

Land Titling Issues and Policy Recommendations,
Shabelli Water Management Project

Proposed Scope of Work for an Advisor to Assist the MOA
with Planning and Implementing a Land Registration Program



**LAND
TENURE
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May 1988

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I. Background

Registration of smallholder lands has been set as a precondition to construction contracts under the Shabelli Water Management project (SWMP). The concern is that smallholders' security of land tenure will deteriorate as irrigation rehabilitation and prospects for economic development near reality, due to increased land speculation and land grabbing in the project area. As noted on page 30 of the Shabelli Water Management I Project Paper (SWMIPP):

". . . Although land disputes are to date relatively uncommon, . . . farmers have expressed fear of a "land grab" as knowledge of the proposed physical rehabilitation leaks out and larger farmers become interested in the area. Given the expressed concern of AID and the GSDR to emphasize smallholder production in the Shabelli basin, it is important that smallholders' tenure be secure prior to initiation of any civil works rehabilitation."

Construction contracts are scheduled to begin in mid-1989. Based on LTC's experience in other project contexts, there is a high probability that land grabbing and land speculation will increase as prospects for economic development, and higher agricultural productivity from irrigation improvements, enter investors' expectations. As noted by Roth et al. (1987), land grabbing by outsiders is already a serious problem in the project area. These threats to the tenure security of landholders can seriously undermine the project's production objectives, and adversely affect the welfare of

intended beneficiaries if adequate measures are not undertaken. It is imperative therefore that planners be made aware of these possibilities, and that registration of smallholder lands be undertaken as expeditiously as possible.

II. Conditions for a Successful Land Registration (LR) Program

It has been LTC's experience in the design of LR systems elsewhere that three factors are generally required for the expedient implementation of an effective LR program:

1. Criteria for deciding ownership or use rights should be clearly defined and agreed upon prior to implementation of the registration program to ensure expedient and decisive determination of tenure status, and to avoid ambiguities or exceptions that may result in farmer distrust of the MOA or AID in carrying out the program.
2. The program's success will be contingent on full cooperation of local officials and farmers, and on keeping farmers or their representatives fully informed about registration objectives, implementation strategies, progress and results. The LR program should emphasize full disclosure of reasons for any problems or delays that occur, and constantly reinforce MOA and AID objectives that no smallholder lose his/her rights to land under SWMP.
3. The LR program should be carried out expeditiously and decisively with high priority given to streamlining registration procedures to achieve these goals. As the number of registered titles to be issued under the project far exceeds any registration activities carried out by the MOA in the region to date, the LR program will require: (a) reforms in existing LR procedures to relieve bottlenecks; and (b)

resources provided by AID to overcome logistical and financial constraints that currently constrain farmer registration in practice.

If these criteria do not receive the full support of the MOA, AID, or other collaborating institutions, then it will not be possible to: (a) guarantee the success of the LR program in the planned time horizon; (b) assure the continuing participation of land holders in the implementation of the project; or (c) provide for the safety of staff who are involved in the sensitive day to day matters of land adjudication, demarcation, and dispute resolution.

III. Policy Issues Affecting the Scope of LR Activities

Five policy issues relating to the scope of LR activities under SWMP need to be resolved before costs and the design of a LR program can be reasonably undertaken:

1. Large Private Farms, State Farms, and Cooperatives. Three sub-issues will need to be addressed with regard to large private farms, state farms and cooperatives in the project area. First, there is a definitional issue of what is meant (in terms of land size) by "smallholder" status in the SWMIPP. Second, does or should the registration effort have as an objective the registration of all lands in the project area, including lands that may now be controlled by currently unregistered large land holders? Third, in discussions with the GSDR, officials mentioned the possibility that lands now under the control of the Prison farm, Police farm, AFMET farm, and certain large cooperatives may be reallocated to smallholders. Assuming this is the case, how will lands be reallocated and how will this influence the scope and implementation of the LR program?

LTC is of the opinion that all land in the project area should be registered, thereby circumventing the definitional problem of what qualifies as "smallholder" lands. Since registration of very large parcels requires only slightly more time than registration of small parcels it would be very inefficient not to register all land in the project area at the same time. A complete registration profile of the area would also prove to be more coherent and useful to the MOA in the long run. If plans do exist to reallocate some lands to smallholders, then efforts to do so should begin as soon as possible to minimize the inevitable confusion that would result from mixing land redistribution and land registration activities.

