growing market in apartment units has developed. Land and buildings in the urban places are now treated separately. As land is privatised, it will be necessary to consider the land and buildings together as immovable property, and for this to be reflected in appropriate survey, land registration and valuation systems. The identification and valuation of *all* urban properties will become critical as municipal governments are required to assume ever increasing responsibilities for the provision of urban services. Responsibilities for the provision of survey, land registration and valuation systems may require the restructuring and reorganisation of current offices.

2.4 Definition of the problem

The problems to be addressed by this proposal are as follows:

1. Redefining the roles and structures of those departments of the Government of Kyrghyzstan which are currently responsible for cadastral surveys, cadastral mapping, land registration and the management of land information (e.g. issues of data standards, data quality, data exchange and privacy of information) so that they are able to deliver the necessary services in a timely and cost-effective manner without duplication.
2. Identifying, designing and arranging the delivery of short-term training programmes which will complement the methodologies and technologies selected for the delivery of the necessary services in cadastral surveying, cadastral mapping, land registration and the management of land information.
3. Strengthening appropriate educational institutions so that their academic programmes complement the medium- and longer-term national needs in cadastral surveys, cadastral mapping, land registration, the management of land information and land management.

2.5 Strategy designed to reach the general objective

There are four elements of the proposed strategy for reaching the general objective and, thereby, solving the problems identified in 2.4 above.

1. Close cooperation with senior officers of the appropriate departments of the GOK in defining current and future responsibilities, tasks, issues and solutions.
2. Making use wherever possible of domestic capabilities and capacity in training and education so that local knowledge is mobilised, students adjust to mid-career studies in a known environment, and the disruption of services and expenditures are minimised.
3. Utilising existing knowledge of institutions, programmes and activities acquired in earlier consultancies.
4. Close cooperation and coordination of activities with USAID's consultant so that the various initiatives are complementary and mutually supportive.

2.6 The results to be achieved by the proposed project

Three specific results will be achieved by the proposed programme of assistance:

1. Specific proposals to GOK for internal restructuring of organisations responsible for cadastral surveys, cadastral mapping, land registration and the management of land information, and where appropriate a re-allocation of responsibilities (e.g. those of the Notaries pertaining to immovable property), to enable the changes to techniques and processes proposed by USAID's consultant to be implemented.
2. Achieving exit qualifications from short courses offered under the proposed programme of assistance so that government staff may employ the new tools, techniques and processes which USAID's consultant proposes be used in cadastral surveys, cadastral mapping, land registration and the management of land information.
3. Building a domestic capability within Kyrghyzstan to produce university graduates in cadastral studies who will play central roles in meeting the future cadastral and land information needs of a market economy, and in managing such information.

There are two more general results which will be achieved:

a) Recognition by the government and its staff that land and buildings together constitute immovable property in a market economy, the records of which must be registered, be open to public inspection, and be interlinked.
b) Recognition by members of all levels of government that the legal and fiscal cadastres are essential and complementary tools in financing the operations of local governments.

2.7 Performance indicators

The following indicators will be used to measure performance from elements of the proposed programme of technical assistance:

1. The identification of needs for, and the design of, short courses in cadastral surveys, cadastral mapping, land registration and the management of land information in relation to the programming

of field work and land registration proposed by USAID's consultant.

2. The timeliness of identifying, selecting and training trainers who will offer these short courses within Kyrghyzstan in relation to the programming of field work and land registration proposed by USAID's consultant.

3. The numbers of government staff admitted to these short courses; the rates of success on exit and their qualifications; and the timing of completion in relation to the programming of field work and land registration proposed by USAID's consultant.

4. The selection and success rate of students from Kyrghyzstan sent to external programmes of post-graduate education in cadastral studies and land information systems.

In the case of proposals to GOK for internal restructuring of organisations responsible for cadastral surveys, cadastral mapping, land registration and the management of land information, an indicator of performance is the output from a specific process. This may well be influenced by measures proposed by USAID's consultant.

3. ACTIVITIES

The activities within the proposed programme of technical assistance will be as follows, subject to modification as experience indicates.

3.0 In advance of departure the Team Leader obtains and reviews all relevant documents concerned with land reform in Kyrghyzstan, including earlier reports by consultants, and lists in order of priority those departments of GOK and related institutions which should be visited .

3.1 On arrival in Kyrghyzstan the Team Leader discusses with USAID's consultant the plans and progress which has been achieved so that the current situation is understood fully at the commencement of the DGIS programme of technical assistance.

3.2 The Team Leader visits each appropriate department of GOK and related institution to

a) identify those current responsibilities and tasks of the department or institution which relate to cadastral surveys, cadastral mapping, land registration, the capture of data for property valuation, and the management of land information;

b) understand the organisational structure of each department, the tasks performed by each, and the linkages and data flows between departments;

c) obtain information on current staffing, the age/rank structure, the educational backgrounds, all forms of staff attrition, staff recruitment and the sources of new staff;

d) obtain forecasts of workloads which have been made in connection with the land reform programme, and identify human resource constraints;

e) be briefed on in-house and external programmes of staff training and education, and to develop first impressions of the needs for further training to support the land reform programme;

f) identify financial constraints to d) and e);

g) where appropriate, establish the role of aerial photography, photogrammetric mapping and remote sensing in the land reform programme, and constraints to the use of these techniques, e.g. security restrictions on exposing and using aerial photography.

3.3 The Team Leader identifies and analyses the general requirements for institution building, institutional restructuring and re-allocation of departmental responsibilities to support the land

reform programme and the programme of the USAID consultant.

3.4 The Team Leader and Education Advisor identify and visit local institutions for education and training, and potential private sector suppliers of such services, in order to

a) identify the current degree and diploma programmes relating to cadastral surveys, cadastral mapping, land registration, the management of land information, GIS and remote sensing, and obtain copies of the curricula;
b) obtain statistics on the current student enrolments and outputs;
c) understand the constraints to optimisation, e.g. space, equipment, computing facilities, teaching materials, funds, knowledge base of instructors;
d) recognise the needs for external training of current instructors and how these might be met;
e) define the capacity for additional students, the capabilities for delivering new short-term courses in support of land reform, and whether there are qualified trainers for proposed short courses (see Figure 1);
f) formulate draft proposals for ways in which the institutions can assist with new short-term courses;
g) determine the feasibility of setting up a pilot land registry office in a suitable educational institution for use in subsequent short course training programmes;
h) assess the need for strengthening a current degree or diploma programme relating to cadastral surveys, cadastral mapping, land registration, and the management of land information and/or introducing a new educational degree or diploma programme, and make proposals.

3.5 The Team Leader and Education Advisor request and assist in setting up a coordinating committee for education and training to include representatives from the Ministry of Education, departments of GOK concerned with land reform, education and training institutions.

3.6 The Education Advisor defines detailed requirements and programmes for re-training of current staff, and possibly education, in the following fields (with the tentative lengths of the short training courses shown thus [ ]):

a) Concepts and operation of a land market in a mixed market economy, and the role and components of a modern legal cadastre [2-3 days]
b) Introductory computing: short courses introducing computing [1 day], word processing and spreadsheets [5 days]
c) Field cadastral surveys: graphic surveys utilising improvements to current manual techniques and production of survey plans [2-3 days]; principles and operation of EDM and total station, digital measurement, data coding, data quality, data processing, plotting of survey plans, setting out surveys and prompt surveys of mutations [10 days]
d) Photogrammetry: aerial triangulation and production of base maps and registry index maps using analogue, analytical or soft-copy photogrammetry, with integration of field surveys where appropriate [10 days]
e) Database Management System (DBMS) software chosen for use in the Kyrghyzstan land reform programme: operating system [2 days]
f) Textual database: systems analysis, data model, data dictionary, database design, table design, screen design, programming in the specific DBMS and macros, querying the database and retrieval, report generation, and updating of the database to reflect conveyances, mortgages, mutations, etc. [series of short courses of 1-2 days duration]
g) Textual database: loading, system administration and management [short courses of 1-2

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days duration]

h) Graphic database: systems analysis, data model, database design, data query and retrieval, graphic generation, and updating of the database to reflect mutations [series of short courses of 1-2 days duration]

i) Graphic database: loading, system administration and management [short courses of 1-2 days duration]

j) Operating land registration: manual creation of new entries on first allocation, updating to reflect conveyances, mortgages, and mutations, reporting at rayon level; procedures in a digital environment [short courses of 2-3 days duration]

k) Document management in land registries and archiving: capture, control, storage and retrieval, both manual and digital [2 day course]

l) Plan production by manual methods, centrally and at oblast level first, then at rayon level: improvements to present techniques, and updating of plans to reflect mutations, etc. [2 day course]

m) Map reproduction, centrally and, if required, at oblast level: improvements to present techniques [5 day course]

Four basic assumptions have been made concerning e), f) and g): (1) that commercial DBMS software packages will be purchased which will require adaptation to the specific environment of Kyrghyzstan and appropriate interfacing; (2) that all development work, and changes to the system design and software, will be carried out in Bishkek; (3) that there will be a small central software development team in Bishkek; and (4) that the database will be updated promptly to reflect conveyances, mortgages, mutations, etc. It also assumes in g) and i) that there will be an Applications Manager in Bishkek who unifies the software running at all installations; a Data Manager who controls the uniform data definitions and enables all captured data to be available for inquiry; a Network Manager who enables communication between different computers at the local level and wide area; a Database Manager for each data centre whose role will be to manage unrestricted or limited access to the databases by approved personnel, read only or write privileges, and the security of the databases; and a System Manager for each data centre whose task will be to manage the operation of the system, i.e. startup, monitoring, logging, backup, and all emergency and restoration procedures. *Note* that for a small data centre the functions of the Database Manager and System Manager may be combined.

The Education Advisor will also review the information on staffing and the forecasts of workloads in the land reform programme with a view to determining whether there is a pressing need for additional technician surveyors which might be satisfied by a special 2 - 3 month programme to be offered by an educational institution.

3.7 The Institutional Advisor visits GOK departments identified in 3.2 and, within the framework of 3.3, develops detailed proposals for institutional support and, where appropriate, restructuring and/or re-allocation of responsibilities (e.g. notaries and relationships to Land Registry and Ministry of Justice; geodesy section of Architectura office and relationships to Agency for Cartography and Geodesy). The Advisor also obtains information on the long-term recurrent financing of the modernised cadastral system, considers potential revenue generation from cadastral data and possible marketing of cadastral data, and makes proposals.

3.8 The Team Leader and Education Advisor work with senior officers of GOK departments to select a small number of key personnel for external training and/or education which cannot be provided immediately in Kyrghyzstan, i.e.

1. The purpose, design, development, building, operation, utilisation and maintenance of textual cadastral databases: small software development team of two systems analysts and four programmers for one week course at the Kadaster and Public Registers, Apeldoorn..
2. The purpose, design, development, building, operation, utilisation and maintenance of graphic cadastral databases: same development team for one week course at the Kadaster and Public Registers, Apeldoorn.
3. Long course in cadastral studies and/or land information systems: two students for one year post-graduate diploma programme outside Kyrghyzstan, e.g. at International Institute for Aerospace Survey and Earth Sciences in Enschede, The Netherlands. This will depend on the linguistic abilities of the candidates.

Courses 1 and 2 should be provided as early as possible.

3.9 Local trainers will be selected to be the providers of the short courses identified in a) to o) of 3.6. above. They will be trained by local and/or external consultants who must design each course, prepare teaching materials, deliver the course, and obtain evaluation from the students.

3.10 Local trainers will be assisted by local or external consultants in preparing teaching materials for the short courses to be given in Bishkek or other centres.

3.11 The short courses will be given in Bishkek or other centres. Students and local consultants will be asked to evaluate each course, and modifications will be made where necessary.

3.12 Project liaison, administration, management and periodic reporting by the Team Leader

A tentative allocation of proposed short courses is shown in the table below. It is subject to revision in the light of decisions made in Kyrghyzstan on the assignment of responsibility for land registration and the land registries, and for the development of the textual - and later the graphic - cadastral database.

SHORT COURSE	CENTRAL GOVERNMENT					OBLAST		RAYON			
	Min. Agric.	Kyrgh yzgipr ozem	Min. Just-ice	Agen. Carto. Geod.	Min. Com. Affair	Com Land Agrar	BTI	Com Land Agra	Not-aries	Arch-tect-ura	BTI
Land market	x	x	x		x	x	x	x	x	x	x
Intro. computing						x	x	x	x		x
Field cadastral surveys		x		x			?			?	?
Photogrammetry				x							
DBMS software		?		?			x				x
Textual database 1		?		?							
Textual database 2		?		?							
Graphic database 1		?		?							
Graphic database 2		?		?							
Land registration						x	x	x	x		x
Document management						x	x	x	x		x
Plan production		x		x		x		x		x	
Map reproduction				x							

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Scheduling of activities

All activities in the table below are indicated in man months. Asterisk indicates activity in Arnhem. All other activities in Kyrghyzstan.

