THE NATIONAL LAND LAW SYSTEM OF ZAIRE

by

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A report to the University of Wisconsin Land Tenure Center and USAID/Kinshasa

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I. Introduction

The purpose of this report is to describe the national land law system in Zaire and to suggest its possible implications for agricultural development. The report was made at the request of the University of Wisconsin Land Tenure Center and USAID/Kinshasa as part of a series of studies preliminary to an agricultural development project to be undertaken in Bandundu Region (Area Food and Market Development Project, 660-0102). In a country as large and diverse as Zaire, land tenure conditions obviously differ greatly from locality to locality. Nonetheless, a national system of written land law does exist in the country, and the purpose of this study was to focus on that system as established by national legislation.

To prepare the study, I visited Zaire from April 21 to April 28, 1985, spending four days in Kinshasa and three days in Bandundu City, the capitol of Bandundu Region. While in Zaire, I consulted with a Zairian counterpart lawyer, Maitre Bokenge-Mpote, various government officials, and other knowledgeable persons. A list of the persons contacted in Zaire is attached as Appendix A. The purpose of the visit to Bandundu City, approximately 400 kilometres from Kinshasa and 10 hours by Landrover, was to gain some idea of how the written law is actually applied

in the area of the proposed development project. At first, Bandundu officials were unwilling to provide information without authorization from the governor of the region. When Governor Sambia was briefed on the project, he gave full approval and we obtained complete cooperation from local officials. Subsequent studies connected with the project should receive similar cooperation.

In addition to legislation, much information has been obtained from secondary sources, a bibliography of which is attached as Appendix B. I also drew on my earlier residence in Zaire during 1968-71 and my own research on Zairian law.

II. Historical Background to Land Law in Zaire

A complete understanding of current Zairian land law requires a brief examination of its evolution from colonial times. Much of the present law is either a legacy from or a reaction to the land law system established by the Belgians.

Prior to the establishment of the Congo Free State in 1885, which resulted from the Berlin Conference of the same year, land in Zaire was governed by the customs and laws of the area's numerous ethnic groups. Individual ownership of land, in the European sense of the term, was unknown. Instead, land belonged to the lineage group through its ancestors. An important figure in most indigenous systems was the "land chief" (chef de terre), who had authority over the allocation of land in individual villages. Cultivators had usufructory rights in the land, which they farmed through shifting cultivation. Land appears to

have been abundant, allowing villagers to leave plots fallow for up to twenty years.

A. The Congo Free State (1885-1906)

One of King Leopold II's primary objectives in establishing the Congo Free State was to exploit the area's natural resources. Accordingly, shortly after the creation of the Free State, he set down the rudiments of a land law system that would allow such exploitation to take place. He decreed that "vacant lands must be considered as belonging to the state." (Decree of July 1, 1885, Article 2). Thereafter, he enacted legislation providing that "lands occupied by the native population, under the authority of their chiefs, shall continue to be governed by local customs and usages" (Decree of September 17, 1886, Article 2). These two acts laid the foundation for the dual system of land law that continues to this day.

The law recognized two categories of land: (1), lands occupied by the "natives", and (2), lands owned by the state. Lands in the first category were to continue to be governed by the customary law of the various indigenous groups occupying them. Under Free State legislation, no contract or agreement made with "natives" for the occupation of land would be recognized or protected by the government. If Europeans were to obtain rights in land, they had to deal with the Free State authorities, rather than with the indigenous population.

The second major category of lands consisted of those owned by the state. As indicated above, the law considered all "vacant lands" to be the property of the state. Legislation of the

period did not define the meaning of "vacant" land, nor did it set down guidelines for determining whether land was or was not "vacant". In practice, it seems that all land not under cultivation or subject to settlement was considered vacant. In view of the fact that traditional agricultural employed shifting forms of cultivation, it has been argued that much of the land which the Europeans considered "vacant" was in reality fallow land subject to eventual use by indigenous cultivators and that consequently it was not really vacant at all. Indeed, certain scholars claim that in pre-colonial times vacant land was virtually non-existent since almost all land was claimed by one group or another.

Lands belonging to the state were considered to be within its "domaine," a concept of European civil law pertaining to all of the property of the state. Under European civil law, the State's domaine consists of two parts: the public domaine and the private domaine. Lands within the public domaine are devoted to use by the public at large, and they include the seashore, navigable rivers, roads and streets, canals, parks, markets, schools, etc. A significant characteristic of public domain land is that it is "inalienable and imprescriptible." Thus, it may not be sold or otherwise conveyed, except by authority of a specific law.

All state land not specifically within the public domain was considered to be within its private domain. Generally speaking, under European law, the state is free to grant licenses and concessions in private domaine lands to individuals and private concerns. Through the use of the European legal concepts of "vacant

land" and "domaine", the Congo Free State was able to establish legal rights over vast areas of the Congolese territory. Land within the domaine of the state was to be governed by the written legislation, rather than by indigenous customary law.

A third major element in establishing a national land law system was the introduction of land registration. Once land became a part of the state's domaine, it was no longer governed by customary law and might be the subject of grants and concessions to European enterprises. In order to give investors security of title, the Free State, in 1886, instituted a land registration system based on the Australian Torrens Act, a system which would also be introduced in several other colonies in French-Speaking Africa. The Torrens system provided for the creation of a land registry in which individual units of land would be recorded and their precise boundaries and limits unambiguously defined. Transactions affecting a particular parcel of land had to be recorded on the appropriate page of the register to be valid. Rights in lands could only be established by means of registration. Unregistered rights had no legal effect. Under the Torrens system, rights in land are transferred not by deed, but by recording them in the permanent registry. The individual owner of the land holds a certificate of title issued by the land registry as proof of his ownership.

Such a system necessitates surveys and the precise delimitations of individual parcels of land. Its establishment in a given area is therefore costly and requires skilled administration.

The introduction of a Torrens registration system is probably easiest in "new countries" where pre-existing land titles held by numerous persons are not a consideration. In such "new countries", the ultimate source of land rights is usually the state which begins the system by a process of grants or sales to individuals. A similar situation existed in the Congo Free State. The State, having established its ownership of vacant lands, then proceeded to make grants and concessions of those lands to individuals and companies. The lands so granted were first delimited and then registered. Subsequent transactions in such lands were to be recorded in the registry. Europeans occupying lands by virtue of agreements with indigenous chiefs were requested to submit proof of justified occupation so that their interests in land might also be registered. In practice, the registration system applied primarily in the towns and to rural lands held by Europeans. It did not apply to lands held by Africans.