2. Scope of LR Activities For Existing Smallholder Lands. LTC's study (Roth et al., 1987) of land tenure in the project area shows the following structure of land holdings by smallholders:

| | <u>Number of farms</u> | <u>Area</u> |
|--|----------------------------|-------------|
| (A) Independent Smallholders | 1,675 | 1,680 |
| (B) Smallholders under Agricultural Coops | 1,007 | 1,168 |
| (C) Smallholders under CRASH program areas | 2,278 | 2,285 |

Assuming an average of 1.4 parcels per household (Roth et al., 1987, p. 23), registering only category (A) would involve 2,345 parcels (equivalent to the number of leasehold titles that will need to be issued); registering all parcels under category (B) would add an additional 1,410 parcels; and registering all parcels under category (C) would add an additional 3,189 parcels, assuming that farms in CRASH program areas have the same average land/farm ratio as farms in independent smallholder areas, as LTC researchers

had to assume. The issue is which categories does the MOA and AID wish to register?

3. Smallholder LR in Agricultural Cooperatives Under Category (B).

Membership of Agricultural Cooperatives is made up almost entirely of smallholders. The question of who has ownership rights to the land is a matter of contention. Cooperative managers say the land belongs to the Coop, not to individual member farmers (Roth et al., 1987). However, in most cases it appears that farmers were farming the land before the introduction of the Cooperative, although the motives for Coop registration remain unclear. Nevertheless, smallholders in Agricultural Cooperatives have expressed a strong desire to be able to individually register their land (Roth et al., 1987).

Two sub-issues need to be considered: First, as in question (1) should smallholders in Agricultural Cooperatives be allowed to independently register their lands? Second, will the Agricultural Cooperative retain any residual claims to land that may act to jeopardize the durability of land titles and the sustainability of the LR effort in the long run? The concern is that even if the Agricultural Cooperative agrees to individual farmer registration, it may still maintain latent claims in hope of reclaiming the land at a future date. A policy decision is thus required that offers clear guidance on the registration of lands held by the Agricultural Cooperatives.

4. Smallholder LR in CRASH Program Areas Under Category (C). The CRASH program was established by the government as a vehicle to give government employees and students from agricultural training colleges access to land on a temporary basis. The CRASH program as an institution has lost much of its influence since its inception. But according to LTC research the organization maintains it still controls land in the project area. Two issues are of

concern. First, will smallholders in CRASH program areas be given the right to register their lands, and will unsettled/unused CRASH program areas be released for smallholder development? Second, if the CRASH program legally controls no land but harbors latent claims of land rights, then conflicts may emerge that act to impede the transfer of rights to smallholders once the LR program gets underway. A clear policy decision needs to be made to guide LR efforts on CRASH program lands.

5. Registration of Land Owned by Women Household Heads. What allowances should be made for women who comprise about 20 percent of household heads in the project area. Studies by LTC showed that women are the least likely group to register their lands due to cultural factors that restrict their involvement in government programs. The inclination will be for women to have the parcel registered in brothers or sons names. Two issues are apparent. First, what is the position of the MOA and AID on the status of women and LR? Second, what procedures need to be implemented to ensure that women's parcels are registered in womens' names. The Land Law offers very little guidance on this issue.

Clearly, it will be difficult to register land in womens' names if women themselves prefer to register lands in the names of male kin. However, clear policies on this matter need to be decided, with clear standards set for the field staff undertaking land adjudication. Policies will need to be enforced to ensure that adjudication proceedings do not have a LR bias toward brothers or sons. Special efforts and resources may have to be devoted to educating and working with women to ensure that this bias does not take place. However, the feasibility of these efforts ultimately depend on the preferences of women, and on the extent to which the MOA and AID wish to see women's names recorded.

6. Institutional Conflicts. Time will need to be spent prior to the implementation of the LR program resolving these issues. This will require discussions between officials of the DLWR, the MOA, the National Union of Cooperatives, the CRASH Program Office, and AID. A balance will need to be struck between objectives of securing smallholder tenure rights to land on the scheme and the rigidities and self-interests of institutions who stand to lose land under the LR program. Frank discussions will not take place without dissent. This highlights the importance of resolving these issues before implementing the LR program to ensure that land registration proceeds smoothly, decisively and with minimal problems. The risk is that lack of clearly defined policies and standards will result in disagreements and institutional foot dragging that hamper program implementation. These problems run the risk of not only slowing the LR schedule, but also of creating doubts and uncertainties in the minds of smallholders that result in their withdrawing support for the project.

IV. Registration Procedure

A second set of issues pertain to the design and implementation of the proposed LR program. SWMIPP's (p. 30) guidelines for the nature of the LR program, coverage of registration activities, and source of funding are covered in the paragraph:

". . . The project will provide Somali shillings to fund a major LR effort in the Shalambod area. Although a full cadastral survey may be completed by UNDP during AID's PHASE 2, it is believed that a cadastral map would take too long and be too complicated to prepare to fulfill the learning process purpose of Phase 1. Instead, the GSDR will put in place simplified, low cost on-site procedures and deploy special teams for land registration, in a settlement-by-settlement campaign. It is expected that by the end of the campaign, at least 90 percent of small farmholdings in Shalambod . . . will be securely and officially registered."