TL = Team Leader EA = Educational Advisor IA - Institutional Advisor Con. = Consultant

	ACTIVITY	BY	0*	1	2	3	4	5	6	7	8	9	10	11	12
3.0	Obtain/review all relevant documents	TL	0.25												
3.1	Discuss plans and progress with USAID's consultant	TL		0.1											
3.0	Visit appropriate departments of GOK	TL		0.5											
3.3	Identify/analyse general requirements for institution building	TL		0.1											
3.4	Identify/visit local institutions for education and training	TL/ EA		0.3											
3.5	Set up coordinating committee for education/ training	EA		0.2											
3.6	Define detailed requirements and programmes for training/education	EA			0.6										
3.7	Visit departments/ develop detailed proposals for institutional support, restructuring and re-allocation of responsibilities	IA			1.0	0.5									
3.8	Select a small number of key personnel for external training and/or education	TL/. EA			0.2										
3.9	Select local trainers in-service, consultants provide training courses to trainers	EA and Con.			0.2	Prior to delivery of each training course									
3.10	Prepare teaching materials for short courses: consultants and trainers	Con., train-ers				Prior to delivery of each training course									
3.11	Deliver short courses to trainees in-service: trainers and consultants	Train -ers				Coordinated with requirements of USAID consultant for phasing of pilot projects and commencement of national land reform programme									
3.12	Project liaison, administration, management and reporting	TL		Continuing throughout programme of technical assistance											

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4. INPUTS

4.1 Statement of the total project costs

4.1.1 *Salaries: International*

Full-time consultant

1.	Team Leader	12 .5 months

Short-term consultants

1.	Education Advisor	3 months
2.	Institutional Advisor	1.5 months
3.	Land Market: Short courses	1.5 months
4.	Field cadastral surveys: Short course(s)	1 month
5.	Photogrammetry: Short course	0.75 month
6.	Textual database design/development: Short courses	0.75 month
7.	Textual database: building, etc: Short course	0.5 month
8.	Graphic database: design/development: Short courses	1 month
9.	Graphic database: building, etc: Short course	0.5 month
10.	Operating land registration: Short courses	1 month
11.	Document management in registries: Short courses	1 month
12.	Plan production by manual methods: Short courses	1 month
13.	Map reproduction: Short course	0.5 month

4.1.2 *Salaries: Local*

1.	Introductory computing: Short courses by local contractor	2 months
2.	Database Management System: Short course by local contractor	1 month
3.	Interpreters/translators	24 months
4.	Secretarial	12 months
5.	Driver	12 months

4.1.3 *Travel and subsistence*

1. Travel, Amsterdam-Bishkek: international consultants, 14 persons
2. Travel, Bishkek-Amsterdam: short courses at Kadaster, 6 persons
3. Accommodation and subsistence: international consultants, Bishkek: 26.5 months
4. Accommodation and subsistence: short courses at Kadaster, 6 persons, 2 weeks
5. Per diem allowance, international consultants, Bishkek: 26.5 months
6. Travel, Bishkek-Netherlands: two students to ITC, Enschede
7. Accommodation and subsistence in Enschede: two students at ITC, 12 months each

4.1.4 *Other direct costs*

1. Rental of furnished office space in Bishkek, 12 months for consultant team
2. Utilities for office: electricity, gas, water
3. Three laptop computers and peripherals for Bishkek office of consultant team
4. Software for above: word processing, spreadsheet, database, presentation and communications
5. Printer for above
6. FAX machine for Bishkek (unless laptops fitted with modems and FAX software)
7. Office supplies for Bishkek
8. Communications: telephone and FAX in Bishkek
9. Rental of vehicle, Bishkek
10. Running costs of vehicle, Bishkek
11. Shipping, Amsterdam - Bishkek

4.1.5 *Contingency*

4.2 **Description of the personnel to be provided by The Netherlands**

Consultant services will be provided by a team from International Land Information Services (*ILIS*) of Arnhem, the Kadaster and Public Registers (*Kadaster*) of Apeldoorn, the Faculty of Geodesy in the Technical University of Delft (*TU Delft*), and the International Institute for Aerospace Survey and Earth Sciences (*ITC*) in Enschede. The contributions of each organisation, the nature of the contributions, and the number of man months in each contribution, are summarised below.

4.2.1 *Full-time international consultant*	Source	Period
1. Team Leader	*ILIS*	12.5 months

4.2.2 *Short-term international consultants*

1. Education Advisor	*ILIS*	3 . 5 months
2. Institutional Advisor	*Kadaster*	1.5 months
3. Land Market: Short courses	*ILIS*	1 month
4. Field cadastral surveys: Short course(s)	*TU Delft and Kadaster*	1 month
5. Photogrammetry: Short course	*ITC*	0.75 month
6. Textual database design/development: Short courses	*Kadaster*	0.75 month
7. Textual database: building, etc: Short course	*Kadaster*	0.5 month
8. Graphic database: design/development: Short courses	*TU Delft*	1 month
9. Graphic database: building, etc: Short course	*TUDelft*	0.5 month
10. Operating land registration: Short courses	*Kadaster*	1 month
11. Document management in registries: Short courses	*Kadaster*	1 month
12. Plan production by manual methods: Short courses	*ITC*	1 month
13. Map reproduction: Short course	*ITC*	0.5 month
	TOTAL	26.5 months

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4.3 Description of the personnel to be provided by GOK

1. Central software development team for courses in Kadaster and Public Registers, Apeldoorn
2. Two students for 12-month diploma course in Cadastral Studies or LIS at ITC, Enschede
3. Local consultants for the provision of short courses in Introductory Computing and the specific Database Management System
4. Staff of appropriate ministries and departments selected for short courses

Services to be provided by GOK

1. Official invitation from GOK to consultant team
2. Entry visas
3. Briefing of appropriate ministries, State companies, educational and training institutions on DGIS programme of technical assistance, and introduction of consultant team to these organisations

5. EFFECTIVENESS

5.1 Assumptions underlying the design of the project

1. That the American consultant will complete the technical assistance project of Registration Assistance[5] funded by USAID, and specifically will assist in the drafting of legislation on land registration, the development of procedures to be used in registration, and the development of new procedures for cadastral survey and mapping.
2. That the USAID consultant will execute the four pilot projects proposed.
3. That the US short-term specialists who contribute to the fulfilment of 1 and 2 above will not be able to provide training courses *beyond* the immediate needs of the pilot projects.
4. That in order to ensure the optimal functioning of the new legal cadastral system as part of land reform, it will be necessary to review and, where appropriate, propose structural changes to government departments concerned with cadastral surveys, cadastral mapping, land registration and the management of land information *beyond* the "organizational/institutional structure for registration offices"[6] identified by the USAID consultant.
5. That knowledge of computers, computing, and textual and graphic cadastral databases amongst GOK officials with responsibilities for cadastral surveys, cadastral mapping, land registration is limited.

5.2 Conditions which have to be fulfilled to realise the project goals and expected results

1. Access to, and the cooperation of, responsible officials in GOK and its educational institutions.
2. Local trainers with a reasonable command of English in the service of GOK and educational institutions must be identified to allow delivery of the proposed courses without the burden of verbatim translation.

6. SUSTAINABILITY

The current programme of technical assistance to GOK, termed the *Land Market Project* and funded by USAID, is a component of a *Land Market Action Plan* which is visualised by its authors as having three phases:

Phase I:	USAID Technical Assistance: training and limited material support
Phase II:	USAID Technical Assistance: finalisation of the Registration Law and Regulations, and execution of four pilot projects (one urban metropolitan, one urban small town, one rural mixed use, and one rural agriculture/grazing)
Phase III (future):	Adoption of Registration Law and Regulations, adoption of Final Action Plan, and extension of methodology developed in Phases I and II to registration offices nation-wide

The proposed programme of *Technical Assistance in Institution Building, Education and Training to the Government of Kyrghyzstan* under the DGIS Eastern/Europe/Central Asia programme is, therefore, complementary to the initiatives under Phases I and II above. Clearly the financing of Phase III is critical to implementation nationally, and to the long-term sustainability of the cadastral improvements. It is reported[7] that the World Bank has estimated the additional costs of expansion nation-wide to be US $ 11 million. In all probability one or more lenders and/or donors would be required to finance these additional costs.

Long-term sustainability is also dependent on the commitment of GOK to providing annual budget subventions to the departments(s) responsible for the legal cadastral system as a whole. Experience elsewhere, for example in the Canadian provinces of Ontario and New Brunswick and in New Zealand, suggests that central governments are less and less willing to fund programmes of cadastral modernisation which are capital intensive without there being increased generation of revenue from the information and services which are the "stock in trade" of cadastral organisations. This factor is reflected in the short-term consultancy on institutional strengthening under this proposed programme of *Technical Assistance in Institution Building, Education and Training to the Government of Kyrghyzstan.* Finally, sustainability is highly dependent on the commitment of GOK at policy level, and in the day-to-day operation of the legal cadastral system, to openness of the system and to continued daily maintenance of the system. Without these commitments the system will be become discredited rapidly. Consultants under the proposed Technical Assistance programme will emphasise both in their dealings with senior officials of GOK.

7. MANAGEMENT ASPECTS OF THE IMPLEMENTATION

7.1 **Organisation of the management of the project**

7.2 **Risks**

1. Of disputes between departments of GOK over responsibilities for individual components of the land reform programme, and specifically the development and implementation of the legal cadastral system.
2. Of there not being a local "champion" for the proposed programme of short training courses. This must be addressed by the Team Leader *ab initio* and throughout the project.

3. Of short training courses lacking the necessary complementarity to the programme of land reform. It is for this reason that an Educational Advisor is essential for

   a) developing an overall view of the needs for training in consultation with the USAID consultant;
   b) reflecting in each short course the specific requirements identified by the USAID consultant;
   c) ensuring that the short courses avoid overlap or duplication of material.

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ATTACHMENT D

STATUS REPORT AND RECOMMENDATIONS FOR IMPLEMENTATION OF PILOT PROJECT ON DESIGN OF IMMOVABLE PROPERTY REGISTRATION SYSTEM

KYRGYZ REPUBLIC

STATUS REPORT AND RECOMMENDATIONS FOR IMPLEMENTATION OF PILOT PROJECT ON DESIGN OF IMMOVABLE PROPERTY REGISTRATION SYSTEM

Prepared for:

Government of the Kyrgyz Republic

By:

Inter-ministerial Working Group on Immovable Property Registration

and

USAID/ICMA

March 1996

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Appendices

IMMOVABLE PROPERTY[1] REGISTRATION SYSTEM
STATUS REPORT AND RECOMMENDATIONS ON IMPLEMENTATION OF PILOT PROJECT

I. BACKGROUND

Since 1991, the Government of the Kyrgyz Republic has introduced many measures aimed at the privatization of agricultural and urban land, buildings, and houses. This has resulted in the creation of various types of private rights to immovable property (for example, the right to use a land parcel for 99 years, the right to own a house, apartment, or other structure). Various interests privatized houses, apartments, and land parcels, exist as well, including mortgages, collateral, and easements.

At present these rights are recorded in different offices mostly at the rayon level, depending on the functional use of immovable property objects. Ownership records for private houses are maintained by the Bureau of Technical Inventory (BTI), use-rights to parcels of agricultural land are recorded in the Centers for Land and Agrarian Reform (CLARs), and use-rights to parcels of urban land are recorded at the local *Architectura* office. Additionally, other interests in objects of immovable property, for example mortgages or pledges of immovable property, are recorded in still another location - at the local notary's office.

The creation of a market in immovable property is one of the goals of the market reforms undertaken by the Government of the Kyrgyz Republic. At present, the development of such a market is hindered by the fragmented system of registering rights and interests in immovable property. The creation of a single system for registering various private rights (lease rights, use-rights, bequeathals) and interests (mortgages, pledges, servitudes, restrictions, liens) held in immovable property, will greatly facilitate the evolution of an immovable property market.

There are many economic benefits of an active immovable property market. First, land and buildings are put to their most profitable use. For example, if a buyer or investor believes he can realize a greater economic return from a parcel of land or a building than what is generated from the current use, he will likely offer the current owner or user a price for the property, which reflects the actual value of the property to the buyer. Thus, properties acquire **real** values, in other words, the value of the property is determined by what the market demands, rather than by some theoretically determined value. Essential to the development of an active immovable property market, is the ability of buyers and investors to have easy access to information on rights and interests held in land, buildings, houses, and other structures.

To facilitate the development of an immovable property market, in September 1995, pursuant to Government Enactment N-257-p, a working group was established to begin work on the development of a land and immovable property registration system. The first steps in the development of such a system, are the "system design" and the drafting of enabling legislation - a law on the registration of land and immovable property.

The working group has met regularly since its creation to consider issues relating to the design and implementation of the registration system. It has been preparing a draft Law on the State

[1] Immovable property is defined as land, buildings, trees, and all objects of a permanent nature attached to the land.

Registration of Land and Immovable Property that will provide the legislative basis for the new system. The group has received input from international advisors from the University of Wisconsin's Land Tenure Center (LTC) and the International City/County Management Association (ICMA), an organization funded by the United States Agency for International Development (USAID). At the request of the Government of the Kyrgyz Republic, USAID has agreed to continue technical assistance for this project, including funding for implementation of the registration system in two to four rayons on a pilot basis. A draft Memorandum of Understanding between the Government of the Kyrgyz Republic and USAID describing the pilot project is attached as Appendix 1.