The nature of the rights in the land which the Free State granted to individuals and enterprises varied. Some obtained a right of "ownership" (propriété), that is, absolute ownership of land in the European civil law sense. Others received a concession by which they obtained a "right of enjoyment" on the land for periods of from 30 to 99 years. Generally, the law considered the indigenous population as having only "rights of occupancy" in unregistered lands subject to customary law. The law never actually specified who "owned" such lands. The vast majority of lands in the country remained subject to customary law and were not brought within the registration system.

B. The Belgian Congo (1908-1960)

The abuses and financial difficulties of the Congo Free State ultimately led Belgium to annex the territory as a colony. That transformation did not sweep away the foundations of the land law system established by the Free State. Indeed, the Treaty of Cession of November 28, 1907, by which Belgium took over the Free State, provided that all of the property in the public and private domaine of the state passed to Belgium, except for those rights which had been granted to the benefit of private persons and companies by registration. Crawford Young has estimated that Leopold II made grants and concessions of lands having an area of more than 27 million hectares, out of a total land area in the country of 234 million hectares. After the annexation, the colonial authorities renegotiated and reduced many of the concessions, but they also made new grants. As of 1944, Europeans controlled a total of approximately twelve million hectares of land in the Belgian Congo. (Politics in the Congo, p. 227.)

The thrust of colonial legislation was to reform and develop the land law system inherited from the Free State; however, the making of grants and concessions of land by the authorities continued to be a basic element in the system. The colonial government enacted legislation to control that process, both with regard to its procedures and its substantive principles. For example, the law generally provided that the larger the area of land to be granted, the higher the authority required to approve the grant. Moreover, in granting a concession to a particular

individual or enterprise, the administration was to take account of the amount of land already held by that person or enterprise.

Grants and concessions of land were made through agreements that were freely negotiated between the colony and the applicant; however, the law required such agreements to include a "repurchase clause" and a "forfeiture clause." In practice, the colony rarely invoked the clause for forced repurchase. The forfeiture clause provided that the concession would be forfeited to the state if the concessionnaire did not fulfill his obligations as specified in the concession contract. In addition, to safeguard the rights of the indigenous population, a Decree of May 31, 1935 stipulated that any grant or concession of domaine lands had first to be subject an inquiry (enquête) according to lawful procedures. The purpose of this inquiry was to determine the "vacancy of the land" in question, as well as the nature and extent of the rights that the "natives" might have upon those lands. The inquiry was also to delimit precisely the boundaries and area of the parcel of the land to be granted or conceded. This process was known as a "vacancy inquiry" (enquête de vacance), and it continues to be a part of Zaire's present land law.

To govern the transfer and holding of registered land, the Belgians introduced Book II of the Civil Code on property by a series of decrees between 1912 and 1920. Like its European counterparts, the Code defined the various types of property, the attributes of ownership, and the way in which the property might be transferred. It should be stressed, of course, that the Code

applied only to registered lands, not to the vast areas held under customary law by indigenous groups.

After the Second World War, as the colonial era drew to a close, land issues and pressures on the land became of increasing concern. A gesture was made to allow Africans to secure property rights organized by written legislation through a decree of February 23, 1953, stating that "any Conglese may enjoy all property rights organized by a written legislation." Unfortunately, the authorities never established the mechanisms to execute this decree. As a result very few Conglese became owners of registered property subject to written legislation. The inability of the Conglese to obtain property rights in land, despite this law, gave rise to bitter recriminations by various nationalist leaders, including Patrice Lumumba.

C. The Evolution of Land Law After Independence

The land law system established during the colonial period remained in effect after independence in 1960. At that time, the newly independent state faced three fundamental land problems: (1) the question of the status the land granted or conceded prior to independence to foreign interests; (2) the status of the lands held by Africans under customary law; and (3) the status of the land registration system providing for the determination of individual rights in land under the written law, particularly the ability of nationals to obtain such ownership rights.

Although the status of the pre-independence grants and concessions was recognized as a problem at independence, several years passed before an attempt was made to resolve it. The

government expressed its intent to do so in the 1964 Constitution which promised a "national law that will govern supremely the legal regime of the land grants and concessions made prior to June 30, 1960". Ultimately, that law took the form of the famous "Bakajika Law", enacted in 1966.

Since many of the preindependence concessions covered vast areas and were not to terminate until the end of the century, the government considered that the country's primary economic resources remained under foreign control. Moreover, it argued that the Europeans were doing little to develop those resources for the benefit of the country. It was alleged that many Europeans had abandonded their property, leaving it in a state of legal limbo, inhibiting further development. Viewing the continuation of these grants and concessions as a deprivation of economic independence, the Congolese Government in 1966 issued the Bakajika Law by which it "retakes the full and free disposition of all land, forest and mining rights conceded or granted prior to June 30, 1960."

The purpose of the Bakajika Law was not to cancel the rights of the holders of the preindependence grants and concessions, but rather to give the government an opportunity to review the status of those rights and either to (1) reaffirm them completely; (2) modify them; or (3) reassert completely government ownership of the property in question. As a result, the law provided that the holders of the grants and concessions were to apply to the government for new assignments or concessions. Such requests were to include all of the necessary information to permit the

authorities to evaluate conditions for using the land as well as the future objectives of the applicant. This process did take place to a certain extent; however, the Bakajika Law was never fully implemented. For example, Kalambay has found that if one compares the total area of the lands granted and conceded prior to December 31, 1959, with the area of the lands that were either confirmed or reviewed (as set forth in Zaire's Official Journal), one notes that the former far exceeds the latter. (Droit Civil, volume II, Regime Foncier et Immobilier, p. 45.) It is claimed that the difficulties in applying the Bakajika Law were caused by the lack of trained government personnel and the loss of documents necessary to establish the existence of relevant grants and concessions. As a result, the government was not able to make a complete inventory of the land subject to grants or concession, to know their precise area, to determine their use, and to ascertain, on the basis of land registry records, whether such lands had been abandoned or whether they had reverted to state ownership.

The Bakajika law itself allowed the holders of such grants and concessions to continue to pursue their activities on the land until they had received notification from the government of its decision. In many cases, such notification was never made. Moreover, those whose grants were confirmed by this process, obtained absolute ownership (propriété) of the land, and any claim to state ownerships was extinguished. Thus, although the review process did result in certain adjustments to certain pre-independence grants and concessions, the land law system

established prior independence experienced relatively little change.