The critical question that will need to be addressed prior to the project is what is meant by a ". . . simplified, low cost on-site procedure . . ." for land registration. LTC observed in its 1987 study that the LR procedures currently in place (e.g., the procedure of having the LR person at Genale checking with local village officials and the police, then posting the notice of intent to register lands for 30 days) offer good guidelines for identifying and resolving parcel disputes if they are enforced. If streamlined, these procedures offer a good base for implementing a LR program.

Mohamoud Mohamad Ali from the DLWR suggested the following procedure (in personal conversations) as a starting point for planning the registration program:

Have two vehicles and two gangs with one expatriate advisor traverse the scheme and register parcels. The teams would include: (a) someone from Mohamoud Ali's office; (b) head of the Azienda committee; (c) head of the Village committee; (d) the District Commissioner or a representative; (e) the Party Official or representative; (f) an official from the police; and (g) the MOA representative at Genale. The District Commissioner can perhaps be excluded since he is represented by the village committee. Registry titles, same as those used now, would be issued after approval and signing by the Minister of Agriculture.

While offering a broad framework for carrying-out the implementation of the LR program, several issues remain from a policy and operational perspective:

1. Court Involvement in Dispute Resolution in the LR Program. There is ambiguity in farmers minds concerning who has responsibility for land dispute resolution. In some cases disputes are handled by the Ministry of Agriculture, in other cases by the Courts. The Ministry of Agriculture views disputes as an administrative problem under its authority, and has clearly defined procedures governing dispute resolution through a series of appeals from the district to the ministerial level. The Courts also get involved in dispute resolution, and have a different set of appeals starting with the

regional courts up to the Supreme Court. Written summaries of court decisions have sometimes been submitted to LTC researchers as official documents of land ownership by farmers.

It is a policy issue whether the courts should be involved with land dispute resolution in the implementation phase of the LR program. In project or country contexts where courts have exclusive responsibility for dispute settlement, they are still not generally involved in adjudication as a field procedure. However, the courts may be involved for a last appeal, after a series of administrative appeals, usually to a very high level in the court system.

Lawyers are usually legally excluded from field adjudication proceedings. The aim of land adjudication is substantive justice, and because land registration is a field operation, fewer procedural and other formalities are needed. Lawyers tend to demand those formalities and to encourage parties to stand on their rights rather than accepting mediated solutions. Because the adjudication procedures have to comply with provisions in the 1975 Land Law and subsequent Land Acts, some form of participation by the courts in land adjudication committees may be advantageous and advisable. However, planners should avoid at all costs the possibility of multiple criteria or arbitrary LR procedures that may emerge as a result of both court and MOA participation.

2. Determination of Leasehold Rights. Criteria for determining leasehold rights to land should be clearly defined and agreed upon as part of the design phase of the LR procedure. Long term settlement and use of land, the criteria in current LR procedures, should provide a sound basis for establishing leasehold rights. This criteria is also the precedent used by the Courts in deciding land rights in the course of dispute resolution.

However, it is also the case that outsiders with official documents are claiming unregistered land in the project area causing land disputes with existing landholders who hold long term usufructuary rights. From a legal standpoint the government has full power to register currently unregistered lands, and to reallocate land under provisions in the 1975 land law.

This is an internal matter for the GSDR, but in order to foster farmers' faith and confidence in the LR program, two issues need to be raised. First, unless LR procedures are set up to handle all applications uniformly within one system, the possibility of multiple registration systems and multiple criteria for determining leasehold rights may emerge. The present situation allows outsiders the opportunity to sidestep the local office at Genale, and circumvent the use of long term usufructuary rights as the basis for determining leasehold rights. Second, how will the LR program handle the current claims of outsiders, and those which will inevitably come about as capital improvements get underway? One solution would be for the MOA to place a freeze on all new registrations in the area until the adjudication process is completed. The disputes now arising as a result of outsiders claiming land in the area points out the importance of the MOA and AID acting quickly to clearly define adjudication criteria and adopt LR procedures to deal with problems of land grabbing.

3. Multiple Parcel Ownership. The 1975 Land Law allows only one registered leasehold title per household. LTC research shows that multiple parcels are common in the project area, although the combined area of all parcels is less than the 30 hectare restriction specified in the Land Law. Farms on average have 1.4 parcels of land with a mean farm size of 2.2 hectares (LTC, 1987). Smallholders have been getting around the Law through lack of disclosure, or registering parcels in different family members names.

Theoretically, the one parcel restriction provides some disincentive against excessive land speculation and accumulation. However, the efficacy of this policy is constrained by high information costs and lack of government resources for enforcement, factors that are not likely to be rectified in the near to intermediate future. The provision has two main drawbacks. It provides a legal loophole for outsiders to gain access to smallholders' land. Also, by enforcing the ban on multiple parcel holdings significant economic losses would be imposed on the livelihood of small farmers.