In order to assist the working group in its preparation of the draft Law on the State Registration of Rights to Land and Immovable Property and its consideration of various issues relating to design and implementation of the registration system, at the request of the Government of the Kyrgyz Republic, USAID/ICMA organized a study tour to Hungary, the Netherlands and Kazakhstan from January 29, 1996 to February 9, 1996.

II. RECOMMENDATIONS FOR KYRGYZ REPUBLIC BASED ON OBSERVATIONS OF IMMOVABLE PROPERTY REGISTRATION SYSTEMS IN HUNGARY AND THE NETHERLANDS[2]

A. Goal of the System

Land and immovable property registration systems can be designed to serve a variety of functions. Identifying the principal goal of the system is an important decision affecting system design. Based on observations of immovable property registration systems in Hungary and the Netherlands, the working group recommends that the fundamental aim of the registration system in the Kyrgyz Republic should be to provide security of title to land and immovable property, and to establish a mechanism through which land and real estate transactions can occur quickly, cheaply, and reliably. In order to achieve this it is necessary to establish a clear, simple and efficient mechanism for the recordation of all legal interests in land and immovable property, including ownership, use rights, leases, mortgages and servitudes. A secondary aim of the system should be to provide the basis for other land and real estate information systems that can be used for planning, taxation, environmental protection and other purposes. The system should be designed at the outset to accommodate later development of these secondary purposes.

Recognizing the principal role of the system, the information contained in the registry must not be complicated by extraneous elements such as land quality indices, tax records, or detailed information about the owners and other interest holders.

Initially, the public and government officials responsible for administering the system may not understand the role of the registration system in providing security of rights. Therefore, significant public education and training of government officials will have to be undertaken to ensure the success of the system.

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[2]Appendices 3 and 4 describe the immovable property registration systems in Hungary and the Netherlands respectively.

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B. Legislative Basis

Laws should be adopted as soon as possible to provide the legislative foundation for the system. Two types of laws will be required. The first, a Law on the State Registration Land and Immovable Property Registration Law, will establish the administrative and procedural guidelines for operation of the system. The most recent draft of the proposed Land and Immovable Property Registration Law is attached as Appendix 2. The second, a Law on Surveying and Mapping, will establish the technical standards and specifications for mapping and surveying activities. Both laws will have to recognize the transitional nature of the process, and therefore should describe procedures for initial development of the system.

C. Unified System

Of the successful registration systems in the world, virtually all are unified in the sense that they cover all types of land, urban and rural, and all immovable property. Unified systems are the easiest and clearest for citizens to use because citizens need not be concerned with whether land is "agricultural" or "urban" in order to obtain information about legal title. A non-unified system can be confusing because the use of a particular parcel of land may change over time for instance from agricultural to urban. Similarly, if there are separate registration systems for land and immovable property, citizens must go to two offices to verify legal rights, first the land office, then the immovable property office. Multiple systems for land and immovable property also create a danger of errors or disputes in cases where the registers are inconsistent or contradictory. Finally, multiple registers are much more costly for the government to maintain because they require multiple archives and administrative structures.

One of the goals of the project in the Kyrgyz Republic will be to unify the records currently being kept by different agencies, such as BTI, *Architectura*, local administrations, rayon centers for land and agrarian reform, and *Kyrgyzgiprozem*.

Although the working group recommends unification of legal records currently maintained in different agencies, the group does not recommend unification of all types of information in one agency; nor does the group recommend unification of all functions relating to land and real estate. As an example, the Ministry of Agriculture would continue to collect and maintain information relating to agricultural production and would continue to develop agricultural policy. Similarly, the Ministry of Finance would continue to be responsible for tax information, policy and collection. Information held by these different agencies would be linked via the parcel-based indexing system described in the next paragraph.

D. Parcel-Based System

The most efficient systems are ones in which information is organized around the land parcel or unit of real estate. In other words, each land parcel or other unit of real estate (such as an apartment) is assigned a unique identification number, and all information pertaining to that parcel or unit of real estate is referenced to that identification number. The present system in Kyrgyzstan is an owner-based system in that several different land parcels may have the same parcel number if the same person or legal entity holds the rights to those parcels. One of the initial tasks in the pilot projects will be the development of a national parcel numbering system

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which will then be used to index all legal information, as well as other geographic information.

E. Institutional Arrangements

Different countries have taken different approaches to the institutional design of the registration system. The structure of the system is often based on historical developments in a given country. In Hungary, for example, the registration system is administered by the Department of Lands and Mapping, a department within the Ministry of Agriculture. The system is within the Ministry of Agriculture largely because it was used to support agricultural planning during the Socialist era. In the Netherlands, the registration system was originally connected to the Ministry of Finance because it was developed during Napoleonic times to support taxation. It is now maintained by Dutch Kadastre, a separate division within the Ministry of Housing, Physical Planning and Environment. Although technically part of the Ministry, the Ministry only has authority to approve Dutch Kadastre's five year policy plan, its pricing policies and its annual accounts. Dutch Kadastre is otherwise independent from the Ministry, and is self-financing. Kazakhstan has recently decided to make the Ministry of Justice responsible for the registration process.

Although each country may resolve this decision differently, the main principle should be that the agency responsible for registration should be impartial and independent. In other words, the registration agency should not have a role in distribution of land rights, control of land use, taxation, or law enforcement. If the registration function is undertaken within a Ministry or government agency that performs any of these functions, registration should be established within a semi-autonomous unit or department isolated from the other functions.

F. Decentralization

Regardless of which Ministry or Government agency is chosen to administer the system, local offices must be set up in convenient locations throughout the country so that users of the system will not have to travel too far to register transactions or obtain information. In Hungary, which is 93,000 square kilometers and has a population of 10.3 million, there are 135 local registration offices. There are 3,064 settlements (towns and villages) and an estimated 9 million real estate units, including land parcels and apartments. In 1994, there were approximately 2.4 million land and real estate transactions. In Holland, which is 41,000 square kilometers, there are 15 local offices. There are an estimated 7 million land and real estate parcels and 800,000 to 1 million transactions registered each year. In both countries local offices are responsible for storing and updating maps and registration information. There is no need to incur the cost for oblast-level or national level document storage as long as adequate security and redundancy is built into the storage system in the local registration offices.

G. Procedures and Forms

The most successful registration systems have clear and simple procedures and forms that can be easily understood by administrators and users of the system. The registration law should very carefully limit the discretion of government officials who administer the system. In effect, all documents meeting the legal requirements described in the registration law should be accepted for registration. Registration procedures and fees should be uniform throughout the country. All efforts should be made to eliminate unnecessary bureaucratic procedures, and to require only the information necessary for the registration function. The Hungarian form of the property sheet,

the sheet on which registration information is maintained for each land parcel or unit of real estate, serves as a useful model. It contains three pages or sections: a section describing the location of the land parcel or unit of real estate; a section listing the owners or holders of rights to the land or immovable property; and a section listing any encumbrances on the land or immovable property.

H. Notaries

Many countries require documents to be notarized before being registered, although the notary function varies from country to country. In some countries, such as the United States and Hungary, a notary's only function is to verify the identity of the signatories to the document. That is, they witness the signing of the document and certify that the people who sign are who they say they are. In other countries, such as Holland, notaries prepare or review the document to ensure that it satisfies applicable legal requirements.

In an increasing number of countries there is a trend away from requiring notarization. Citizens have a choice. In Hungary, for example, a document does not need to be notarized to be registered. It may be registered if it is either notarized, or if any lawyer certifies the identity of the signatories to the document. In effect, the only function of the notary is to verify the identity of the signatories.

The Civil Code of the Kyrgyz Republic currently requires documents to be notarized in order to be legally binding. This requirement should be reconsidered in light of the cost and inconvenience it imposes on parties to a transaction. If it is determined that notarization should be required, strong consideration should be given to whether to narrow the function to only verifying the identity of the parties.

I. System Open to the Public

In order for a registration system to be effective, the information within it must be open to the public. In Hungary, the Netherlands, and in successful systems throughout the world, any person may inspect the register and obtain copies of documents. A reasonable fee is sometimes charged for copies, but inspection by non-commercial users is usually allowed without charge. Fees are discussed in more detail below.

J. Automation of Records and Digitization of Maps

Both Hungary and the Netherlands, like almost all countries in the world, are working on the problem of automating land records. The main reason for automation is not to achieve integration of all land-related information, but rather to make all records function efficiently. Increased integration is an important by-product of automation. No country has yet achieved the complete automation of its land registration systems. The registration system in the Kyrgyz Republic should be designed with an eye towards automation, and in a way that will allow other land records (such as taxation, urban planning, and environmental) to access easily and efficiently the information in the registration system.

Another clear trend in Hungary and the Netherlands is the digitization of maps, or the conversion of maps from paper form to computer form. Hungary has digitized approximately 5% of its maps, whereas Holland has digitized approximately 60% of its maps, a process which has taken

the past eight years. The main motivation for digitizing maps is the opportunity it provides for using the same database for producing maps of different scales and with different "layers" or combinations of layers that contain different types of information. Development of the registration system in the Kyrgyz Republic should include a long-term plan for the digitization of maps.

K. Financial Aspects and Fees

The long term goal should be for the registration system to be self-financing. That is, fees charged for operation of the system should cover the costs of operation. Countries have achieved very different degrees of success in this area. In Hungary, for example, it is estimated that only 4% of the total budget for the maintenance of the land registration sector comes from revenue generation. This compares with the Netherlands, which have complete cost recovery, and the United Kingdom, which has 66% cost recovery for its mapping activities and total cost recovery for its land registry. Cost recovery is only possible if registration offices supply the right products. In the Netherlands there is an acute awareness of marketing, product development, client services and the definition of products and services.

In order to achieve long term cost recovery, the system for the Kyrgyz Republic should be designed to minimize start up and ongoing operational costs. Staffing for registration offices and related mapping agencies should be as minimal and efficient as possible. Fees should be set at rates that will provide maximum revenues while still being affordable so market participants are not deterred from using the system.

L. Mapping

The goal for the registration system in the Kyrgyz Republic will be to establish a registration map which gives a view of all land parcels in the country. The first question will be whether it is possible to compile such a map from existing maps, surveys, aerial photos, etc. To do this successfully it will be necessary to transfer existing maps to a common scale and so far as possible connect them to common control points. In some cases, new surveys will be needed. **One of the goals of the pilot projects will be to evaluate existing resources and estimate costs of new map production.**

M. Education

Successful development of the system will require a commitment to institutionalizing the training and education function. Several different types of training will have to be developed. In-service training will have to be provided to employees in the PMU and pilot registration offices and all rayon registration offices, once the system is implemented nationally. Pre-service, para-professional and professional training and education will need to be provided to meet the on-going needs of a functioning national registration service.

III. NEXT STEPS: DESIGN AND IMPLEMENTATION OF PILOT REGISTRATION PROJECT

The U.S. Agency for International Development (USAID) intends to finance on a grant basis a pilot immovable property registration project, to be implemented in two to four rayons of the Kyrgyz Republic. The project is expected to begin in May 1996 and will last one year.

A Project Management Unit (PMU) will be created to design and implement the immovable property registration system in the pilot rayons. The pilot project will consist of five main activities: creation of a legal foundation for immovable property registration, system design, system implementation, preparation of an Action Plan for Nationwide Implementation, and Training. The main phases of the pilot project are outlined here, with a broad description of activities to be completed during each phase.

A. Legal Enactment

One of the initial activities of the pilot project will be to create a legal foundation for the operation of the immovable property registration systems. This phase consists of several tasks, including:

1. Review existing legislation

The draft law on immovable property registration will provide a legal basis for the creation of a single system to register rights in land and property that have been previously recorded in a different manner under various systems (BTI, *Giprozem*, *Architectura*). Thus, there is a need to review existing legislation regulating the recording of such rights, to ensure that the draft law on immovable property registration is not in conflict with existing laws. The Constitution of the Kyrgyz Republic, Civil Code, Land Code, Law on Pledge, Law on Mortgage, Law on Mining, Law on the Preservation of Nature and Environmental Protection, Law on the Protection and Use of Water Resources and all other relevant laws should be reviewed to ensure that the draft law on immovable property registration does not conflict with provisions for registration of immovable properties outlined in such legislation.

2. Final Draft of Law on Registration of Immovable Property

The working group on immovable property registration is close to completing the draft law. It is expected that by late March 1996, the group will have considered all changes to the draft law suggested by the concerned ministries, agencies, and state committees, and prepared a final version to be sent to the Cabinet of Ministers for final approval and then to parliament.

3. Seminar for Parliament on Draft Law

An informational seminar will be conducted for the parliament to ensure that deputies understand the concept of immovable property registration before the draft law is introduced into the parliament. The seminar will describe the concept of immovable property registration and why it is necessary in the Kyrgyz Republic, and the need for a legal basis for such a system. The seminar will be conducted at least one week prior to the introduction of the draft law into parliament, most likely in May 1996.