Following the Bakajika experience, Zairian law continued to recognize four general categories of land-holding, as it had since the formation of the Free State.

1. State-owned lands included within the public or private domain;
2. Land owned by individuals and companies and registered under the land registration system;
3. Concessions (less than ownership) held by enterprises for varying periods of time with ultimate ownership in the State;
4. Lands occupied by indigenous populations in accordance with indigenous customary law.

The concept of ownership (propriété) in European law is central to its land law system and is generally defined as "the right to enjoy and dispose of a thing in the most absolute way, provided that no use is made of it forbidden by the law or regulations." To vest such absolute rights over vast areas of the land in private interests, particularly foreign private interests, was considered problematic by the Zairian government. It was claimed that such absolute rights of ownership in land and natural resources prevented the government from taking measures necessary for development of the country in the best interests of its people. In this regard, an often cited example by President Mobutu himself, was the opposition by the Societe du Credit Foncier Africain, the owner of a strip of land some 37

kilometers along the Zairian coast, to the installation on that land of a much needed government cement plant.

Believing that colonial land law was still being used to thwart development, the government, in the early 1970s, took steps to change the fundamental basis of the country's land law system. The first step was a constitutional amendment of December 31, 1971 which provided:

> The Zairian land (sol) and subsoil, as well as their natural products, shall belong to the State.
>
> The law shall fix the conditions for their assignment and concession, for their retaking and retrocession. However, the retaking or the retrocession in case of non-development (non mise en valeur) shall not give rise to the payment of any indemnity. (Law No. 71-008 of December 31, 1971 amending the Constitution.)

To implement this Constitutional amendment, a law (Law no. 71-009 of December 31, 1971) was enacted on the same day stipulating that the Republic of Zaire retook the full and free disposition of all rights in the land, the subsoil, and natural resources granted or signed before January 1, 1972 to physical or legal persons who had not assured their development. It went on to provide that the registration certificates relating to such lands were cancelled. Furthermore, it repealed the Bakajika Law. As a result of these changes, all lands in Zaire legally became state property. Since the state owned all land, rights in land held by individuals were to be less than full ownership

(propriété). While retaining ultimate ownership, the State could grant concessions in land to individuals.

On the basis of these fundamental principles, Zaire enacted legislation in 1973 to organize a new land law system for the country. That legislation is entitled "Law Providing for a General System of Property, Land and Immovable System, and Securities System" (Law no. 73-021 of July 20, 1973 - Loi Portant Regime General des Biens, Regime Foncier et Immoblier, et Regime des Suretes.) A lengthy document of some 346 articles, as amended in 1980 (Law no. 80-008), this law, which will be referred to herein as the General Property Law, establishes the current land law system in Zaire. It consists of five parts. Part I (arts. 1-52), entitled The Law Governing Things (biens), sets down general principles applicable to movable and immovable property and the way in which rights in things may be acquired. Part II (arts. 53-218) is entitled the Land and Immovables System, and it governs rights in land and immovable property. Part III (art. 219-243), deals with the transfer of rights in land and their registration. Part IV. (arts. 244-366), entitled The Security System, concerns the rules for the various types of property rights securing debts, including mortgages and pledges. And finally, Part V (arts. 366-396) enacts transitional provisions.

To implement the General Property Law, the President promulgated a series of ordinances the following year:

(1) Ordinance No. 74-148 of July 2, 1974 providing executory measures for the General Property Law;

(2) Ordinance No. 74-149 of July 2, 1974 fixing the number and limits of land districts of the Republic of Zaire;

(3) Ordinance no. 74-150 of July 2, 1974 fixing the model for registration books and certificates;

(4) Ordinance no. 75-151 of July 2, 1974 fixing the tariff of charges in matters of land and immovables, water and registration;

(5) Ordinance no. 74-152 of July 2, 1974 relating to abandoned and non-developed property and other property acquired by the state by operation of law.

III. The Legislative Model of the Land Law System

A. The Principle of State Ownership of All Lands

As a result of the 1971 Constitutional amendment and the 1973 General Property Law, the State owns all lands in Zaire. Thus, Article 10 of the present Constitution provides as follows:

> "The Zairian soil and subsoil belong to the State. The conditions for their concession shall be fixed by law."

From this provision, it is clear that the State owns all land, and that individuals may only obtain a concession in land, not a right of ownership (propriété).

At the same time, it should be noted that the Constitution's Article 21 (which predates Article 10) also stipulates:

> "The rights of individual and collective ownership shall be guaranteed. These rights may not be infringed except by virtue of the law and for reasons of

general interest, subject to a prior and equitable indemnity to be paid to the injured holder of these rights."

The precise interplay of article 10 and article 21 is not altogether clear. The adoption of article 10 had the effect of taking away existing ownership of land, but no provision was made for compensation.

Article 53 of the 1973 General Property Law further elaborates on the principle of state ownership of all lands. It provides: "The land (sol) is the exclusive, inalienable and imprescriptible property of the State." By declaring the state's rights in land to be "exclusive," this provision has the effect of prohibiting all private ownership of land in Zaire. To own property, according to article 14 of the General Property Law is to have "the right to dispose of a thing in an absolute and exclusive manner, . . ." Any rights held by individuals in land must be less than absolute ownership. Such rights, which are of varying types, fall generally into the category of "rights of enjoyment," according to the statement of reasons accompanying the General Property Law.

The law also prohibits individuals from obtaining ownership rights in land in the future, since article 53 specifically provides that the ownership of rights of the State are inalienable and imprescriptible. According to a report of one of the legislative study commissions, this provision represented a return to "authenticity" with regard to the conceptions of land-holding in Zaire since African tradition considered land to be inalienable

ancestral patrimony, a conception completely opposed to colonial ideas of private ownership of land. Perhaps a more realistic reason for the law was a desire to end once for all the various rights in land granted to foreign interests during the colonial period.

Although the Constitution and the 1973 General Property Law prohibit the State from granting individuals ownership rights in land, the law does allow the state to grant individuals concessions by which they may obtain "rights of enjoyment" in land. Subsequent sections of this report will discusss the nature of concessions and rights of enjoyment.