In personal conversations with the DLWR, officials indicated that multiple parcel ownership is not a problem. An individual household may now hold as many titles as they wish along as the total area does not exceed 12 hectares. A number of questions emerge. What about farms between 12 and 30 hectares that have multiple parcels, but total land holdings are less than that restricted by Law? What cross-checks should be put in place to detect large farm sizes in the case of multiple parcel ownership? What procedures will be used in cases where landholdings of individuals exceed the 30 hectare "ceiling" specified by the Land Law? If land is expropriated, how is the land to be registered?

If the multiple parcel provision is not repealed, then imposing a restriction of one parcel per household in the LR program is likely to: (a) encourage landholders not to fully disclose all landholdings; (b) increase costs of leasehold determination; (c) lessen the utility of the resulting LR system for land information purposes and land use planning in the long run; and (d) result in farmer distrust or violence if parcels are reallocated based on the single parcel provision.

4. Parcel Sketches. Sketches of farmer parcels should still be required as a means of verifying claims. If names of farmers on adjoining parcels are

mentioned, a means is provided for cross-checking claims, and uncovering inconsistencies in the set of applications submitted to the Minister of Agriculture. However, one of the big expenses and causes for time delays in registering lands according to farmers has been the drafting costs for formal maps in the private sector. Either rough sketches drawn up by draftsmen in the field should be made to suffice, or the government will have to make an ample supply of draftsman available to expeditiously get the work done.

However, AID should not fund an exercise that is technically inferior to normal Somali LR practice. Rough sketches in the field would suffice if there is an authoritative registry map with entries on the photo map sheets. Formal parcel renderings could later be made from these sketches, although the realities of doing so, at some future date after the LR program is completed, would be a formidable task. Attempts should earnestly be made to resolve all boundary and ownership disputes at the time of adjudication and map drawing. This is an important purpose of an adjudication/demarcation exercise, part of the justification, and a unique opportunity to do so. Without ample draftsmen precise field measurements should be avoided. Aerial photography on an appropriate scale should provide reasonable validations of boundaries.

5. Land Maps for the Land Registry Office. Mohamoud Ali of the DLWR in personal conversations says that GEOD TOPO has aerial photographs of the Shalambood site at a scale of 1:10000 that were taken in 1985/86. GEOD TOPO, a local firm, has the capabilities of reproducing land maps from these. The DLWR has already produced similar maps for the Faraxanne area. Copies should be made from the aerial photographs of Shalambood using enlargements on a scale of perhaps 1:250 to 1:500 for use in the LR work. These scales proved to be satisfactory in the case of a LTC supervised LR program in St. Lucia for some micro parcel areas in the mountains. Since small parcel sizes are also

characteristic of smallholders parcels in Shalambood (e.g., .25 to 2 hectares), larger scales may be advisable. However, actual scales should be decided by the MOA with advice from the LR advisor. Further consideration will need to be given on how to integrate these maps into the land registry.

6. Requirement that the Minister of Agriculture Sign All Titles. LTC (1987) mentions both the requirement that the Minister of Agriculture sign all leasehold titles, and the highly centralized registration process as major causes for the delays and back-log that have accompanied past LR efforts. To ensure that the LR program is carried out in an expeditious manner, discussions should be held with the Minister of Agriculture on how procedures might be streamlined.

One alternative would be to decentralize the LR process to allow local authorities more discretionary power for granting leasehold titles. The minister can legally delegate this responsibility if he so chooses. But, this precedent has a major disadvantage. While decentralizing LR procedures may expedite LR activities in the field, it also further opens possibilities for misconduct or abuses of power by subordinates and local officials. This problem is exacerbated by the long distances and poor communications that separate officials in district and regional offices from the Minister. Some alternative procedure is needed which both maintains his ultimate authority and guidance, yet reduces the necessity of his signing upwards of 5,000 individual titles.

One suggestion is to have local authorities assume responsibility for verifying individual parcels within an Azienda and resolving all disputes over claims for one Azienda at a time. By including village representatives in the land adjudication process and by carefully reporting any irregularities to the Minister, opportunities for improprieties would be minimized. The entire list

of applications for the Azienda could then be submitted as a block of parcels for the Minister to approve. While one block of applications is in process, the registration team could proceed with the next Azienda. Care should be taken, however, not to hold up the application process if several difficult disputes cannot immediately be resolved. Priority should be given to those Aziendas that will first be affected by the construction contracts.