4. Draft implementation regulations for Law on Registration of Rights to Land and Immovable Property

Specific details on implementing the draft law will be contained in the implementation regulations. The implementation regulations will define standard formats for the following elements of the registration system: the registration card, certificate of ownership or rights to immovable property issued by the registrar, registration books, legal and fiscal cadastres, cadastral maps and index maps, and archives (paper, magnetic, electronic). Responsibilities of the registrar, financing of the registration offices, registration fees, procedures for registration, compensation for damages incurred by errors in the registry, procedures for entering changes in the registry, and many other details will be addressed in the implementation regulations. Surveying standards and procedures will be regulated by the Law on Surveying and Mapping, to be drafted in the future.

5. Revisions to law on basis of Pilot

The pilot project will provide an opportunity to evaluate the Law on the Registration of Land and Immovable property as well as the implementation regulations. On the basis of recommendations of the PMU, amendments to the law will be proposed. In addition, implementation regulations and any other legislation related to immovable property registration will be amended accordingly, if necessary. On-going critical analysis of the draft law is expected throughout the pilot project, but formal recommendations on changes to the draft law will be made only after a complete analysis of the law can be done after complete implementation of the pilot project.

B. Detailed System Design

The system design phase will begin immediately after the Project Management Unit is selected, and last approximately until December 1996. A "paper" (as opposed to an automated, computerized) system will be designed first, and implemented in the pilot rayons. The system will subsequently be automated and computerized during the pilot project. Before designing the property registration system however, existing systems for recording rights to land and other immovable property will be evaluated to determine whether any of the existing methods and infrastructure for recording rights are applicable to the pilot registration system. Design of the "paper" registration system will be completed and tested by Sept. 15, 1996, and design of the computer system will be completed by Jan. 15, 1997.

Details of the System Design and Implementation phases have been excluded in this document, as they tend to be quite technical and are subject to review and approval by technical experts. General tasks to be completed under the System Design Phase are:

1. Review of Existing Systems for Recording Rights in Immovable Property
2. Selection of Test Area for System Design
3. Initial Design of "Paper" System

a. Creation/Adaptation of Indexing System for Parcels
b. Creation/Adaptation of Index Maps for Registration Sectors
c. Registration Card
d. Registration Book
e. Certificate given to holders of rights

f. Creation of Archives System
g. Fees assessed by the Registration Offices
h. Test of paper system in training center
i. Modifications of paper system for pilot rayons
j. Procedures for transfer of records from other agencies
k. Procedures for transfer of cartographic information

4. Initial Design of Computer System

C. Implementation of Immovable Property Registration System in Pilot Rayons

Registration offices will be established in each pilot rayon prior to implementation of the immovable property registration system. In addition, the following actions will need to be completed

a. Survey to establish baseline borders/contact points of registration sectors
b. Preparation of maps for each registration sector within rayon
c. "First registration"
d. Transfer of data from existing records at BTI, CLAR, Architectura, etc.
e. Computerization of Records
f. Digitize Maps

The implementation phase will be completed in all pilot rayons by May 1, 1997. A detailed work plan is being drafted and will be given to the Working Group for review after it is approved by the PMU.

D. Preparation of Action Plan for Nationwide Implementation

The one-year pilot registration project will cover from two to four of Kyrgyzstan's 47 rayons, with a view to realizing nation-wide implementation over the course of three to five years. Thus, one of the main tasks of the PMU will be to prepare an Action Plan to be presented to donors (World Bank, Asian Development Bank, USAID, EC-TACIS) for financing separate portions of the nation-wide implementation program, which will begin in May 1997, if funding is secured. The Action Plan will be completed by Aug. 21, 1996, and presented to individual donor organizations between Aug. to Oct. 1, 1996. Additional proposals on separate portions of the Action Plan will be prepared from August 15 to November 15, 1996.

E. Training

To develop local capacity for training cadres to staff the registration offices, a training center will be established at the Agricultural University, under the Department of Land Resources and Land Engineering. Details of the establishment of the training center will be publicized upon reaching formal agreement on this issue with the Rector of the Agricultural University. The training center will provide a location for testing the "paper" registration system, and the automated, computerized registration system, provided it is established in time to fulfill these tasks. Additional activities foreseen under the pilot project will include:

a. PMU training: initial

1. Organizational/Administrative

2. System training

b. PMU training: ongoing

c. Establish Training Center at Agricultural University

1. Staffing training center

2. Training staff at training center

d. Develop training modules/training seminars

e. Train staff of pilot registration offices

Furthermore, the Government of the Netherlands has expressed its intention to finance training, strengthening of educational institutes, and institutional capacity building to complement the pilot registration project. An initial proposal has been delivered to the Government of the Kyrgyz Republic for review. A final proposal will be submitted to the Government of the Netherlands by mid-April 1996.

Organization Chart for Pilot Project on Immovable Property Registration

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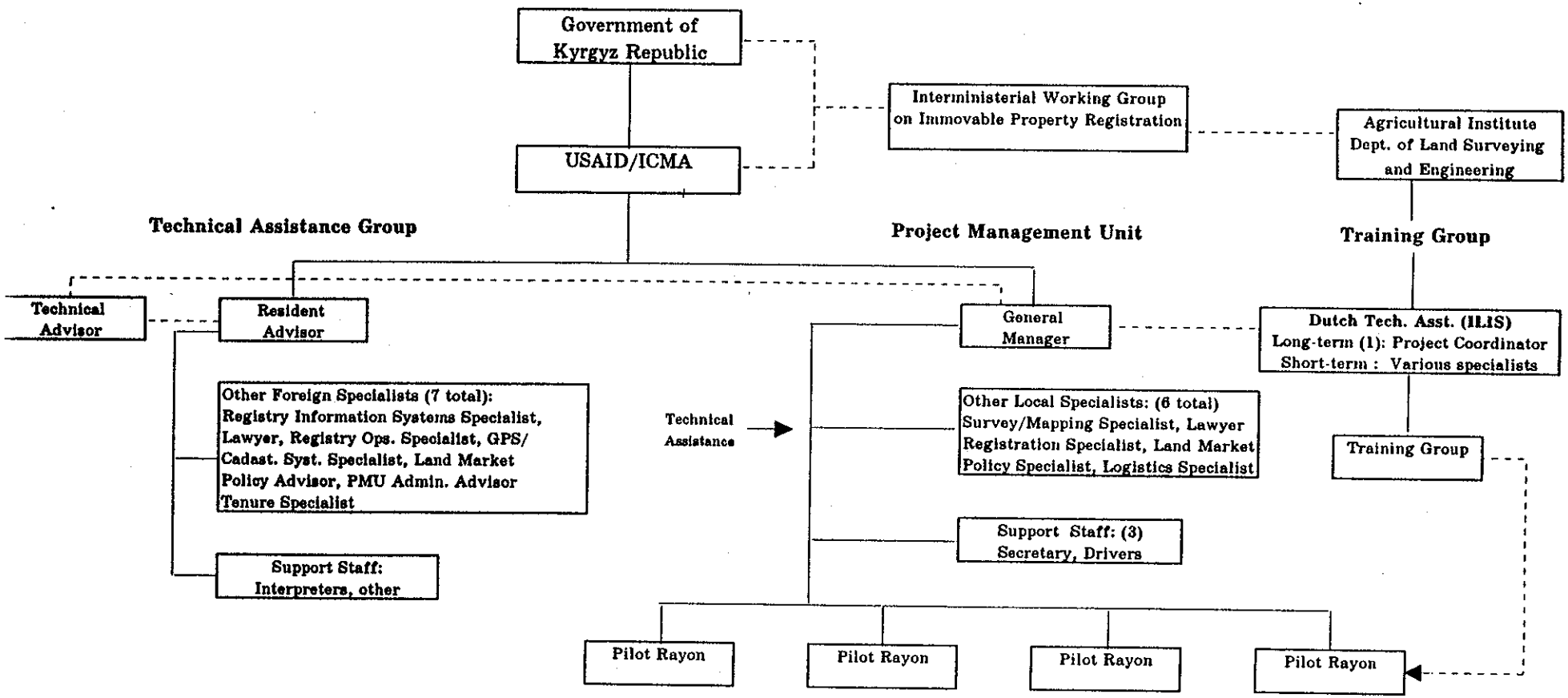

APPENDIX 1

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LETTER OF INTENT OF THE GOVERNMENT OF THE KYRGYZ REPUBLIC AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT REGARDING UNSAID SUPPORT FOR A UNIFIED IMMOVABLE PROPERTY REGISTRATION SYSTEM

This Letter of Intent outlines the framework for mutual cooperation[1] between the Government of the Kyrgyz Republic, as represented by the Prime Minister, and the United States Agency for International Development (USAID), in support of the Government of the Kyrgyz Republic's effort to establish a unified immovable property registration system. The following lists the intentions of both USAID and the Government of the Kyrgyz Republic.

Government of the Kyrgyz Republic

The Government of the Kyrgyz Republic states the following intentions:

-GOKR will enable creation within 60 days, of the Project Management Unit (PMU), which will be responsible for conducting the work on a pilot project and have the authority to submit proposals to the Government of the republic concerning organizational issues for creation of an efficient, streamlined land and immovable property rights registration system.

-The PMU will be staffed by a USAID contractor or sub-contractor pursuant to the general oversight of the Working Group, established by the Government Enactment N-257-r of September 4, 1995, subject to approval of the qualifications of the selected management and staff by USAID.

-GOKR will oblige all ministries, agencies, enterprises, organizations, and entities to provide the PMU free-of-charge with the necessary

-GOKR will require the Working Group to meet at least quarterly with USAID to review, evaluate, and report to the GOKR regarding the progress of the work of the PMU.

-GOKR shall provide the necessary office space, in Bishkek and selected rayons identified by the PMU for conducting the pilot projects, paying for all maintenance, utilization and utilities payments.

United States Agency for International Development

USAID hereby states the following intentions:

-For a period of up to one year, USAID will fund via contract with one or more approved contractors operations and equipment purchases necessary for the planned pilot program work of the PMU, to the limit shown on the attached estimated budget for operations of the PMU. During that time period, USAID otherwise will provide appropriate experts and appropriate other technical assistance and support to the PMU, in order to assist the PMU with achievement of the tasks enumerated and assigned to the PMU by

[1] As shown on the attached organization chart.

the GOKR in a work program to be developed by the Technical Assistance Group and the PMU and approved by the Working Group.

-The work and support of USAID contemplated hereunder is to be provided and completed within one year from the date of this letter of intent.

It is mutually understood that this "letter of intent" is not a formal obligating document under U.S. law.

Dated this _____ day of _____, 1996.

Apas Jumagulov
Prime Minister
Government of the Kyrgyz Republic

_____

Patricia Buckles
Acting Mission Director
USAID/Almaty

_____

APPENDIX 2

LAW ON REGISTRATION OF REAL PROPERTY AND REAL ESTATE RIGHTS

Chapter I. General provisions.

Article 1. Terms and Definitions.

1. State Registration - is a procedure of keeping track on the right of property and other rights on immovable property by a registration body according to the order established by the present Law.

2. Immovable property (real estate) - land parcels (all types of land) and also buildings, constructions and other property, firmly attached to land, i.e. objects relocation of which without damaging them is impossible.

3. Initial(primary) object of immovable property - is a land parcel and all objects, firmly attached to the land, relocation of which without damaging them is impossible

4. Secondary object of immovable property - is a spatial part of the building or other construction, registered in the established order, which has a statute different from the legal statute of the initial(primary) object of immovable property(apartment, premise, room, etc.)

5. Registration body - is a state body empowered by the Kyrgyz Republic Government for registration of rights on land and immovable property.

6. Registration of transactions with land use rights and real estate - is a registration of rights on land and real estate which originate as a result of a transaction.

7. Transaction with real estate - is an action of citizens and legal persons aimed at establishing, changing or termination of rights on real estate.

8. Limitations - are limitation of rights to dispose, own, use land and immovable property, existence of some definite rights of the third party/collateral, lease, transfer of rights, liabilities according to contract, decisions of court on seizure and other rights established by law and restricting rights of real estate owner.

9. Easement - is the right to a limited use of other people's land parcel and immovable property.

10. Registration system - is a unified system of registration of rights on a land parcel and immovable property.

11. Identification number - is an individual, not repeated on the territory of Kyrgyz Republic, registration code of land parcel which is assigned according to the procedure established by legislation and is preserved till land parcel remains undivided.

12. Fixed boundaries - the boundary of a land parcel marked by boundary markers with known coordinates.

Article 2. **Objects and Subjects of the State Registration.**

1. The objects of the state registration are rights in real property and real estate.

Registration is required for:

1) ownership right;
2) right of economic management;
3) right for operational management;
4) land use right for a term of more than one year;
5) right to use real estate for a term of more than one year;
6) right to manage real estate according to proxy for a term of more than one year;
7) collateral;
8) easement;
9) other rights on land and immovable property.

2. The subjects of state registration of ownership and use rights are legal and physical persons - citizens of Kyrgyzstan, legal and physical persons citizens of other states and persons without citizenship have land parcels and immovable property in use or ownership on the territory of Kyrgyzstan are subjects to state registration of rights to use and to own.

3. All changes and termination of the rights on land and immovable property, listed in item 1 of this article, that originated as a result of transactions and other legal actions are subject to registration.

4. According to the present Law, a right for exploitation of natural resources is subject to registration.

The list of rights for exploitation of natural resources, that are subjects to obligatory registration should be established by the legislation of the Kyrgyz Republic.