The 1973 General Property Law automatically converted pre-existing rights in land. Article 367 provides that all land ownership rights that had been properly acquired by a Zairian physical person before the enactment of the law are converted, to the extent that such rights have been legally established through development (mise en valeur), into a "right of perpetual concession." Furthermore, land ownership rights properly obtained by foreign persons and by legal persons created by public or private law before the 1973 General Property Law are converted into a new real right which is to be called an "ordinary concession." (Art. 372) And finally with regard to lands occupied by a local communities in accordance with customary law, Article 385 provides that such lands are to become domain lands (i.e., State lands) from the effective date of the enactment of the 1973 Law. Thereafter, the nature of the rights held by indigenous populations in such lands are considered as

"rights of enjoyment" (droits de jouissance). More important, Article 387 of the 1973 Law stipulated that such rights of enjoyment acquired on these lands are to be regulated by an ordinance of the President of the Republic. As of May 1, 1985, twelve years after the enactment of the General Property Law, the President has not seen fit to enact such an ordinance, probably because the status of traditional land rights is a highly-charged political issue.

As a result of the 1971-73 reforms, the legal dichotomy that had existed since 1885 between state owned lands and all other lands disappeared. Whereas colonial legislation never specified who "owned" lands occupied by the indigenous population, the answer is now clear under current Zairian law. All lands now belong to the State. Individuals have only rights of enjoyment in land. Those rights of enjoyment are derived from two basic sources: (1) concessions granted by the State, and (2) indigenous customary law.

It should be noted, however, that although the law does not recognize private ownership of land it does recognize private ownership of certain types of immovable property (notably buildings and other forms of construction) affixed to the land. The establishment of such ownership rights in immovables requires that they be recorded on the concession certificate covering the land on which they are located. (Art. 219.)

B. The Management of State Lands

Administratively, Zaire is divided into eight regions (of which Bandundu is one) as well as the city of Kinshasa which

operates basically as a separate region. Each region is divided into sub-regions and cities (villes). The sub-region is divided into zones, which consist of collectivités. A collectivité may be roughly likened to a county in the United States. A collectivité usually includes several villages which are officially known as "localités", and they are bound together in groupements, with the chef de groupement at its head. The localité (village) is the country's basic administrative unit.

The responsibility for the application of the General Property Law and land policy rests with the Department of Land Affairs (Departement des Affaires Foncières), headed by a Commissaire d'Etat. The Department corresponds to a government ministry and the Commissaire d'Etat to a minister. To implement the land law system, the law stipulates that Zaire is to be divided into "land districts" (circonscriptions foncières) to be determined by the President of the Republic. By ordinance no. 74-149 of July 2, 1974, the President has declared that the land districts shall coincide with the number and the boundaries of the countries' regions. (Administratively, Zaire is divided into eight regions, of which Bandundu is one.) In addition, the city of Kinshasa is established as a separate and distinct land district. Each land district is to be administered for purposes of the law by a civil servant known as a "conservator of immovable titles" (conservateur des titres immobiliers). This official is in charge of the region's land registration system. A separate registry exists for each district, and lands within the district are to be registered at that registry. (Arts. 222-223.)

The Department of Land Affaires is divided into several services: (a) Service of immovable titles, headed by a Conservateur en Chef, that deals with land registration; (b) Survey Service, which delimits lands, prepares plans, and carries out surveys; (c) State Lands Service, which manages state lands and grants concessions; and (d) Land Dispute Service, which seeks to resolve conflicts over land. In each region there is a conservateur appointed by the Commissaire. Responsible to the regional conservateur are chefs de service for registration, surveys, state lands, and disputes in that region.

Following traditional European classification, the General Property Law provides that all state property is included either within its public domain or its private domain. The public domain of the state consists of all lands which are affected with a public use or service. Such lands may not be subject to concession unless they are properly disaffected of the public use. All other lands constitute the private domain of the state. It is from the private domain that the state may grant concessions to individuals. Accordingly, article 57 of the General Property Law provides that lands in the private domain may be the subject of perpetual concessions, ordinary concessions, or land servitudes. The concession is therefore the principle mechanism by which individuals may gain rights in Zairian land.

Lands within the state's private domain are further subdivided into urban lands and rurals lands. Urban lands are those included within administrative entities which the law declares as

"urban". Rural lands are all other lands. The significance of the distinction, it will be seen, relates to the conditions for concessions of the two types of land. That is to say, the conditions and procedures for concessions of urban land differ from those applicable to rural lands. Since the concession has now become central to the development and management of Zairian land, an examination of the concession system is warranted.

C. The Concession System

1. In General

According to article 61 of the General Property Law, a concession is a contract by which the state grants to a collectivity, a physical person, or a legal person of public or private law, a right of enjoyment (droit de jouissance) upon land under the conditions and modalities provided for by the law and executory measures. Concessions may be granted for value or without charge. Moreover, as indicated above, the procedures and conditions for granting concessions on urban land differ from those applicable to rural lands.

The specific official authorized to grant land concessions depends upon the size of the concession and the nature of the land to be granted. In general, the larger the area to be granted, the higher the official required. For example, article 221 requires that contracts for rural land concessions equal to or exceeding 2,000 hectares or urban land concessions equal to or exceeding 100 hectares, be signed by the Commissioner of State for Land Affairs and approved by a law. For rural land concessions of between 1,000 and 2,000 hectares and urban land con-

cessions of between 50 and 100 hectares, the concession contract must be signed by the Commissioner of State for Land Affairs and validated by an ordinance of the President of the Republic. For rural land concessions of between 200 and 1000 hectares and urban lands of between 10 and 50 hectares, the contract must be signed either by the governor of the region or, for lands situated within the City of Kinshasa, the Commissioner of State and thereafter validated by an order of the Commissioner of State for Land Affairs. For rural lands of less than 200 hectares and urban land of less than 10 hectares, the contract must be signed by the governor of the region. In the case of rural lands of less than 10 hectares and the urban lands of less than 50 ares (i.e. 5,000 square meters), the governor of the region may delegate his powers to make concessions to the Conservator of Immovable Titles.

2. Urban Land Concessions

The procedure for making concessions of urban land differs from the procedure applicable to rural land.

In order to make a concession of land in urban districts, the Governor of the region or, in the city of Kinshasa, the Commissioner of State for Land Affairs, must establish a "subdivision" plan (plan parcellaire) which sets out the boundaries of the various lots in an area to be granted. This area is then specifically offered to the public through an order of the Governor of the region or the Commissioner of State for Land Affairs. Copies of the "subdivision plan" are made available for public inspection. The state then receives requests from the

public to obtain concessions on individual lots. Normally, such requests are addressed to the Conservator of Immovable Titles in the land district in which the land is located; however, in Kinshasa, the request should be addressed to the head of the land division for the city.