7. Registration Costs for Farmers. A sensitive issue concerns farmers' claims that the current LR process is very expensive, in the vicinity of S.Sh. 5,000 to 10,000. While these statements are probably exaggerated, the question remains why so few small farmers have registered their lands on the scheme if the costs are as low as stated in LR procedures, particularly when farmers have revealed a strong demand for registered title. This again is an internal matter for the DLWR, but from an operational perspective two issues emerge. First, how can adequate remuneration be given to parties involved in the LR program to encourage their participation and work performance? Second, how can the procedure be simplified in terms of number of authorities involved and steps that must be followed to lower the real costs of the LR program for the MOA or AID? Efficiency measures should in no case require farmers to bear any of the costs of the LR program. The ultimate objective is to make sure that all targeted lands are registered. Farmer participation and this objective would be jeopardized by any form of titling fees.

8. Farmer Education and Extension. From an operational viewpoint the LR team may find it difficult to sort out the true owners if smallholders harbor any distrust in the government or are uninformed at the time of LR of the new regulations. Smallholders in the area will probably display a great deal of concern over land registration, stemming from their distrust of donors and the GSDR, because of projects such as the neighboring Bhulo Mareta project which

have led to displacement of smallholders from their lands. Time will need to be spent with village and Azienda heads explaining procedures and objectives before the LR effort begins. Education will also have to be an integral part of the LR program if the titles are to endure in the longer run. LTC's experience in Kenya has been that farmers did not reregister titles over time with succession or land acquisition, causing an erosion of the LR system.

9. Additional Concerns or Issues. Various other questions will need to be considered when planning the LR program. How will adjudication of disputes be handled? Should the same record or data information systems currently in place in the Genale office be used, or should revisions be made. To what degree will parcel sketches and land maps of the project area be used for parcel title verification and data information? How can a more streamlined procedure for issuing land titles be devised that will circumvent the cumbersome and slow procedures that have impeded LR in the past?

10. Collaboration with Other Donors and LR Projects. The EEC and the World Bank are currently planning registration programs of their own in the Bhulo Mareta and Faraxanne areas. The DLWR is concerned that without some coordination, registration efforts for these various projects will be undertaken in a disjoint manner, lacking standardization. AID should not hold up their registration activities for the other donors for the sake of coordination. However, AID needs to recognize that it is out on the forefront of the registration efforts and the procedures it uses to conduct a registration program in the Shalambood area will either serve as a positive model for other donors to follow, or impose significant costs in Phase II of the project standardizing with what other donors have done. This issue is particularly important in view of the current World Bank proposal (i.e., the Pellekaan proposal) for a study of procedures to implement a national LR program.

V. Recommendations on LR Procedures

LTC has reservations recommending a LR procedure before the registration advisor covered under section VI is hired. However, from LTC experience and discussions with the DLWR and AID some suggestions have emerged that merit consideration:

1. Adjudication Procedure. The proposal (of the DLWR) of two teams working in the field registering parcels is reasonable. Teams should start with those Aziendas located on the fourth secondary canal that will be the first affected by the schedule of construction contracts. One or more adjudication officers should be in charge of supervising the teams and resolving land disputes. The two teams should work in one Azienda at a time verifying leasehold rights, filling out applications, preparing parcel drafts, cross-checking owners of neighboring parcels, and then moving on to the next parcel. Once a dossier has been completed for an entire Azienda, the block of applications can be posted in Genale for the required 30 day period.

2. Signing by the Minister. After the 30 day period, the entire dossier would be sent to the DLWR in Mogadishu for review and signing by the Minister. The dossier will contain the set of undisputed parcels in the Azienda requiring his immediate signature, and a list of those parcels that remain in the dispute process pending resolution. Under no circumstances should all leaseholds in the Azienda be held up until all disputes are resolved, unless disputes are resolved quickly (within several weeks) after they arise.

3. Adjudication Teams. The necessity to expeditiously implement the LR effort places high priority on keeping numbers of persons engaged in the LR process to a minimum. While the composition of the teams should be decided by

the DLWR and AID, LTC suggests that each team comprise: (a) an Adjudication Officer from the MOA, directly responsible to Mohamoud Mohamad Ali with full power at the district and regional levels to make on-site leasehold decisions and to mediate disputes; (b) one or two Demarcation Officers cum Draftsmen, responsible for ensuring that boundaries of every parcel are marked on the ground, and for parcel sketches that are properly numbered for identification on the land maps in the land registry; (c) a Local Committee of Elders which is responsible for resolving land disputes of fact. This may be the Azienda head or some other individual or group of individuals responsible for handling land disputes in the Azienda in which the LR activities are being administered; and (d) one driver. The Azienda head from an adjacent Azienda may also be present, particularly when parcels are being registered along the boundaries of an adjacent Azienda. If both teams work in close proximity, one adjudication officer moving between the two teams may be sufficient, and advisable to avoid the possibility of conflicting standards being applied by two personalities in the process of land adjudication. Besides the field teams, a Recording Officer is required to record claims in accordance with the principles laid down in the legislation.