Article 3. **Importance of State Registration.**

1. Protection of right on land and immovable property, liable to state registration, originates only from the moment of its registration and is legally valid.

2. Absence of the state registration of the right on land and immovable property which originated after introduction of the registration system leads to consequences envisaged by the Civil Code, the Land Code and other legislative acts of Kyrgyz Republic.

3. Rights which were owned by the subjects of the Right before introduction of the registration system preserve legal validity equally with the registered land and immovable property rights.

Registration of these rights is performed by subjects of the right on volunteer basis. Forced registration of these rights is not permitted.

4. From the moment the present Law becomes operational, changes, termination and easements of rights on real estate must be registered according to the order, established by the present Law.

Article 4. **Restrictions, which are not subject to registration.**

Restrictions which work as basic rules and prohibitions (on health protection, public security, environmental protection, etc.) are established by legislation and also predetermined by public needs (right to access to electric power lines, telephone and telegraph lines and poles, pipe lines, geodetic points etc.) do not undergo registration, except for the newly constructing or planned to be constructed electric power lines, telephone and telegraph lines and poles, pipelines and other infrastructure.

Chapter 2. State System of Registration Bodies for Land and Immovable Property

Article 5. **State System of Registration Bodies for Land and Immovable Property.**

State system of registration bodies consists of republican and oblast bodies of management, rayon and city registration bodies.

1. State Registration Agency under the Government of the Kyrgyz Republic serves as a state body for management of land and immovable property registration (Gosregistr).

2. Rayon and City departments for land and immovable property registration which are legal bodies subordinate directly to the State Register under the Government of Kyrgyz Republic will serve as Rayon and City Registration Bodies.

3. Activities of the State System of registration Bodies is performed according to the Regulation worked out on the basis of the present Law and approved by the Government of Kyrgyzstan.

Article 6. **Requirements to Registrar.**

Registration of land and immovable property rights is a state act and can not be aimed at making private profit. Registrar is not permitted to be employed in other place, perform registration of land and immovable property rights on his own name or be engaged in entrepreneurship, middle-man or other activities except for scientific or educational.

Article 7. **Appropriation of money, received from activities connected with state registration of rights on land and immovable property.**

1. All money received by the registration body from activities connected with state registration of rights on land and immovable property (registration fees, fees for information services, etc.) are to be used for development of the state system of registration of rights on land and immovable property and transactions with it.

2. Amount of fees for registration and information services of registration body are established by the Government of Kyrgyzstan.

Chapter 3. Registration System.

Article 8. Inventory of Land Parcels For The Purpose of Registration.

1. Registration oblasts are established on the territory of the whole republic which coincide with administrative oblasts. Registration oblast is assigned a registration number.

2. Registration oblast is divided into Registration rayons which coincide with administrative rayons. Registration rayon is assigned registration number.

3. Registration rayon is divided into Registration sectors, which are assigned registration numbers.

4. Registration sectors are divided into land parcels, which are assigned cadastre numbers.

5. Each Registration rayon and each Registration sector has a registration map, besides every Registration rayon has a Registration book.

6. Every land parcel has a registration file.

7. There is one system of registration of rights in real estate in Legal Cadastre for all categories of land and all immovable property which is on this land and is affixed on land parcels.

8. Land parcels and immovable property which is affixed on the land, cannot be separated or unified without registration according to the order, established by the present Law.

Article 9. Basic Documents of Registration System.

1. The following are the basic documents of registration system:

1) Registration map;
2) Registration book;
3) Registration files.

2. All information about registered documents concerning the right of ownership, other property rights, their origination, transfer, termination, lease, collateral and other restrictions of rights are identified in Registration System by a unified for the given land parcel Cadastre number, which is assigned by a registration body

Article 10. Registration Map.

1.Each registration rayon has one or several maps.

2.Registration map can be supplemented by a topographical map of the registered land parcel and must be available in the Registration file of the land parcel. Registration book has information on where topographic plan is.

3.Registration map to be kept according to legislative acts and in unified system of Cadastre maps, the purpose of which is creation of a Unified System of receiving and registering information.

Article 11. **Changing Registration Map Data.**

1.Registration body has right to correct text information or mapping of boundaries of land parcel as shown on the Registration map according to the agreement of people whose interests according to the Registration book are involved.

2.In case of minor changes of land parcel boundaries, Cadastre code may be left unchanged if all the interested parties agree and a note is made in the Registration file and on the Registration map.

In all other cases of altering land parcel's boundaries, the current registration code is terminated and a new one is assigned.

Article 12. **Registration Book.**

1.Registration encompasses the Registration cards for every land parcel and real estate.

2.Registration card consists of 4 components:

1) identification characteristics of real estate;
2) registration of rights on real estate;
3) registration of transactions with rights on real estate;
4) restrictions of rights on real estate.

3. The form of registration card is determined by the Government.

Article 13. **Registration File.**

1.Registration file is to be kept on every land parcel and has all (second) copies of all documents registered in the Registration card.

2.Land parcel, identified by Cadastre number has only one Registration file.

Article 14. **Boundaries of Land Parcels.**

1.Boundaries of land parcels are fixed or approximate.

2.As a rule, Registration map shows approximate boundaries of a land parcel.

Article 15. **Fixed Boundaries.**

1. When there is need for fixed boundaries it is usually done upon the initiative of the registration body or upon an application by the owner who possesses the rights on a land parcel(title?), Registration body informs interested people (subjects) who have rights to use land parcels bordering on the given parcel about the intention to clear up and fix the boundaries.

2. After hearing all interested people, Registration body with the help of topographic research fixes exact boundaries and upon the agreement of all the interested people introduces corresponding changes about fixing the borders of the land parcel in the Registration map and in the Registration book.

3. If fixation of the boundaries is caused by an interested party (right holders), then the procedure is undertaken at their expense.

Article 16. **Merging And Separating Land Parcels.**

1. If one person is, or becomes subject to the rights on the neighboring land parcels and rights and duties on them are identical, the Registration body on the basis of the application by the subject to the rights on land may unite the land parcels.

2. On the basis of the application by the subject(owner?) of rights on the land parcel and having a permission of the authorized body and corresponding documents Registration body divides the land parcel into two or more parcels.

Chapter 4. The Order of Registration

Article 17. **Accepting Documents For Real Estate Ownership Rights**

1. Real estate rights registration should be conducted by a district registration body, based on the right holder's application, or, if the right is based on the terms of a transaction - on an application of one of the parties, involved in this transaction.

2. Any applicant should present the following to a registration body:

    1) Papers, proving his right for real estate ownership:

    2) A slip or a transfer receipt, proving that registration body services were paid for.

For applicant's identification it should be enough to present an ID card for a natural person and a proxy for a juridical person.

3. When registering a common real estate ownership right, an application should be signed by all the owners, provided that all of them shall present their identification cards and the papers, proving their ownership right. This rule is also effective in cases of proprietorship rights, managerial rights and land tenure rights.

4. If some part of a real estate is being used as a collateral, is rented or is temporarily given to somebody free of charge, registration documents should include a map and a general plan, indicating part of the property that's being used as a collateral, rented or temporarily given to somebody free of charge.

5. If one of the co-owners of the common real estate does not agree to transfer the right to use this property to another person, the matter is resolved in accordance with the current Kyrgyzstani legislation.

6. An application for the right registration might be turned down only if the documents, indicated hereinabove, were not presented in proper.

Article 18. **Terms And Priorities of State-Wide Registration Program**

1. The right registration should be executed within 10 days from the date an application and other documents enumerated in Article 17 of this Law were submitted to a registration body.

2. In case of several application being submitted for registration of one and the same right, the right of the first application is to be registered.

3. All registered rights will have priority over non-registered according to the order documents were submitted for registration, despite of the readiness of the documents and registration of submitted documents could be conducted with delay.

Article 19. **Requirements To The Documents, To Be Submitted For Registration.**

1. Any documents certifying foundation, expiration, transfer or limits of right for real estate should be submitted in the established order. The documents should meet the requirements established by legislation. Any documents containing corrections, additions and other changes or documents executed in pencil are not to be accepted.

2. All the documents to be submitted for registration of rights for real estate should be in two copies (original and one copy verified by a Notary). The original should be with right holder after the registration.

Article 20. **The Exact Date of Documents' Submission.**

1. Upon receive of documents for registration of right for real estate the registration body is to record the date and time of submission.

2. An applicant will be provided with a recite containing the exact date and time of submission of the documents for registration.

Article 21. **Right Registration Or Transaction Document.**

Upon a request from an applicant the registration body should provide the applicant with a document certifying registration of right or transaction or make a special sign on the document being submitted for registration.

Article 22. **Reasons For The State Registration Suspension.**

In case of application-claim for right for which another application has already been submitted, the registration can be suspended for no longer than 10 days. If in such case a claim won't be submitted to the court during the above mentioned period, registration should be executed. In case the court receives a claim registration should be suspended till court issues resolution upon the case.

Article 23. **Reasons For Denial In State Registration.**

1. A registration body can decline in registration if:

    1) the submitted documents do not meet the requirements established by legislation;

    2) agency or person issued the document or a person the document deals with are not authorized to use the right they persist to be registered;

    3) an application for registration is made in the name of a person judged unfit to perform such an action.

2. In case of suspension or denial a special note is to be made in a Legal Cadastre. In case of denial an applicant should provided with a written note containing reasons for the denial. A copy of the note is to be in the file on the real estate.

Article 24. **Corrections After Registration.**

1. Corrections after registration not dealing with changes of right, characteristics of the registered right can be made by the registration body with note to all interested parties.

2. Correction after registration dealing with changes in right, characteristics of the registered right can be made upon the agreement of all the interested parties.

Article 25. **Access to Right Cadastre information.**

1. The state registration of rights and transactions with real estate is public.

2. Data on registration and registered rights and copies should be submitted to anybody for a payment by rayon (city) registration bodies within 7 days after request in written form has been received. If interested parties wish to examine registration documents, they should be provided, with the exception of documents considered confidential by the State.

Article 26. **Specifications of Registration of Real Estate Transactions.**

If a transaction is properly executed, organizations, issuing the document assuring ownership and use rights, or notary offices, that guaranteed the fact of transaction, should deliver one copy of the document, mentioned hereinabove, to the registrar.

Article 27. **Registration of Rights And Transactions With Real Estate Located On An Unregistered Land Parcel.**

Registration of rights on immovable property, located on a land parcel, right on which is not registered, but is proven by the appropriate documents, should be executed in the same order, as registration of the rights on immovable property, located on a registered land parcel. Thus, a conditional number is assigned to the land parcel, which wasn't registered before.

Article 28. **Registration of The Property Right On Apartments And Other Premises, Located in Buildings of Common Property.**

1. In residential houses, where the separate apartments belong on the property right to the citizens and legal persons, each apartment is considered as a separate unit of the immovable property, possessing own registration number. The different registration numbers of apartments exist within the framework of a uniform code of a land parcel on which there is the given residential house. A separate Registration data record is filed on each apartment.

2. The Registration book gives a list of the owners of apartments and other premises in a residential house with indication of a name of each proprietor and of an ID number of his/her apartment or premise should be given.

3. The change of a proprietor of an apartment is reflected in the Registration Book by addition of a name of the new proprietor to the list of the owners and exception of a name of the expropriator, of an apartment.

Article 29. **Registration of Easements.**

Registration of the document, establishing an easement should include description of the land parcel, limited by this easement and describe each of the land parcels, benefiting from such easement.

The plan of the land parcel containing allocation and jurisdiction of easement is attached to the document.

Article 30. **Registration of Rights, Prescribed By The Court.**

1. Right for real estate, prescribed by the court is to be registered on basic principles. Registration body has no right to refuse to register rights, prescribed by court.

2. Any resolution of the court regarding rights for real estate are to registered since its adoption, in spite whether it's been affected or not.

Any disagreement or objection to such resolutions are to be registered.

Article 31. **Registration of Transfer of Rights For Real Estate.**

Any changes in rights for real estate caused by death of the right holder are to be registered upon a document in accordance with which the right for the real estate is to be transferred.

Chapter 6. Arguments. Responsibilities For Violation of The Registration Order.

Article 32. **The Order of Resolving Arguments.**

Arguments on registration of rights for real estate (real estate transactions), including arguments on land parcel's boundaries, are to be solved be court.

Article 33. **Objections to Registered Rights For Real Estate.**

1. A person who has objections to a registered right for real estate is to submit to the registration body a special application containing description of his rights.

2. Within 10 days after the day of submitting the application an applicant should initiate a law suit and present a claim and present to the registration body and to the holder of rights for real estate a verification of the fact that the claim has been presented. In case these obligations are not followed, the registration body upon its own initiative or an application from an interested party cancellation/repeal of application.

3. In case court prescribes the right to the applicant, applicant should perform the court's prescription to the registration body which in its turn has to register right for real estate. Otherwise the registration body announce repeal of the application.

Article 34. **Responsibilities For Violation of The Order of Registration And Provision of Registration Information.**

1. Losses of the applicant caused by unreasonable breaking of the order of registration and information provision are to be reimbursed by the registration body.