3. Rural Land Concessions

The law specifically requires that any concession of rural land be preceded by a preliminary inquiry. Article 166 states: "In order to safeguard the rights of rural populations, all transactions on rural land shall be subjected to a procedure of preliminary inquiry as provided by the law." The nature of such a "preliminary inquiry" is set out in article 193. Similar to the "vacancy inquiry" of colonial times, the preliminary inquiry has the purpose of determining the nature and extent of rights that third parties may have on lands requested for concession. In rural areas, the specific rights in question are, of course, those granted by customary law to indigenous populations cultivating or using the land. The preliminary inquiry only takes place upon authorization of the local subregional commissioner, and it is conducted by the zonal commissioner or a civil servant or agent authorized by him. As provided by article 194 of the General Property Law, the inquiry is to accomplish the following:

(1) To determine the boundaries of the land requested;

(2) To make a census of the persons who are located on the land and are carrying on any activity there;

(3) To describe the situation of the land and inventory natural attributes, including woods, forests, water courses, etc.;

(4) To listen to persons who have made claims or other observations; and

(5) To register and study all written information.

The inquiry is to be publicized in the locality so as to give all individuals an opportunity to be heard. Although one of the primary objectives of the inquiry is to determine the extent of the rights under customary law of indigenous groups, it is interesting to note that the new General Property Law, unlike the earlier decree of 1934, makes no reference to chiefs or other traditional tribal authorities. As will be seen, however, the local chef de terre in practice plays a predominant role in preliminary inquiries although he is nowhere mentioned in the law itself.

Upon completion of the inquiry, the responsible official must prepare a written report of his findings within one month and send it to the subregional commissioner, with a copy to the person requesting the concession. Upon receipt of the report, the subregional commissioner will make appropriate comments thereon and then transfer the entire file to the governor of the region. If the subregional commissioner is not satisfied, he can request that the inquiry be done again. If the governor feels that the file is adequate, he then transfers it to the government attorney (procureur de la republique) attached to the Court of Grand Instance. If this legal official agrees, then the inquiry

is formally closed. The administration may thereafter take measures to grant a concession to the applicant.

4. The Obligations of the Concessionaire

The concessionaire has certain obligations which he must fulfil in order to obtain and hold his concession. First, he must pay an annual rental or fee (redevance). The precise amount to be paid is established by ordinance (see annex to ordinance no. 74-148 of July 2, 1974) and will depend on the locality in which the land is situated, the size of the concession in question, and its use. For example, the annual rental or payment on agricultural lands not exceeding ten hectares is 3 zaires per year per hectare.

The second principle obligation of the concessionaire is occupation and development of the land. Under the General Property Law, the concessionaire must take occupation of the land within six months of signing the contract and he must begin its development within 18 months. The purpose of these two conditions is to avoid land speculation. The nature of the obligation to develop the land (mise en valeur) is stipulated in the concession contract, and the law and regulations establish the principal contractual terms. In general, the requirements for development vary according to region, the nature of the land, its use, development plans, etc.

Because of the requirement of development (mise en valeur), the establishment of concessionary rights passes through two distinct stages: (1) a period that one might call a "provisional concession," during which the concessionaire must undertake the

required development necessary; and (2) the granting of definitive concessionary rights when the government is satisfied that the required development has taken place. During the first period, the concessionaire holds a type of lease. Article 154 of the General Property Law specifically provides that rural lands having an area of more than 10 hectares and to be used in agricultural or animal husbandry may not be made the subject of a concession unless the concessionaire has held the land by virtue of a "provisional title of occupation" for at least three years. However, the competent authorities may grant a definitive concession before the end of three years if the conditions for development have been met. Thus, a person desiring a concession must first occupy or rent the land for a period of time provisionally before receiving either an ordinary or perpetual concession.

5. The Legal Nature of Concession

The General Property Law provides for two types of concessions: perpetual and ordinary.

a. Perpetual Concessions

According to article 80 of the General Property Law, a perpetual concession is a right that the state grants to a physical person of Zairian nationality to enjoy his land indefinitely as long as the legal conditions are satisfied. Perpetual concessions are not available to foreign nationals, foreign corporations, or Zairian corporations. The holder of a perpetual concession has the right to full enjoyment of the land for an unlimited duration of time. As a result, he may acquire

an ownership in everything which is incorporated on the land and has the right to construct, plant and enjoy the benefits on the land. As a perpetual concessionaire, he may also transfer, rent, mortgage or alienate his rights in whole or in part. In case of a total transfer, the new perpetual concessionaire is subrogated to the rights and obligations of the original concessionaire.

b. Ordinary Concessions

Unlike a perpetual concession, an ordinary concession exists for a period of time which may not exceed 25 years; however, it may be renewed under conditions specified by law. (Art. 70.) As indicated earlier, corporations and non-Zairian nationals are limited to ordinary concessions.

By and large, ordinary concessions are similar to perpetual concessions except that they are limited in duration. The General Property Law provides for five legal forms of ordinary concessions. They include emphyteose, superficie, usufruit, usage and location. The details of each form are not really pertinent to the purpose of this report. Like the perpetual concessionaire, the ordinary concessionaire may transfer, mortgage, or freely alienate his rights. He may also obtain ownership rights (as opposed to mere rights of enjoyment) in buildings and other forms of construction on the land in question; however, his assignee takes the concession subject to any of the obligations and conditions imposed upon the original concessionaire.

In the event of the death of a concessionaire, his customary law will determine who will succeed to his property; however, the

written law will govern the procedures for the administration of the deceased's estate. Such changes in ownership through inheritance must be registered to be legally effective.

D. The Registration of Rights in Land

Section 219 of the General Property Law provides that the rights of enjoyment in land and the rights of ownership in immovables can only be established by a certificate of registration issued by the state. Moreover, any transfers of such rights, whether among living persons or by inheritance, can only take place through the issuance of a new certificate of registration. The certificate of registration establishes the existence of property rights, and any transaction affecting rights in the land must be recorded at the land registry.

The applicable procedure calls for the land registry to prepare two copies of the certificate of registration. One copy is placed in the registration book and the other is delivered to the holder of the registered right. (Art. 225.) Under most systems of land registration, recorded rights are unattackable once registration is made. However, because of consistent irregularities in the registration system in Zaire, and particularly the issuance of false registration statements, the General Property Law, article 227, was amended in 1980 to provide that any person injured by the registration of an alleged right may bring an action within a period of two years to rescind or reform the land registry records.