4. Additional Personnel. LTC recommends that three additional persons rove between the two teams with various tasks of coordination, administration, filing, or dispute resolution: (a) an Expatriate LR Advisor or his personal assistant/representative; (b) a Legal Representative from the Merca court system (note reservations in section IV); (c) Head of the Shalambood Small Farmers Association; and (d) two Administrative Assistants working with the head of the Shalambood Small Farmers Association locating farmers, scheduling farmers to be at the Azienda, arranging farmers to be available at the site of the next parcel to be handled by the registration teams, and for project

administration and file management. Dispute procedures in the event that the MOA advisor, expatriate advisor, and court representative differ on leasehold status should be worked out by the MOA, AID and all parties concerned prior to implementation of the LR program.

Control and scheduling will be necessary to ensure that the LR teams move smoothly from one parcel to the next without being bothered by crowds or waiting for farmers to show. It is recommended that current LTC Somali staff working in the Shalambood area be used in the roles of personal assistant to the registration advisor and field assistants for the project. These staff have the knowledge of the area, are familiar with Azienda heads and farmers, and have proven expertise to handle tasks of LR administration, coordination, data management and record keeping.

5. Land Disputes. Most disputes should be resolved in the field among landholders and the local committee of elders, mediated by the adjudication officer. Provisions will be needed on how to handle land disputes that can not be settled through these normal channels or which arise during the subsequent 30 day period when the claims are posted in the Genale office. Mohamoud Mohamad Ali of the DLWR suggested a special committee to negotiate and settle such disputes. Normally the composition of this committee is defined in the legislation governing land registration. In the event that land legislation has not covered this contingency, the committee might include the: (a) District Commissioner or a representative; (b) head of the Azienda committee; (c) head of the village committee; (d) representative of the police; (e) representative of the courts; and (f) an MOA representative. If the dispute cannot be resolved by this local committee, a national committee of final authority is needed with communication lines back to the LR teams and AID for updates and status of dispute proceedings.

6. Special Facilities will be needed for office operations, including filing, mapping, record management, and routine administration and clerical work. Operations for managing, coordinating and completing up to 5,000 registered titles will have to be carefully planned to ensure that applications flow systematically and smoothly from the field to the national office. Several issues need to be addressed. First, should these operations take place in the district/regional land and water office in Genale, or in another office such as LTC is now using (the apartment that LTC is currently renting should be retained and refurbished for living arrangements for the expatriate advisor and visiting MOA, AID and LTC senior staff). Second, it would be an impossible task to duplicate files for up to 5,000 parcels at the district, regional, and national levels as current LR procedures now require (LTC's opinion is that this would be prohibitively costly in terms of paper, clerical work and manpower). Usually, there is one authoritative set of files to which modifications are made as transactions and inheritance take place. Its location depends on cost and convenience to landholders versus the costs of maintaining and adequately supervising a local facility.

The prospects of having up to 5,000 titles will necessitate reforms in current LR and filing procedures, otherwise time and paper requirements are likely to prove unmanageable. Who is to handle the routine costs of personnel administration and salary payments, filing cabinets, bookkeeping, arrangement for fuel and motor vehicle repair, purchases of paper, files and title forms, and other miscellaneous and sundry items that will be required under the project?

7. Logistical Constraints. LTC to date has operated in Somalia with minimal logistical or administrative assistance from AID or a collaborating Ministry. The costs in terms of administration and time lost by LTC personnel

have been exorbitant. If this same level of administration is imposed on a registration advisor, then (a) s/he will be spending time in Mogadishu, not in the field where s/he belongs; and (b) s/he will not be working at what s/he is supposed to be doing, assisting the MOA in administering a registration program effectively and expeditiously. Conversely, the MOA and AID have to recognize that logistics, supplies and administration are the weak links in the project, and have to make suitable arrangements for handling them. The budget submitted in this proposal includes only the cost of keeping the registration advisor in country. All costs related to supplies, administration and implementation of a registration program are assumed to be paid by the MOA or AID. The importance of recognizing the high logistical and administrative costs of this project cannot be given enough emphasis. They will have a crucial bearing on whether the project succeeds or fails.

VI. LR Advisor to the MOA

Details are provided on page 65 of the SWMIPP for an advisor to assist the MOA with an accelerated LR program:

". . . One contract for 6 person months of an Anthropologist to assist the MOA with the accelerated LR campaign in Shalambood. Due to the proposed duration of services, an IQC cannot be used. AID/Somalia will work with AID/W to explore other possibilities, e.g., a buy-in to one of AID's centrally-funded projects such as LTC . . ."

Given the issues brought up in previous sections, the time allotted for the advisor is too brief. There are also two distinct scopes of work implicit in the registration agenda:

1. A period of 3 to 4 months will be needed prior to actual implementation of the registration program helping the MOA and AID

resolve the policy issues in section III, procedural issues in section IV, and allowing time for the advisor to get settled.