2. In case of violation of the fixed boundaries and border signs, of the registered land parcels, the person, who committed this violation, according to Civil and Criminal Codes of the Kyrgyz Republic, carries certain responsibilities. All the damages are to be paid by the violator.

Chapter 7. Initial Registration of Rights For Real Estate.

Article 35. Public Announcement

1. The rayon (city) registration body makes public announcement to citizens and juridical entities regarding initial registration of rights on real estate and request to present documents certifying their right for real estate to the registration body.

Article 36.

1. A person who has objections to legal information on land parcels or real estate or rights for them should inform about this the registration body within 90 days after the date established by the registration body. The registration body will register the right if they present the appropriate documents.

Article 37. Implementation of Legal Cadastre.

1. A legal Cadastre is to be implemented based on the information certifying rights for real estate.

By the expiration of the term established by the Article 36 of the present law, the registration body implement legal Cadastre based on available information.

2. Amendments to the Legal Cadastre can be introduced upon a resolution of the court.

APPENDIX 3

THE EXPERIENCE OF HUNGARY IN MODERNISING A LAND REGISTRATION SYSTEM

A. INTRODUCTION

This Appendix describes the Hungarian experience in modernising a land registration system. Unlike the main text of the guidelines, it does not start from the position of trying to create a new land administration system, rather it seeks to maximise the potential of the existing system through a modernisation programme, - one that is broadly in line with the UN recommendations. The paper was prepared by the Hungarian experts Dr L Niklasz, Dr G Remetey-Fulopp, Mr A Podolesák and Dr R Baldwin (United Kingdom).

The aim of the modernisation programme in Hungary is to support the creation of a market economy by easing the transfer of property ownership and by supporting reforms while guaranteeing Title to land and property as a sovereign act of the state. This appendix shows how Hungary has been able to identify its requirements, and then move forward in a planned modernisation programme which has not only produced direct and immediate benefits to the land registration sector, but also provided support for wider aims.

The transition to a market driven economy is the greatest challenge facing Hungary at the present time. Hungary has clearly signalled its intention to move from the centrally planned, command based economy to an economic structure similar to that of the European Union member countries. The command economy was characterised by

- A legal framework which executed administrative procedures through a regulatory framework which had the full support of the legal process. The result was that low level activities of the administrative system were defined by

law, placing severe restrictions on the activities, and also on the methods that could be used to support these statutory obligations. Consequently, even minor changes in procedures required an amendment to the relevant act.

- A reliance on centralised budgeting and planning, which reduced the opportunity for local innovation and placed the emphasis of responsibility upon compliance with Ministerial level directives, rather than encouraging the administration officers to assume localised responsibility, where relevant.

- A lack of knowledge of the true costs of operations undertaken by the administrative sector, which could be translated, at worst, into a perpetuation of activities that were unnecessary, or at best activities were undertaken without due regard for the costs/ benefit from those activities, and an unawareness of the financial implications.

- A vertically oriented command structure, with few direct lines of communication for technical staff, other than through the administrative management process, which created bureaucratic difficulties in the execution of the day to day activities. The horizontal communication lines were weak.

- An abrogation of the decision making process, whereby decisions were undertaken at a centralised senior level, with the consequent risk that the decision makers could appear remote from the real problems.

- A philosophy which depended upon state budget allocation for the execution of activities, rather than seeking an understanding of user needs (public and private sector), and then seeking means of cost recovery.

- The maintenance of large sectors of the economy under direct government control, which reduced the involvement of the private sector and the small and medium sized enterprises in particular.

While the government is now taking steps to overcome these problems, the transition process cannot take place overnight. The social and political implications of the restructuring are severe, and the well publicised route of mass privatisation's of state industry do not always appear to benefit the people themselves.

The accurate and up to date maintenance of land ownership records is fundamental to the efficient and legal transfer of land within a free market economy and is the responsibility of the state in Hungary, as in most other European countries. This responsibility is carried out through the act of land registration which thereby guarantees the legal title to land and property.

Land registration in Hungary is based upon a multi-purpose cadastral system which consists of an accurate cadastral map and a set of legal and administrative records (property sheets) which record property description, ownership and financial obligations or other restrictions applying to the property. Land use, valuation, land classification and land protection are also recorded.

The land registration system is the responsibility of the Ministry of Agriculture who administer a hierarchy of 19 County Land Offices, 115 District Land Offices and a separate Capital Land Office and Budapest District Land Office for the 23 districts of Budapest. With the exception of Budapest, the system is able to provide a register of property ownership that is reasonably up to date. However, the system is unable to respond to the changing demands of a market based economy

A key component in the modernisation of the land registration system is the Computerisation of Land Offices Project. The specific aim of this project is to modernise the existing paper based records system by introducing modern management methods and computerised information systems into the land offices. This will transform the land offices from a bureaucratic organisation with a slow response and a restricted range of services into an organisation able to provide

- o rapid and secure processing of land registration applications;
- o security of credit through title guarantee and loan registration
- o stimulation of the land market by easing the conveyancing of properties.
- o on line electronic query services.

The modernisation of the cadastral mapping will provide

- o computerised digital mapping for the recording of property boundaries.
- o accurate large scale data sets suitable for use as base mapping by other users.
- o a single unified mapping base which can be rapidly updated and maintained.

These specific aims will support the establishment of national decentralised sets of computerised land information (land administrative and legal records, as well as large scale digital base maps). This has wider implications for land administration and economic development..

The nature of land information is such that it is of immense importance to many different government sectors, both at a national, strategic level, and also at a local government level. Agriculture, Environment, Health, Security, Local Authorities, as well as Non-Governmental Organisations (NGO) and large public and private sector groups such as utilities, marketing, construction, retailing and distribution are all key users of Geographic Information.

The information services of the land registry are currently focused purely on the interests of the land registration sector itself, however, the opportunity exists for making this data available to other groups with consequent quality of life and economic benefit to all.

At an International level, the European Union (EU) model shows the importance of being able to present up to date information for regional planning and economic development. The Ministry has already begun to examine the implications of future EU membership and the key to all of these activities is in supplying accurate statistical data to support senior decision making. The implications for land administration and economic development are that the project will provide support for

- o the market reform process
- o the EU harmonisation process
- o the production of agrostatistics and spatial reporting units
- o land and property valuation and the development of land markets.
- o the economic viability of agriculture

The implementation of these wider aims are downstream issues.

B. KEY ISSUES AND THE IDENTIFICATION OF USER NEEDS

The following are the perceived key issues which confront the land registration sector at the present time. The listing is not exhaustive, but does characterise the current Hungarian situation.

1. Registration of Title

The absolute guarantee of legal entitlement to property in Hungary is achieved through the process of registration of Title, whereby the state maintains legal and administrative

records and cadastral maps which unequivocally define the property units, their ownership, and record any financial or other encumbrances placed on them. A feature of the Hungarian system is the unique property identifier, which unifies the cadastral mapping and the legal and administrative records.

Registration of Title, the maintenance of the large scale base maps, the multipurpose nature of the information recorded, and the maintenance of the whole by a single organisational structure are great strengths of the Hungarian system. This must be protected as a fundamental priority.

- It is necessary to promote awareness of the strength of the Hungarian system, and the unique advantages that accrue from a single integrated land management sector, in order to protect a unique national asset.

2. Land compensation and privatisation activity

The land compensation and privatisation programme has involved the redistribution of almost 5 million hectares and the creation of almost 2 million new property units. Former owners and other individuals entitled to compensation are issued with gold crown vouchers, which are then used in an auction system to subdivide allocated areas into smaller individual units, based upon the land classification (i.e. nominal value), area available, and the number of bids. The former members of agricultural co-operatives also received gold crown vouchers.

The process is managed by the National Compensation Office, in partnership with the land offices, and the results have yet to be incorporated into the land registration records. According to Ministry of Agriculture figures, it is estimated that by April 1995, the auctioning process was approximately 90% complete, and an estimated 55% of these property units physically marked out in the field. When the process has been completed, the results are stored in digital computer readable form.

One side effect of this compensation process is the fragmentation of land units, often into thin strips which are not viable for individual agricultural purposes. This programme needs immediate support for the assimilation of the new ownership records into the land registration system; completion of the physical marking out of the properties; and, the consolidation of the fragmented land units

- The modernisation programme must provide the technical systems at the land offices to support the assimilation of this data as a priority.

3. Completeness and computerisation of legal and administrative records.

Outside of Budapest, the existing paper based property sheets which record the legal and administrative records are largely complete and up to date. The EU PHARE Computerisation of Land Offices Project has introduced personal computers and databases into the District Land Offices in order to provide a computerised inventory of the contents of the 6.5 million property sheets.

The first page of each property sheet contains the primary descriptive information, and all of these pages have now been computerised. The second and third pages contain ancillary information and these are being entered by the District Land Offices. It is estimated that 35% (June 95) of pages 2 and 3 have been entered since the second half of 1993, and more than 800 of the 3200 (approx.) municipalities are now completely loaded, and considered to be legally in force.

- The significant benefits of computerisation will only become apparent when a significant proportion of the records are available in computer readable form.

4. Completeness and computerisation of cadastral maps

There are an estimated 60,000 cadastral maps at a variety of scales (varying from 1:1000 - 1:4000) and in different projection systems. The maps are maintained by the District Land Office (by law) and copies are provided to other users. The maps vary in their completeness and currency of content and has been investigated. It is estimated that 4% of the maps are already digitised.

Digital map information also exists from the 1980's in Budapest and the quality of this data has been studied by a Swiss aid project. In the urban areas there are different demands for digital large scale spatial data compared to those rural authorities located on the Great Plain.

- It is necessary to have accurate data concerning the exact status of the cadastral mapping on a national basis. A priority basis has to be established for deciding which maps are to be computerised first, as land registration purposes alone will not justify the investment.

5. Budapest situation

The Capital and District Land Offices of Budapest are unable to keep up with the flood of applications dealing with changes to the property sheets. It is estimated that a backlog of over 200,000 has built up (June 1995) and an application can take over a year to process. By comparison there are only some 2,000 changes per year made to the cadastral maps and this is not a problem.

- The extraordinary situation in Budapest requires an immediate response. This solution should concentrate on the land registration records.

6. National standards

The introduction of digital technology for the management of cadastral map standards requires new and appropriate standards to be created for the definition of content, data acceptance and quality control, and also the digital exchange of information. Under the guidance of the National Committee for Technological Development (OMFB) and with the involvement of the Institute for Geodesy, Cartography and Remote Sensing (FÖMI) and also representatives from the private sector and other interested parties, initiatives have been created to address these problems.

- The development of national standards for digital cadastral mapping and data exchange standards must be supported

7. Ownership and copyright

The situation concerning the ownership and copyright of the land registration data and the cadastral map data is not clear. For example, while the District Land Offices are responsible for the updating and maintenance of these records, the information is provided to the Institute for Geodesy, Cartography and Remote Sensing (FOMI), who then are able to sell this date to users. There are regulations concerning pricing policy, however the situation concerning who has ownership, copyright, and is entitled to the income thereof needs to be examined and clarified.,

- The issues of copyright and legal ownership of data must be clearly addressed, and precise guidelines set as to how they may or may not be used.

8. Cost recovery

It is estimated that only 4% of the total budget for the maintenance of the land registration sector comes from revenue generation, this compares with the Netherlands, which has complete cost recovery, and the United Kingdom, which has

66% for its mapping activities, and has total cost recovery for its land registry. A move to significant cost recovery by the land registration sector of Hungary is clearly possible, if the land offices can supply the right products. There needs to be an awareness of marketing, product development, and the definition of products and services.

- It is necessary to investigate cost recovery mechanisms, and then establish targets for achieving cost recovery over a period of time.

9. Institutional issues

The current organisation of the land registration sector consists of a network of 115 District Land Offices, 19 County Land Offices, the Institute of Geodesy, Cartography and Remote Sensing (FOMI), and the main Department of Lands and Mapping located within the Ministry of Agriculture headquarters in Budapest. There are over 4,000 employees, and the organisation also places significant contracts outside of this sector, in particular with the three former state owned surveying enterprises. However, it is appropriate to question if this is the optimum institutional organisation, and there have been two recent EU PHARE studies which have advocated moving to a separate Agency status with full budgetary and regulatory authority, and with an emphasis on cost recovery and local accountability.

- It is necessary to conduct a review of the current institutional framework, and examine alternative models for organisational structure and seek to elaborate the advantages and disadvantages of such change.

10 Market opportunities.

The original purpose of the cadastral map was to provide a record of property boundaries. Other government sector (and private sector) users are now emerging who have requirements to use this data as a base map for other purposes. The Ministry is

now in a position to identify products based upon the land registration records and cadastral map resources and make these available as marketable products.

- The potential income from the marketing of digital products needs to be investigated. This may provide sufficient financial justification for carrying out the digitising of cadastral maps in certain cases.

11. On line electronic access to data

The market transition in Hungary will significantly increase the volume of transactions to be processed by the land offices. This is especially significant in Budapest where there are more than 200,000 outstanding applications for change of ownership, mortgage entry, or some other change to the land registration records. The provision of on-line computerised access to land registration data is at an early stage, but this may provide an early opportunity for providing a client 'self-service' for routine activities such as requests for copies of property sheets..