E. Land Held Under Customary Law

The new General Property Law says very little about land held under customary law, the vast majority of Zairian land. As indicated above, although neither colonial legislation nor post-independence legislation specified who actually owned the lands held under customary law, the 1973 General Property Law has answered that question: the state owns all such lands. Nonetheless, the new law has not really disturbed the pre-existing situation, for it does not nullify customary land rights. It merely provides that "lands occupied by local communities" become state lands from the entry into force of the 1973 law. It then goes on to state that lands occupied by local communities are those that these communities inhabit, cultivate, or exploit in any way whatsoever -- individually or collectively -- in conformity with local customs and usages. And finally, it provides that the rights of enjoyment regularly acquired on these lands shall be regulated by an ordinance of the President of the Republic, legislation that he has yet to enact. Although the 1973 law does not really disturb the pre-existing situation of land held under customary law, it does cast doubt on the future status of that land. What are the government's plans with respect to this form of tenure? Will it eventually be abolished? Will it be converted to concessions? For purposes of the proposed development project, these questions may merit clarification since the vast majority of persons within the contemplated project area are occupying and farming their lands according to customary law, rather than according to written law of concession.

F. The Law of Security

The General Property Law, Part IV, also stipulates the rules governing security for debts. Since credit may be important to the proposed project and since the extension of credit may depend upon the debtor's ability to provide security, a brief examination of the rules on security is in order. The General Property Law specifies three basic types of security: (a) the pledge (gage); (b) the guarantee by a third person (cautionnement); and (c) the hypothec or mortgage (hypotheque). The pledge relates only to movable property and requires that it be transferred to the possession of the creditor. The third person guarantee does not involve property at all.

The hypothec is probably the most important security for purposes of the project. According to article 244, it is a "real right" held by a creditor in immovable property owned by the debtor to secure payment of the debt. The property subject to the hypothec may be used to satisfy the obligation owed to the creditor if the debtor does not make payment.

The types of property which may be the subject of a hypothec include perpetual concessions, various forms of ordinary concessions, and immovable property afixed to land. No hypothec will exist unless it has been registered at the land registry on the certificate relating to the immovable property to which it relates. The law thus appears to provide a legal mechanism by which concessionaires might obtain credit. Whether it in fact fosters the extension of credit must be determined in subsequent studies. In any event, no hypothec appears possible on unregistered land.

G. Conclusion

In conclusion, the legal model for land tenure in Zaire is based on the following principles:

(1) The state owns all lands.

(2) Private persons may hold only a concession in the land. Such a concession, which is less than ownership, may either be perpetual (only for Zairian nationals) or for a limited period of time not to exceed 25 years. The establishment and maintenance of a concession requires occupation and development of the land in question.

(3) The establishment of rights in land requires registration under a registration system based on the Torrens Act.

4. Customary law rights in land constitute a "rights of enjoyment"; however, their future status is unclear.

IV. The Land Law System in Practice

A. Introduction

The preceding pages describe the legal model of land tenure in Zaire as it appears in the law books. But what about the law in action? Subsequent studies by the University of Wisconsin Land Tenure Center will seek to address actual tenure patterns and practices in the project area. A detailed analysis on how the current legal model is being applied in practice must therefore await the completion of those studies. Nonetheless, based upon a week's visit to Zaire and particularly time spent in Bandundu City, I did gain impressions of certain practices regarding the national land law system. In order to assist sub-

sequent researchers, the remainder of this report will attempt to suggest issues in need of further study and to speculate on the implications of the legal model for the development of the project.

B. The Relevance of the Formal Land Law System

Since so little land in private hands is actually registered, one may question the relevance of the formal land law system for agricultural development in the project area. At this point, pending conclusion of subsequent studies, one can only speculate. First, the extent to which the formal legal system protects or fails to protect security of tenure can have implications for investment by the land holders both of their labor and what little capital they own. If tenure is precarious, occupants of land may be unwilling to make necessary investment or take appropriate risks to increase agricultural production on their lands. For example, it may be important to determine whether the uncertain status of customary rights in land, as a result of the 1973 General Property Law, has created uncertainty of tenure in fact in the rural areas? On the other hand, the rural population may be oblivious to these recent developments.

Security of tenure of properties in the towns -- the site of most registered lands -- may also have an impact upon agriculture in the countryside. Since agricultural production will depend upon processing and warehousing facilities in the towns, the security of title of those facilities may become important to the proposed project. For example, in her study "Secondary Cities and Market Towns in Bandundu: Interurban Exchanges and Urban

Services to Rural Development" (November 25, 1984), Deborah Prindle suggests that insecurity of land titles for warehouse owners in the Dibaya port has kept investment in these facilities low. Since their buildings are located on land owned by ONATRA and therefore could be seized at any time, the warehouse owners are unwilling to make the type of significant investments that would support agricultural production in rural areas.

The proposed project will probably have three components: (1) production, (2) marketing, and (3) processing. In each aspect, security of land tenure is important. To the extent that credit is necessary for any of these factors (production, marketing, and processing), collateral to secure that credit may become essential. The General Property Law stipulates the rules governing credit security in the form of mortgages, guarantees, and pledges. To the extent that these rules are effective and instill confidence in lenders, they may influence the giving of credit positively. To the extent that creditors have little confidence in these mechanisms, the law may actually inhibit the giving of credit. Since secondary cities such as Kikwit and Bandundu support activities in the rural areas (e.g. warehouses, processing facilities, transport), the availability of credit in these towns can also affect the agricultural sector. Subsequent studies should therefore explore the relationship between available security devices and the extension of credit in the project area. Although the law does provide for mortgages (hypotheques), to what extent do banks and other lenders actually use such security devices in extending credit?

C. The Tendency Toward Concessions and Individualization of Land Tenure

1. Individualization of Tenure

Although the vast majority of the inhabitants in the project area continue to occupy and use ancestral lands in accordance with African customary law, there appears to be a growing tendency toward individualization of land tenure. That tendency takes the form of the establishment of plots of land to be farmed by individuals apart from their traditional ethnic group. The concession system offers an avenue for such individualized forms of land tenure. But the concession is not its only manifestation. Along the road leading to Bandundu, one can see numerous small plots of land bearing a sign declaring that each is a "farm" (ferme). (See photos on opposite page.) These "farms" do not seem significantly different from other forms of traditional agriculture, and they do not appear to employ mechanization or advanced agricultural techniques. According to my informants, the appearance of these "farms" is a relatively recent phenomenon. They clearly represent a transition from itinerant agriculture to more stable agriculture, as was noted in the project documents.