2. A period of 20 to 21 months will be required following the pre-implementation period assisting the MOA in carrying out the LR procedures developed in (1).
3. It is recommended that Jon Unruh, the LTC resident supervisor in Shalambood, overlap with the resident advisor for 3 months beginning in June to assist the advisor and the MOA with project administration (vehicles, bank accounts, finances, supplies and logistics), acquaint the advisor with the Azienda heads, LTC staff and operations in Shalambood, and assist the MOA and advisor with planning of, and preparations for, the LR effort. The objective is to facilitate the advisor's transition to Mogadishu and to hasten implementation of the LR program.
4. It is envisioned that up to 3 person months of LTC consultancy time may be needed per year (half in Madison, half in Somalia), through the duration of the LR program to assist the MOA and the advisor on economic, sociological or legal aspects related to policy and procedural steps in items (1) and (2). An additional month of LTC staff time per year is needed for project administration.

The Scope of Work in Annex A involves someone who has experience working with Ministry officials on land registration policy, who has experience with the design of LR programs and their implementation, and who has the capability of planning a program with foresight of the needs of a more region-wide or national registration program in the future. It also requires someone who has had experience in implementing LR programs, who has developed skills in land surveying, land maps and land registry systems, and who has experience dealing

with the anthropological tenure issues that are mentioned in the SWMPP. The Scope of Work in Annex A and Budget in Annex B assume that one individual will handle both advisory roles.

Annex A

Scope of Work

Advisor to Assist MOA with Land Registration
Shabelli Water Management Project

This person will have the responsibility of working with the Department of Land and Water Resources in the Ministry of Agriculture and AID/Somalia in designing a program for registering lands under the Shabelli Water Management Project. The Advisor will resolve in discussions with the MOA and AID which landholders will be targeted and to design a low-cost registration program that will give those landholders secure title to their lands. Emphasis will need to be placed on speed of implementation in the design phase of the registration program to minimize the loss of smallholder lands due to land grabbing.

Approximately 4 months will be spent resolving policy and procedural issues associated with designing a land registration program. In the design of the program the advisor will assist the MOA and AID in the planning for personnel, vehicles, record keeping systems, maps, scheduling and logistics.

Once the registration program is planned, the advisor will spend 20 months assisting the MOA in implementing the registration program. The person will assist the MOA in coordinating registration activities in the field, coordinating the flow of applications for registration through district and national offices, and keeping AID apprised of any irregularities in the registration process and in the progress being achieved in securing smallholder land rights.

The advisor will also make recommendations to AID/Somalia on appropriate staffing requirements, record keeping systems, and administrative needs for upgrading the Land Registry Office at Genale. The person will be located in Mogadishu, but will be expected in later implementation phases of the project to spend considerable time on-site monitoring the registration work. Frequent travel between Mogadishu and Shalambood area is expected. Activities should be closely coordinated with the Land Tenure Research team currently involved with research on land registration issues in the Shalambood project area.



Annex B

LTC Budget for the Shalambood Land Registration Program^{a, b}

I. Expenses for a Resident Adviser to the MOA^c

| | |
|--|--------------|
| a. Two years salary at 50,000 per year | \$ 100,000 |
| b. Post-differential (25%) | 25,000 |
| c. Benefits (23.9% of salary and post-differential) | 29,875 |
| d. Educational allowances (books, tuition and boarding) assuming: | |
| i) one child of high school age at 20,250/yr | 40,500 |
| ii) one child of grade 1 to 8 at \$5,500/yr | 11,000 |
| iii) educational travel (2 round trips/yr at \$3,000) | 6,000 |
| e. Air freight (700 lbs) at \$7/lb and sea freight (7200 lbs) at \$5 per lb | 40,900 |
| f. Storage in U.S. at \$550/yr | 1,100 |
| g. Four round trip air fares between U.S. and Mogadishu for adviser, wife (or husband) and two children at \$3,000 per ticket | 12,000 |
| h. Four round trip air fares between Mogadishu and London for R&R, for adviser, wife (or husband) and two children at \$2,100 per ticket | 8,400 |
| i) DBAI (\$2.25/\$100 advisor's salary) and SOS (\$100/annum) | <u>2,450</u> |
| Sub-Total | \$ 277,225 |

II. LTC Staff Time/Consultancies

| | |
|--|---------------|
| a. Salary of Program Administrator (1 mo/yr for 2 yrs at \$3,000 mo) ^d | \$ 6,000 |
| b. Two-round trip air fares between the U.S. and Mogadishu for program administrator at \$3,000/trip | 6,000 |
| c. Salaries of LTC staff researchers and policy analysts (3 mos/yr, half time in Madison and half time in Somalia, at \$3,500/mo for 2 yrs) ^e | 21,000 |
| d. Extension of Jon Unruh's Employment for 2 mos at an annual salary of \$20,000/yr at 100% time | 3,330 |
| e. Benefits (23.9 percent of salaries under a, c and d) | 7,249 |
| f. Per-Diem at 1.5 mos/yr at \$52 per day in Mogadishu | 4,680 |
| g. Four-round trip air fares between the U.S. and Mogadishu (2 trips per year) for LTC staff at \$3,000 per trip | <u>12,000</u> |
| Sub-Total | \$ 60,259 |