- There are issues concerned with the identification of services, the security of the records, and the scope and visibility of the data. The provision of on line access will change the nature of the services requested from the land offices.

12. Land consolidation

The land compensation programme has reduced the average size of agricultural land units by a factor of 10, and has resulted in many land units which are clearly unviable for economic use. There is an urgent need to support the consolidation of these land units through land exchange at a local level, based on volunteer initiatives of the interested parties. There is also a need to support the consolidation on a national basis. A German-Hungarian bilateral project has been launched with the objective of testing appropriate technical procedures and methodologies in selected pilot areas. This will

clear professional development path is essential to supporting the long term aims of the modernisation of the land registration sector.

- A review body should be appointed and tasked with examining the whole question of professional development (i.e. educational requirements, recruitment, training, promotional paths), in consultation with the professional bodies and the universities, colleges.

There are a number of wider issues that assume importance in the national and international usage of information resources which form an essential part of a land registration system. These are concerned with

- land information services
- supporting the safe and secure transfer of title, ensuring the security of credit against property assets
- stimulation of land markets and development of a valuation sector
- developing the role of the private sector and the participation of the Local authorities, utilities and other NGO's.
- agricultural land use and classification assessment/ monitoring
- support environmental protection and sustainable agriculture
- supporting the economic viability of agriculture
- generating agrostatistics in line with national and international requirements and the support the move to EU harmonisation, in terms of compliance with EU directives and the establishment of the required reporting units (NUTS) for demographic, agricultural and other purposes

C. THE MODERNISATION OF THE LAND REGISTRATION IN HUNGARY

The land registration sector is currently facing challenges from a number of sources.

o The market transition which was introduced in 1989 has stimulated the land and property sector. It is estimated that as much as 20% (see UN ECE Guidelines) of the national GDP comes from the land & property and construction sectors of the economy. The transition process has introduced mass privatisation, increased individual home ownership, and placed severe increases on the demands for land registration information.

o The land compensation programme has created an effective two million new land parcels, involving more than five million hectares. All of this has to be managed, auctioned, divided, set out, and the results assimilated into the land registration sector.

o Privatisation of state farms, co-operatives and state industry all place demands on land registration records.

o Increased conveyancing has resulted from significantly increased home ownership through a programme of subsidised purchases, the compensation programme, and increased commercial development. These problems are particularly acute in the large urban centres.

o large scale establishment of housing associations.

The large scale establishment of housing associations, and the resulting change of registration entries has produced a situation where District Land Offices can suddenly receive a request for the wholesale transfer of assets, which may involve several hundreds or even thousands of property units.

o wider economic issues

There are wider economic issues concerned with the development of land markets, valuation, land use, land classification and land protection, as well as downstream issues concerned with EU harmonisation, problems concerning reporting units, agrostatistics and the economic viability of agriculture.

The Ministry recognised these problems at an early stage and put into effect a "Computerisation of Land Offices" project, financed by PHARE (Poland-Hungary Assistance for Reconstruction of the Economy), with counterpart funding from the Government of Hungary. This project is aimed at providing the technical facilities to allow the land offices to computerise the records; to assimilate the new compensation data units; and support the wider long term aims of support for the economic reform.

The EU PHARE Computerisation of Land Offices Project is composed of a Technical Assistance Team and a full time Hungarian Ministry of Agriculture Project Manager. The Technical Assistance Team consists of an International and a Hungarian Technical Adviser, and a bilingual Programme Assistant.

The overall strategy of the Long Term Technical Assistance team has been to develop a fundamental strategic approach for land registration which is technically, organisationally and financially sound. Such an undertaking requires that many different aspects of the problem have to be investigated. The approach is to use the technical assistance team to help develop strategy and the long term components of the problem, and to identify specific tasks which are then undertaken by short term consultants, both International and Hungarian, that are consistent with the overall aims of the project. These short term consultants have specialist knowledge of the task area. The overall aim is to integrate the results of the consultancies into a final approach.

The technical assistance team have reviewed the earlier six stage strategy of the Ministry and then developed the TAKAROS information systems strategy which supports the cadastral mapping and land registration data updating and management at the District Land Offices. It also provides geographical information services and technical support for the County land Offices. A second priority has been to support the modernisation of the Budapest District Land Offices.

D. PROGRESS IN THE MODERNISATION - 1992 -1995

The first phase of the project (Stage A, March 1992 - September 1993) followed the initial Ministry plan, that is, it retained the existing institutional structure and legal framework, and concentrated on providing a fast and interim solution for the modernisation of the management of the land registration legal and administrative records. This allowed the District Land Offices to respond to the increased demand for services and also to support the compensation programme.

The first phase of the project called for the installation of personal computer based local area networks (PC LAN) and property sheet management software (CDPRS) at all of the 115 District Land Offices. By the end of 1993, all District Land Offices were equipped with the hardware and software for property sheet management. The page one data (location, description) was ported to the District Land Office systems from the national database of page one data maintained by the Institute for Geodesy, Cartography and Remote Sensing (FÖMI), and a start was made on the data loading of the ownership and financial data (pages two and three of the property sheets).

An extensive analysis of the management and Information Technology (IT) requirements of Budapest Land Offices was carried out. This project identified activities ands functions to be supported by the modernisation programme and

demonstrated that the CDPRS approach could not meet the functional and performance requirements. Three alternative information systems strategies were examined, and one of the strategies was adopted after careful review and debate.

This second phase of the project (Stage B - September 1993 - May 1995) was characterised by a careful examination of the user needs for the support of land registration and cadastral mapping. A number of studies were carried out which included

- a study of the large scale cadastral mapping requirements of Hungary. This work involved a team of four International and Hungarian experts, who submitted a final report in July 1994, prepared under the co-ordination of a UN Regional Adviser.

- a study of the role of the County Land Offices. This study examined the information requirements and activities currently carried out at the County Land Offices.

- a review of the first part of the modernisation. The implementation of the PC LAN equipment and the adoption of the CDPRS software within the District Land Offices was examined.

- an examination of the national standards situation. This concentrated on the data exchange and cadastral map contents

- an examination of the status of the compensation data. This examined the compensation process and sought to document the procedures and establish the status of the compensation data produced.

- development of TAKAROS information systems strategy. Development of a strategy for the modernisation of the cadastral mapping and its integration with the land registration records.

Specific technical activities were carried out which included

- acceptance testing of the personal computers and local area networks.
- software suitability studies of FÖMI developed products (Decision Support Software and Application Registration Software), and a feasibility study of the use of Optical Character Recognition (OCR) for property sheet encoding
- cabling recommendations for Budapest District Land Offices, and also for the 115 District Land Offices.
- Preparation and issue of tender for supply of hardware and software to Budapest District Land Offices.
- Preparation and issue of tender for supply of hardware and software to 115 District Land Offices.

One of the problems encountered was the availability of up to date, accurate information concerning such topics as cadastral map status (number, condition, media, content, currency, projection, age), compensation data (amount, storage media, geographical distribution), and the rate of property sheet data loading. A simple personal computer based system was used to regularly collect and update this information.

One of the aims of the modernisation process is to introduce modern ways of thinking, including management, personal responsibility, job involvement, and an awareness of the importance and integrity of their professional role. This is supported through a programme of seminars, visits to land offices; the issue of a regular project newsletter; and the support for international meetings and study tours, which have included study tours to Austria, Holland, Luxembourg and the United Kingdom. As part of the communication activity, EDP (Electronic Data processing) managers have been invited to work with members of the computerisation project team.

D. THE NEXT STEPS 1995-1997

The following are the specific planned activities for the immediate future.

1. TAKAROS District Land Offices

The District Land Offices are to be equipped with the TAKAROS systems during the second half of 1995. This will provide the basic tools needed for the digitising of the cadastral mapping, and will embody the results of the national standards work.

The integration of the cadastral map records and the legal and administrative records will be ensured during the data loading, and afterwards all activities (map and property sheet) will have a single point of entry, thus guaranteeing the integrity of the system. This activity effectively creates over 100 systems for map digitising, allowing a 'bottom up' and 'parallel processing' approach to this problem.

2 TAKAROS County Land Offices

The County Land Offices detailed user requirements analysis will be carried out, and the procurement will proceed in the next phase for two counties (to be rolled out

nationally the following year). Special attention will be paid to the land use, information service requirements, agrostatistics and valuation data.

3 Budapest District Land Offices

A separate project is to be established for Budapest involving a technical assistance team. This will be implemented according to a carefully agreed strategic plan, which includes the active involvement of a Swiss aid team to support the digital conversion of the map data, and its integration with the existing EU PHARE procurement for the property sheet management software.

4 Management Information System.

The increasing requirement for accurate information concerning the background data, and also the monitoring of the EU PHARE implementation calls for the design and implementation of a nucleus MIS (Management Information System) which can form the future core of a corporate MIS.

5 National standards

Support will be provided for the FÖMI cadastral map content standard and the spatial data transfer standard of the GIS Data Transfer Working Group.

6 Strategic studies in support of land registration

A number of strategic studies will be necessary to resolve some of the outstanding issues. This will include the detailed design of the County Land Office system and for the inclusion of the compensation data results. This could also include legal and institutional issues, ownership and copyright, as well as analysis of the particular information requirements of other Non Governmental Organisations (NGO), local authority and private sector users..

7 Land and property valuation

The support required for agricultural and urban land and property valuation, and also the development of land markets, are to be specifically investigated.

8 Marketing and services

The introduction of the TAKAROS systems allows an opportunity for the land offices to transform their information services and become proactive suppliers of structured spatial information. The County Land Offices are to be developed as the regional centres for spatial information, and this will involve the development of marketing skills, product development, project management, and the definition of goods and services to be supplied.

9. Education and training

The role of the professional organisations, the career structure of the surveyor in Hungary, the short and long term educational and training requirements of the land offices should be carefully reviewed. The opportunities for wider participation, at an international level should be examined, and possible partners identified. A TEMPUS Joint European Project (JEP) involving UK, Belgian and Hungarian institutions is now being carried out which will develop a Distance Learning course in Geographic Information Systems and Land Information Systems.

10. Wider economic and market changes.

The importance of the wider economic benefits of a modernised land registration system, and the advantageous position of Hungary, with its multipurpose cadastre already in place need to be emphasised. The importance for title and credit security, the demand and availability of credit for agricultural development, the effect on the land and property markets are important in the urban sector. The agricultural sector has seen a severe reduction in the size of its land units, with a consequent impact on the

viability of agriculture. The importance of land use / land protection, agrostatistics, reporting units and EU harmonisation issues all must be examined and understood.

11. Liaison with other projects

There is a fundamental shift away from considering the purely technical issue associated with the modernisation of the land registration sector. In part this can be attributed to a growing internal awareness of the needs for accurate information to support decision making; in part it can be attributed to the awareness of the special interests of bodies outside of the main land registration sector. There is a greater awareness for the need of harmony between projects, both within the modernisation framework, and in terms of supplying results to other users and projects. This liaison between projects should continue to be given a high importance.

E. SUMMARY

The land registration system in Hungary has a clearly defined place in society, and an implicit acceptance by the populace. The system works and has up to date legal and administrative records, but with major deficiencies in its large scale mapping. Specific localised problems do exist, which include the extraordinary Budapest situation, the land compensation data, and the future land consolidation problems (which have yet to be worked out).

The wider benefits and implications are becoming clearer. The support for the market development process, the viability of agriculture, the development of land markets, land use and land (and hence environmental) protection, EU harmonisation; - all of these demands place emphasis on the important role of spatial information systems as technical tools to support decision making.

It is the responsibility of the Ministry and the land office network to meet these demands in order to promote the interests of the citizens of Hungary in a manner that supports both the current activities and protects the interests of the future generations. It is becoming clearer that the Ministry needs to harmonise all aspects of its activities (internally and externally) and cooperate with other government sectors, both locally, and internationally in order to meet these objectives .

APPENDIX 4

LAND REGISTRATION IN THE NETHERLANDS

A. BACKGROUND

The Netherlands is a country of 41,000 square kilometers with approximately 15 million inhabitants. There are three levels of government: the national government, located in the Hague; twelve provincial governments; and 600 municipal governments.

There are approximately 7 million real estate units in the Netherlands, including land parcels and apartments. There are 3.5 million parties (persons and legal entities) who hold title to these approximately 7 million units. Each year there are approximately 800,000 land and real estate transactions of which approximately 350,000 are purchase and sale transactions, and approximately 450,000 are mortgage transactions. There are also approximately 110,000 divisions of land parcels each year that must be registered in the registration system.

B. HISTORICAL DEVELOPMENT OF LAND REGISTRATION

Land registration in the Netherlands began during Napoleonic times (1832). The registration system (called the "Dutch Kadastre") was originally designed on the principles of a "fiscal" cadastre. Its principal purpose was to provide the government with an accurate inventory of all land in the Netherlands to allow the government to administer and collect land taxes. Because of its orientation as a fiscal cadastre, the information in the system was limited to information relevant to taxes: the location of all land parcels, the area each parcel, and the owner of each parcel. Since the cadastre was used for fiscal purposes, it was kept within the Ministry of Finance.