My informants offered two reasons for the trend toward individualization. First, the population is increasingly recognizing the commercial value of farming (i.e. the fact that farming can bring cash). Second, there is a growing perception that land is becoming much less readily available than in former times and that it is important to establish one's claim by either staking

out a "farm" or obtaining some other form of individual tenure. The failure to do so may mean that a person or his children may lose the opportunity to obtain land when it becomes scarce.

According to the legal model of land tenure envisioned by the General Property Law, there would appear to be two general types of land tenure in the project area: (1) traditional peasants farming their ancestral lands in accordance with customary law, and (2) concessionaires holding rights in land under the General Property Law. With regard to the latter, the Project Identification document (April 13, 1984, at p. 16-17) claims that concessionaires, who generally own between five to twenty hectares, hold about two percent of the total land under cultivation in Bandundu.

Based on limited research, I believe that many persons farming on an individual basis and calling themselves "farmers" or concessionaires are in reality not concessionaires at all -- at least not legal concessionaires as provided by the 1973 General Property Law. As a result, I suspect that in Bandundu, as in other parts of Zaire, three basic forms of tenure prevail: (1) tenure by traditional peasants who hold the land exclusively under customary law and have "rights of enjoyment" recognized by law; (2) tenure by legal concessionaires who hold the rights in land under the 1973 law; and (3) "small farmers" (petits fermiers) who, having received the blessing of the local chef de terre and perhaps some documentation from local officials, farm their own fields for cash crops, apart from others and live there on an individual basis.

This third form of tenure may occupy a legal "no-mans land," for it does not seem based in either customary law or the 1973 General Property Law. Whether or not the small farmers actually sense this insecurity should be explored. They may face problems in the future when they seek to obtain credit. More important, they may be vulnerable to losing their lands to persons or companies who secure legal concessions on them.

The small farmers may constitute important developmental agents in the area, since they may possess greater initiative, drive, and adaptability than do the traditional peasants. On the other hand, they appear less well financed than do those farmers who hold genuine legal concessions from the state.

The Inspector General in the Department of Agricultural and Rural Development in Bandundu (Citoyen Kalanda) reported that the Ministry in the Bandundu area had for several years been pursuing a program known as "Programme Fermier" whose purpose is to grant individual plots of land to be cultivated apart from their traditional lands. Under this program, persons wishing to obtain individual plots make a request to the local authorities, who then allocate such plots to individuals. These grants do not conform to the legal requirements for concessions, nor are they registered. However, in each zone the authorities maintain a list of such "petits fermiers", whose holdings are small -- usually between five and ten hectares. In Bandundu Region, agricultural agents have made an effort to inform farmers of this program and to encourage them to apply. Once application is made, the local customary law chief must consent to the

allocation. The zonal commissioner then approves the grant and establishes a file for each farmer. The Inspector General of Agriculture did not have precise statistics on the number of persons who had taken advantage of this program, but he guessed that there were at least 1,000 in Bandundu Region. He also felt that these small farmers were more productive than the traditional peasants, and more often produced cash crops. Indeed, he stated that it was the desire for cash crops that prompted them to ask for land in the first place.

While the small farmers hold some documentation issued by the zone authorities, it must be emphasized that their plots are not registered under the country's land registration system; consequently, their security of title is not legally strong. The Head of Land Affairs in Bandundu stated that he hoped to register all of these farmers one day. This statement appears to be simply a pious hope, since the Ministry of Land Affairs in the Region does not have the resources to undertake such broad scale land registration.

Future studies on land tenure in Bandundu should examine closely the status of these "small farmers" who appear for the present time to occupy a legal no-man's land between the customary law on the one hand and the written General Property Law on the other. Several questions may be worth exploring. Does their lack of legal security of title affect their agricultural practices? Would the provision of increased legal security for the small farmer encourage them to increase investment in their holdings? On the other hand, if they are

aware of the land registration system, why have they chosen not to take advantage of it? The results of such inquiry might lead to recommendations for improvement in the registration system to facilitate the registration of individual plots of land in the project area -- particularly if it is determined that registered lands will have greater opportunity for obtaining credit than would unregistered lands.

2. The Concession System in Practice

Through its emphasis on concessions to individuals, the law appears to favor individualization of land tenure and the establishment of stable forms of agriculture. But to what extent have individuals actually taken advantage of the concession system? In Bandundu City, the head of the land affairs office was unable to provide statistics on the precise number of requests for concessions that his office had received; however, his assistant quietly told me later that during the first three months of 1985 the office had probably received 50 such requests. Subsequent studies should explore the question in detail, focusing on the number of concessions granted, their nature, and the precise role which the concessionaires might play in the proposed development project.

My informants in the Bandundu region described the procedure for granting concessions as follows:

(a) A person desiring a concession of land should first make contact with the local chef de terre in order to obtain his approval. Although the law does not provide a role for the chef de terre nor require his prior approval, all informants in

Bandundu stated categorically that without the chef de terre's approval a person could not obtain a concession in practice. The Head of the Land Disputes Division in the Department's headquarters in Kinshasa appeared to give less importance to the land chief. Clearly, subsequent studies should examine the role of the chef de terre in the concession process in particular and his continuing authority over land in general.

(b) Once the chief's approval is granted, the applicant should then make a formal request to the zone for a concession.

(c) The zone will then ask the officials at the division level to begin an "enquete de vacance". Although the term "enquete de vacance" originated in colonial regulations and no longer appears in national legislation, all informants used it in discussing concession procedures.

(d) This preliminary inquiry takes place at the zone level. Zone officials often encounter numerous difficulties in undertaking it, primarily because of lack of adequate transportation facilities. The lack of vehicles and the difficulties in traveling in Bandundu Region often result in long delays in completing the required procedures. In making the preliminary inquiry (enquete de vacance), Zairian officials clearly rely heavily on the land chief. Most informants stated that opposition of the chief would result in a denial of the concession application. On the other hand, a Belgian agronomist in the Ministry of Agriculture suggested that the 1973 law was being used to take away land from traditional farmers. He cited the case of a soap factory and plantation in upper Zaire where a

10,000 hectare concession in a densely populated area was granted over the objection of one of the land chiefs who argued that the proposed concession would deny his people adequate land for their future growth and eventual agricultural requirements. The agronomist suggested that preliminary inquiries were not being done in the interests of the local population and that the Zaire administration tended to take a position in favor of new concessions, particularly if they represented large investments.

(e) A government agronomist usually conducts the inquiry, and he is sometimes accompanied by a veterinary or other technician. At the conclusion of the inquiry, they prepare a written report for submission to the zone commissioner, who then sends his report to the subregional commissioner, who then transfers it with comments to the procureur of the republic in the area to be sure that it meets legal formalities. If the latter does not object, the request is sent to the governor for his approval.