III. In-Country Transport and Per-diem

| | |
|--|-----------|
| a. Purchase 1 Vehicle for Resident Advisor ^f | \$ 25,000 |
| b. Vehicle Maintenance and Upkeep (for non-American vehicle, otherwise covered by FSU) at 3,000/yr | 6,000 |

| | |
|---|---------------|
| c. Fuel for the vehicle at 50 km/day at 8 km./liter at S.Sh. 35/liter for 2 yrs (\$1.00 = S.Sh. 100) plus \$100/mo for oil, grease and tune-ups | 4,000 |
| d. Local in-country travel for LTC staff ^g | 1,000 |
| e. Per-diem in Merca (6 mos/yr at \$10/day, assuming current LTC residence/office is rented) ^h | <u>3,600</u> |
| Sub-Total | \$ 39,600 |
| IV. <u>Other Support Costs</u> ⁱ | |
| a. One portable microcomputer with printer, power transformers, voltage stabilizers, surge suppressors and other accessories including repairs | \$ 5,000 |
| b. Small portable generator for lights and power for residence/office in Merca including wire, light fixtures and shipment. | 1,500 |
| c. Communications (telephone, telexes, DHL) | 5,000 |
| d. Photocopying, computer software and supplies, medical clearances, physical exams, immunizations visas and other pre-contract expenses | 5,000 |
| e. Interview costs: communications, travel and time for visits to Madison | <u>2,000</u> |
| Sub-Total | \$ 18,500 |
| V. Sub-total | \$ 395,584 |
| UW Indirect Cost Recovery at 26% excluding vehicle | <u>96,352</u> |
| VI. Grand Total | \$ 491,936 |

Supporting Notes to Budget

The following assumptions are implicit to the planning of expenses for the resident registration advisor's position:

- a. It is assumed that all expenses associated with the implementation of the land registration program other than those expenses incurred for supporting the resident advisor (including personnel salaries, per-diem, vehicle purchase or rental, vehicle fuel and maintenance, cost of land maps and supplies for upgrading the land registry at Genale, and administrative costs for carrying out the land registration program) will be paid by the MOA and AID.
- b. Housing accommodation for the resident advisor in Mogadishu will be provided by AID/Somalia through the field support unit (FSU) out of funds already allocated to FSU through the Shabelli Water Management Project. The MOA will continue to rent the current LTC apartment in Merca as a residence and office. The resident advisor will have access privileges to the U.S. Embassy's health unit, check cashing, pouch services and commissary.
- c. Office space will be provided within the Ministry of Agriculture at the Mogadishu headquarters.
- d. One month of a program administrator's time and one trip per year are included to provide the registration advisor with administrative assistance in work with the MOA, AID/Somalia and AID/W.
- e. Three person months of LTC staff time (half in Madison, half in Somalia), covering two trips per year of approximately 3 weeks each, are included to provide the MOA and advisor with legal and economic expertise in dealing with the policy and procedural issues associated with designing and implementing the land registration program.
- f. The registration advisor will need a project vehicle for work related purposes. Due to time constraints it will not be possible to purchase and import a U.S. manufactured vehicle within the time horizon of this project. The closing of the foreign exchange auction precludes buying dollars to purchase a Toyota on the local market. Purchasing a vehicle with shillings according to Mohamoud Ali would be prohibitively expensive. The budget assumes that a used vehicle, purchased from one of the 19 departing AID employees this year, be bought locally from an expatriate who is ready to depart. After the project is completed, the vehicle would be turned over to the MOA.
- g. Figure is budget to cover costs of local transport in Mogadishu.
- h. It is expected that most of the advisor's time during the first 2 months in Somalia will be spent in Mogadishu working with the MOA and AID preparing for the implementation of the registration program. In the

implementation phase over the subsequent 10 to 16 month period, about half the resident advisor's time will be spent in Mogadishu, and half spent in the field (Shalambood) supervising the registration effort. During the last 6 to 12 months of the project, 75 percent or more of the advisor's time will be spent in Mogadishu moving dossiers of title applications through the system, getting titles signed and returned to farmers, and assisting the MOA with improving the land registry system.

- i. A micro-computer is planned to provide the advisor with word processing capabilities for memos and reports, and data management capabilities for working with landholder population lists in the project area. The equipment is not intended to computerize registration files in the land registry. Equipment will be turned over to AID/Somalia after the project's completion.