For more than 160 years, the Land Registry Office was part of the national government. That changed on May 1, 1994, when the Kadastre Organization Act made Dutch Kadastre an independent administrative agency. In its new legal capacity the Kadastre is able to function as an independent organization separate from the government, though remaining under governmental supervision. Some government supervision is retained because the Kadastre is in effect a monopoly service that provides an undeniably public function (the guarantee of title to land and real estate). Although the Kadastre is meant to function on a self-financing basis, it is not supposed to make a profit. The Dutch government made the Kadastre independent in order to achieve the following goals:

- free high-level government officials from the responsibility of managing the system on a day-to-day basis

- allow the system to be run on business principles in order to increase efficiency, cut costs and maximize profits

- give the managers of the system freedom from overly restrictive and inefficient government hiring practices

The costs of a typical transaction in the Netherlands can be quite high. In addition to the registration fees described above (which are relatively low), a typical transaction might include the following fees:

(1) transfer tax in the amount of 6% of the purchase price of the real estate;

(2) notary fee in the amount of approximately 8% of the purchase price; and

(3) brokers fee if a broker was involved.

These fees are usually paid by the purchaser, unless the parties agree otherwise. In addition, the seller may be liable for the payment of income taxes for the income generated from the sale. Notary fees are set by the Ministry of Justice, although the notaries are not part of the Ministry.

H. MAPPING AND SURVEYING

The Dutch Kadastre has been legally responsible for maintaining the national triangulation network since 1930. Each regional office of the Kadastre has a department occupied with surveying and cartographic processing. These departments process their own measurements from their field work. The Netherlands is divided into municipalities, sections and plots. In the past, these were recorded accurately on maps. Every modification of these maps as the result of a real estate transaction measured and processed anew.

The surveying field work of the Dutch Kadastre is supported by a network of fixed measuring points distributed over the whole of the Netherlands. These points are delineated by coordinates and are physically present in the terrain.

The national triangulation network is being rapidly expanded with measuring points which are as far as possible suited to the use of satellite navigation systems or global positioning systems (GPS). In addition, the Kadastre is engaged in connecting the Dutch system of coordinates to the European system.

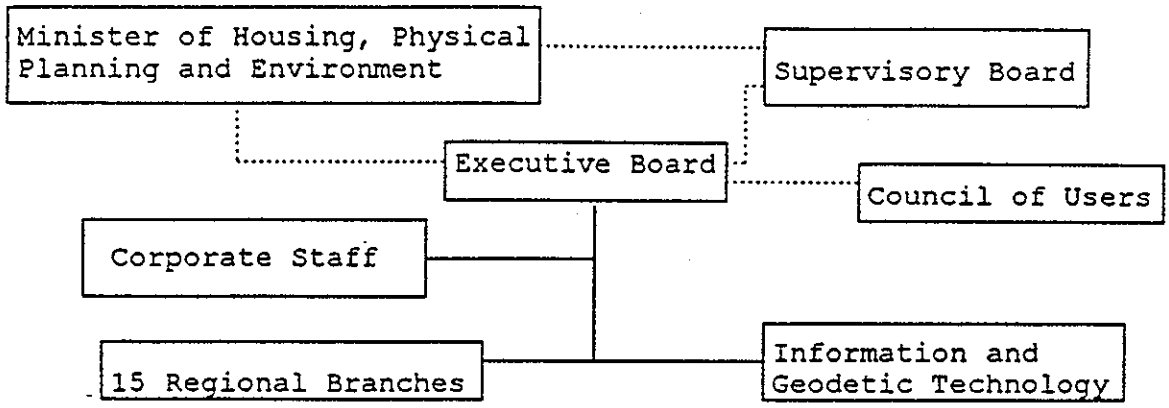
I. LAND CONSOLIDATION

Rural land management projects often involve large-scale reparcelling of land. In order for this reallocation to be carried out honestly and justly, the government has established a number of regulations. One of these, the Land Consolidation Act, requires the Kadastre to be closely involved in preparing new allocation plans.

The Kadastre does this by acting as an impartial third party that prepares a plan of reparcelization. The plan is subject to an elaborate process of approvals including a vote by the affected property owners, and possible appeals to the courts if anyone is dissatisfied.

Figure 1

ORGANIZATIONAL STRUCTURE OF DUTCH CADASTRE



Dotted lines represent lines of advice and negotiation.
Solid lines indicate lines of Subordination.

The Kadastre has fifteen regional branches in the provinces. Each branch has its own Land Registry Department, and a Land Consolidation and Land Survey Affairs Department. The first department registers and administers land and real estate transactions. The second department does all the surveying and cartographic work required in order to keep precisely the cadastre maps.

In all, the Kadastre employs approximately 2,100 employees of whom 90% work in the regional branches. With increases in efficiency, the staff was cut from approximately 2,300 in 1994. Further reductions are expected as efficiency continues to increase.

E. INFORMATION SYSTEM/COMPUTERIZATION

The land information system in the Netherlands, which was paper-based until 1989, is divided into two parts: a descriptive part (i.e., the records of rights to land and real estate); and a cartographic part (i.e., the maps that provide the foundation for the information system). The descriptive part, which is now completely automated, is maintained in the regional branch offices on a central AKR database. Automation of the descriptive part of the register began in the 1970s. External users of the system such as notaries and real estate brokers may now link directly to the descriptive database to obtain information, without any employees of the kadastre being involved. Although they can access the information in the system, only the Kadastre can make changes to the database. In 1992, there were 500 external users plugged into the system. As of 1995, that number had increased to over 2000. The cartographic part of the system is maintained in the branch offices. The process of digitizing cartographic information began in the 1980s and now approximately 60% of the maps are available in computerized form. Digitization of all maps is expected to be completed by the year 2000.

F. FEES AND FINANCIAL ASPECTS OF THE KADASTRE

As described above, Dutch Kadastre is an independent agency. From a financial point of view it is self supporting, drawing its main income from fees for registration of transactions and for provision of information to users. Gross revenues for 1993 were approximately 500 million Dutch Guilders (equivalent to approximately $316 million at the exchange rate as of February, 1996), and rose to 632 million in 1994 (equivalent to approximately $400 million at the exchange rate as of February, 1996). Because of dramatic increases in efficiency, decreases in expenses, and because the Kadastre is not permitted to generate a profit, rates for services were reduced 15% as of January 1, 1995, and then were reduced by an additional 30% as of August 1, 1995, for a total reduction of 45% in 1995.

The following is the schedule of fees for services provided by the Kadastre (all fees given in $U.S. at the exchange rate in effect as of February, 1996):

General registration information	$8.90 per object
Information regarding mortgages	$8.90 per object
Information regarding deeds	$13.30 per deed
Information regarding maps	$8.90 (including a copy)

Information regarding boundaries	$17.75 per boundary
Measurements	$22.15 (unclear if charged by the hour or size of parcel)
Research activities	$38.00 (unclear if fee is by the hour or on some other basis)

The Minister of Housing, Physical Planning and Environment sets the rates for these tasks which constitute the legally required public activities of the Kadastre.

In addition to the tasks mandated by legislation, the Dutch Kadastre has developed a number of commercial products which it markets to supplement fees for its standard services. Dutch Kadastre has developed these commercial products to consolidate its financial position, secure continuity, create additional employment, and meet the growing demands of the market. Geographic Information Systems (GIS) databases are an example of the commercial products offered by Dutch Kadastre. This service allows one to link administrative information with geographic locations. For example, the Kadastre's GIS service could be used by a business to map its customer base. With this data a business can develop marketing strategies, route and distribution plans and other policies. GIS information can also be used for infrastructure, environmental and public facilities planning.

International consultancy is another of Dutch Kadastre's commercial activities. Dutch Kadastre's consultants are working in many countries to help improve registration systems or other land information systems. These activities are mainly financed by international agencies such as the World Bank.

G. NOTARIES

The notary plays a critical role in the functioning of the land and real estate market in the Netherlands. The Dutch Civil Code makes notarization compulsory for a number of agreements and legal transactions, including the conveyance of land or real estate, or the creation or discharge of mortgages. In a typical land or real estate transaction, the parties go to a notary to prepare a formal agreement between the parties called a notaries deed. In preparing the notarial deed, the notary does not represent the interests of either party to the transaction, but rather balances the interests of both parties. The notarial deed must be signed by the seller, buyer and notary. Before signing the notarial deed, the notary conducts an investigation into the title of the land or real estate. Most notaries have on-line computer access to the information in the Dutch Kadastre, so they can verify the status of title without leaving their offices. After preparing the notarial deed, the notary sends a certified copy to the regional Kadastre office for registration. The notary keeps the original deed in his files. The notary is usually responsible for transferring money from the buyer to the seller upon registration of the deed. The notary serves a similar function in a mortgage transaction.

The notary profession is highly regulated. Under Dutch law, there are 800 notaries in the Netherlands. They are appointed by the Crown for life, on the understanding that they will be retired at the age of 65. The appointment for life is made to ensure the notaries' independence.

- free the national budget from the burden of financing the Kadastre, and shift to the Kadastre the responsibility of operating on a self-financing basis.

C. STATUTORY DUTIES OF THE KADASTRE

Under the Kadastre Organization Act, the Kadastre has three statutory duties:

(1) to maintain the land and immovable property registration system in order to provide legal security to owners and holders of rights

(2) to maintain the national triangulation network

(3) to conduct "land consolidation" activities (described in more detail below).

D. ORGANIZATIONAL STRUCTURE

Although the Kadastre is an independent administrative organ, it is technically part of the Ministry of Housing, Physical Planning and Environment. The Ministry has very limited authority over the Kadastre. In effect, the Ministry has the right to approve three areas of the Kadastre's operations:

(1) multi-year policy plans

(2) ongoing pricing policy (to ensure that services provided by the Kadastre remain affordable to users of the system)

(3) the annual accounts of the Kadastre.

As an independent administrative organ, the Kadastre no longer forms part of the personnel and financial organization of the state service. Rather, it is run by a three person Executive Board which is responsible for the day-to-day operations of the Kadastre and the development of the Kadastre's entrepreneurial policy.

The Minister of Housing, Physical Planning and Environment has appointed a "Supervisory Board" which consists of five people. The Supervisory Board advises and supervises the Executive Board, partly on the basis of approving its multi-year policy plans.

The Kadastre maintains its relationship with professional groups of users of the real estate information services through a so-called "Council of Users." The Councils of Users is comprised of notaries, real estate agents (brokers), municipalities, water resource management committees and consumer organizations. The Council provides advice and feedback to the Kadastre on issues such as fees, quality and efficiency of the services provided by the Kadastre, and other issues of mutual interest. The Council may advise the Kadastre on request or of its own volition.

Figure 1 shows the organizational structure of the Kadastre. Dotted lines on Figure 1 represent lines of negotiation, whereas solid lines indicate lines of subordination.

APPENDIX 5

DRAFT

THE GOVERNMENT OF THE KYRGYZ REPUBLIC

RESOLUTION

____ March 1996 No. Bishkek, House of Government

With the aim of establishing a unified system of registration of land and immovable property the Government of the Kyrgyz Republic resolves:

1. To approve:

a) the draft Law of the Kyrgyz Republic "On the state registration of rights in land and immovable property", drafted by the Working Group, created by Government order No. 257-r of 4 September 1995.

b) the Memorandum of Understanding between the Government of the Kyrgyz Republic and the United States Agency for International Development (USAID) on the support for a unified immovable property registration system.

c) the proposal of the Working Group on the implementation of pilot projects in two to four rayons based on specified criteria.

2. To present the draft law of the Kyrgyz Republic "On the State Registration of Rights to Land and Immovable Property" for confirmation by the Zhogorku Kenesh.

3. For the conduct of the pilot project on the registration of land and immovable property:

a) to create:

-a Project Management Unit (PMU);
-division of state registration of rights to land and immovable property in rayons, selected for the conduct of pilot projects;

b) to give the PMU responsibility for the conduct of work on the pilot project;

c) to grant the PMU the right to introduce to the Government proposals on organizational questions on the creation of a system of registration for rights to land and immovable property;

4. To order ministries, departments, local state administrations, enterprises, organizations, and institutions grant a one year leave of absence without pay to highly qualified specialists on the recommendations of the Working Group (Govt. order No. 257-r of 4-09-95) for work in the PMU and rayon offices for the registration of rights to land and immovable property.

5. To name the head of the PMU - general manager - for implementation of the pilot registration project assigned to the PMU in accordance with point 3 of the present resolution;

6. _____ to provide within 30 days the formation of a group of cadres comprising the PMU and rayon registration offices.

7. The heads of the local administrations in the selected pilot rayons and cities to provide adequate office space for registration offices, with guaranteed security for storing materials and information.

8. The Ministry of Finance of the Kyrgyz Republic to search for resources for the support, use, and pay of communal services for the registration offices in the pilot rayons and cities.

9. Ministries, departments, local administrations, enterprises, organizations, and institutions to promptly present the PMU with the essential information free of charge and work in cooperation with the PMU on any related questions.

10. To extend the authority of the Working Group until the completion of the pilot project and assign to it the following responsibilities:

a) the right to confirm the workplan for the implementation of the pilot registration projects;

b) to inform the Government of the Kyrgyz Republic at least once every three months on the implementation of the confirmed plan of work.

Prime Minister A. Dzhumagulov