(f) Thereafter, the land affairs department prepares a contract of provisional occupation for a period of five years. At any time before the end of five years, the occupant can ask for a definitive title to the property if he establishes that it has been developed in accordance with the occupation contract.

(g) Upon receiving such a request, or at the end of five years, an agricultural agent then visits the land to make sure that the occupant fulfilled his development obligations under the contract. He then prepares a report on his findings. If the findings accord with the developmental requirements, the conces-

sionaire will then be given a concession contract for 25 years. It was reported to me that a "perpetual concession" is not usual in the area, even though it is provided by law. Here too, it would be interesting to note whether the period of the concession is too short to encourage substantial, long-term investment in the land.

Although the law specifies a detailed procedure for the granting of concessions, one expert claimed that the state had no policy on concessions, that concessions were now being made in a policy vacuum. Succeeding land tenure studies might therefore focus on the nature and the extent to which policy determinants are shaping the concession-making process in Bandundu region.

3. The Status of Legal Concessions

A further line of inquiry would examine the status of the concessions themselves. Specifically, to what extent are the concessions more productive and efficient than other forms of tenure? Equally important, to what extent are the General Property Law and the concession system being used to "stake out" claims on lands by persons who do not have the resources necessary to develop those lands? Through conversations with various individuals, I gained the impression that many concessions are granted despite the fact that the concessionaire does not have the financial or technical means to develop them as required by the concession contract. While it is true that in law a concession may be lost for failure to develop the land, in practice that may not happen for at least two reasons. First, the initiative is on the state to monitor and control development

activities on the concession, and the state simply does not have the resources to accomplish this task. Secondly, concessionaires, I was told, often bribe local officials so as to postpone indefinitely investigations to determine whether development has taken place. Thus, the present system raises the question of whether it is tying up valuable land resources without advancing productivity. One possible way to avoid this result would be to increase the annual concession fees.

D. The Strength of Customary Land Tenure and Land Chiefs

Although the 1973 General Property Law mentions customary law only in passing and grants no role whatsoever to the land chief, both remain strong. Far from dominating the customary land chief, local government authorities appear to give him great deference. Indeed, numerous officials in Bandundu Region stated they would not override the opposition of a customary land chief on land matters. Thus their authority appears strong, as does the force of customary law itself. Nonetheless, subsequent studies should focus on the role of the chief and the strength of customary law.

Although the 1973 General Property Law provides that the President of the Republic is to issue an ordinance to govern customary land tenure, he has not yet done so. I was told that his failure to act was caused by the political opposition of traditional tribal authorities to any change in their rights and privileges. It will be recalled that customary chiefs strongly opposed the Bakajika Law for precisely the same reason.

After reviewing the 1973 law, one wonders whether it might be used to reinforce and strengthen customary land rights. While most Zairians speak of concessions only in terms of grants to individuals, it should be noted that the law provides that a "collectivite" might also receive a concession of land. Therefore, it would appear that a village holding land under customary law could apply to the government to obtain a legal concession under the General Property Law on its ancestral lands. If nothing else, such a concession would affirm its traditional rights and preempt the possibility that outsiders might obtain a concession on the same land. When I presented that hypothetical case to several land officials, they replied that such a situation had never occurred and that they were not exactly sure what they would do if confronted with a similar request.

E. The Land Registration System in Practice

The system of land registration appears to be highly ineffective and insecure. As indicated, the General Property Law was amended in 1981 to give a two year grace period to contest registered titles because of the issuance by land registry officials of false certificates.

Beyond matters of corruption, it appears that the land registration administration lacks sufficient trained personnel and resources to do an effective job. In Bandundu City, for example, the land registration office is located in the most primitive of quarters. After visiting the land affairs office, one finds it hard to imagine that their files are secure, readily

accessible, and protected. Indeed, several persons suggested that the files in most land registry offices are very insecure and that individuals involved in land disputes often break into the offices to remove pertinent files and documents. If subsequent studies determine that land registration and security of title can contribute to agricultural development in the project area, some U.S.A.I.D. assistance to the land affairs office may be warranted.

F. Land Disputes

The General Property Law provides that land disputes are to be resolved administratively by the conservateur. If a person contests the existence of a registered right in land, he is to make his opposition known to the conservateur who will note it on the appropriate certificate in the registry. The effect of the notation is to prevent the registered holder from disposing of his rights for six months, during which time the conservateur is to decide the dispute. The decision of the conservateur may be appealed in the courts.

Many informants believe that the number of land disputes in Bandundu and in Zaire is increasing. The prevalence of land disputes may be both a cause and an effect of insecurity of title. It is also a manifestation of increasing population density in the area. Some disputes are caused by the inefficiencies and inequities in the land registration system, discussed above. Often, political interference obstructs the dispute settlement process. While most disputes appear to concern urban rather than rural lands, subsequent studies might

explore the causes and frequencies of such disputes in the project area and determine their impact, if any, on potential development activities. The head of the dispute section of the Department of Land Affairs in Kinshasa had very few statistics on land disputes; however, he indicated that the Commmissioner of State for Land Affairs had recently ordered that such statistics be assembled. The director is now preparing a study on the matter, and it may be available when subsequent research is undertaken under the auspices of the Land Tenure Center.

Although the General Property Law seems to assume an expeditious handling of land disputes by the Conservator, one has the impression that in practice land disputes languish interminably in the Department of Land Affaires.

Appendix A

Informants Contacted in Zaire

Maitre Bokenge-Mpote - Belgian trained Zairian lawyer; selected by USAID to be local counterpart on this study.

G. Kalambay Lumpungu - Professor of Law, Universite de Kinshasa; Zaire's leading scholar on land law. (BIP. 204, Kinshasa).

M. Effafe, Directeur des Contentieux, Departement Des Affaires Foncieres, Kinshasa.

George Conde, USAID contractor attached to Department of Agriculture and Rural Development, Bureau des Etudes.

Governor Sambia, Governor of Bandundu Region (recently appointed).

Citoyen Kalanda, Chef de Service (Inspector General), Department of Agriculture and Rural Development, Bandundu City.

Citoyen Benye, Head, Regional Division, Department of Land Affairs, Bandundu City.

Cheryl McCarthy, USAID/Kinshasa.

Citoyen Nkire, Agronomist, USAID/Kinshasa.

Lee Braddock, USAID/Kinshasa.

Appendix B

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