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THE DEVELOPMENT OF A NON-GOVERNMENT ORGANIZATION FOR RE-DEFINING PROPERTY RIGHTS IN GEORGIA

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The Development of a Non-Government Organization for Re-Defining Property Rights in Georgia

United States Agency for International Development (USAID) support to the development of land markets in Georgia began in 1977 following a visit by a USAID delegation to Georgian officials in the first part of the same year. During that visit, the existing situation was assessed and by the end of September of the same year the Project had started. Experience of analogous works carried out by USAID in former soviet republics served as basis for the Project works. The US government financed the first project activities in the form of humanitarian-technical assistance through grant funding, via a contract with Booze-Allan & Hamilton company.

At the beginning of the Project there was no unified legislative framework, which would directly regulate land-related issues. Land reform itself (which started in 1992 by “privatization” of agricultural land and free of charge allocation of certain area of land to people) was carried out without such legislative framework being in place. This was the reason for leaving non-agricultural or urban land without consideration.

Laws and normative acts at that time were contradictory and insufficient. No unified legal analysis of existing legislative framework had been made. A complete reference book of land-related laws and normative acts was prepared by the Association for the Protection of Landowners’ Rights (APLR) through the grant obtained from Eurasia Foundation. However, the reference book did not include legal analysis of those laws but only assembled them in one publication—a very useful step, but only a first one.

The BAH Project staff and specialists from the APLR started their activities by researching and analyzing existing legislative framework. The improvement of the legislative framework for agricultural as well as non-agricultural land was the prerequisite of land market development in Georgia.

Due to the successful law drafting activity, the Parliament of Georgia has adopted the draft laws prepared by the Land Market Development Project and the Association for the Protection of Landowners’ Rights:

- Law on Declaration of Private Ownership of Non-agricultural Land in Use of Physical and Private Legal Persons;
- Law on Land Parcel and Related Immovable Property State Registration Fees;
- Law on Amendments to the Law on Land Parcel and Related Immovable Property State Registration Fees;
- Law on Amendments to the Law Agricultural Land Ownership;

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- Law on Amendments to the Law on Administration and Disposition of State-owned Non-agricultural Land; and
 - Order of the President of Georgia No. 327 “On Urgent Measures for the Initial Registration of Agricultural Land Ownership Rights and Issuance of Registration Certificates to Citizens of Georgia”.

The Project initially focused on the issues of non-agricultural land, specifically land under and around enterprises which were being privatized. This direction, in itself, was more unexamined compared to agricultural land and therefore, due to the Project interests were considered as potential part of land market. It was necessary to carry out work in various directions, namely: studying of public opinion, getting familiar with the opinion of owners or entrepreneurs (who owned the property of enterprises, but the land under the enterprises was in their use) and preparing legislative initiatives.

As we have mentioned before, Project lawyers prepared numerous recommendations for legislative body of Georgia in order to establish a legislative framework related to non-agricultural land more beneficial or effective for the state as well as land users (entrepreneurs). As a result of productive cooperation of the BAH staff and the APLR with the national legislature as well as with other relevant agencies, on October 28, 1998 the Parliament adopted the Law on Declaration of Private Ownership to Non-agricultural Land in Use of Physical and Private Legal Persons.

Privatization envisaged in the above-mentioned law included privileges for owners and at the same time turned out to be beneficial for the state. In parallel with assisting in privatization process the Project also worked on improving the procedures for registering rights to the privatized land parcels. Initial registration, which was supposed to be official confirmation of privatization, should have been transparent and free of bureaucratic impediments, but instead often served as the source of corruption. Upon the initiative of the Project the list of documents required for privatization and registration was decreased to minimum. It is important to mention that under the assistance of the Project certificates have been prepared for non-agricultural land parcels and issued to owners. In this activity the principle was established of pushing the privatization of land through to the initial registration of such parcels, the legal requirement for the exercising rights of private ownership.

In the beginning of the same year, 1998, research on issue of agricultural land parcels was also done. Although allocation of land to the population (privatization) was mostly completed, ownership certificates had not been issued. The new “owners” received the so-called Receive-Delivery Acts from the State Department for Land Management, but for a certain price, which was rather high. Receive-Delivery Acts confirmed the right of usage, not that of ownership. The price itself, which was being paid by the population, was envisaged for preparation of the Receive-Delivery Acts. The price was the reason why 70% of the population had not received the Acts. It was necessary to carry out unified cadastre works and based on them to carry out initial registration and preparation of certificates. However, the state and the relevant body (SDLM) could not afford these works and planned the works in the hope of assistance from donor organizations for the near future. It should be noted that this final certification by the state was also planned to be charged to the new owners. At the

same time a World Bank Project had already started a pilot program of land cadastral works in Georgia, which was conducting work on the basis of two rayons.

The Land Markets Development Project undertook studies concerning the privatization of agricultural land. In August 1998, simultaneously with work on privatization of non-agricultural land, the project started a pilot effort in two sakrebulo of Zestaponi rayon, for producing survey plans of the privatized parcels of agricultural land and their initial registration in a rapid and effective way. The project envisioned the actual issuance of Certificates of Ownership, and the provision to the Registration Offices of Property Cards and Maps.

At this time, the Project in association with the APLR had opened its offices at the Georgian Parliament and State Chancellery. While using these offices and, again, in cooperation with the APLR, the Project was raising the initiative of implementing free-of-charge initial registration and simple requirements towards preparing parcel maps. The reason for such an approach was the difficult social-economic situation and the necessity of rapid development of the land market in such conditions.

Upon recommendations of the USAID, the Project and the APLR, the President of Georgia approved the Decree No. 327 on May 16, 1999. Based on this Decree, initial registration was declared free-of-charge and, at the same time, the conduct of parcel mapping began to be carried out using simplified methods for the purpose of acceleration of initial registration. With the field work completed in the Zestaponi Rayon, a ceremony was held in Zestaponi on May 26, 1999, based on the work conducted in Zestaponi rayon where the President of Georgia personally presented ownership certificates to the new land owners. This was the first time a public event had been held for such a purpose. The presentation was attended by the US Ambassador and other officials, both from the Georgian and the US Governments.

Success of the pilot project in Zestaponi rayon initiated expansion of project activities into 20 rayons during 1999, and another 20 rayons were added in 2000. The field work and preparation of registration materials and certificates were done for each rayon in the project. This work was carried out by private companies which, with the Project's assistance, had been supplied with office computer equipment and, where necessary, also with field geodesic tools. As a result of this methodology, assistance to formation and development of private companies was also carried out. Office processing of completed field cadastral work was conducted by these companies through use of computer equipment and unified software, based on which the produced and printed registration documentation was submitted to the SDLM land registration offices in rayons, for inspection and registration.

In the beginning of Project activities, public opinion negatively evaluated the transfer of land into private ownership, since this process was naturally followed by sales of land parcels. Dozens of seminars, meetings with landowners, topographers, surveyors, farmers, brokers, representatives of banks, state agencies, the NGO sector and mass media were held. Dozens of ceremonies of issuance of certificates confirming ownership on land were held throughout all of Georgia. These events were attended by representatives of international projects and the US government, President of Georgia, Chairman of Parliament, MPs, Chairman and

employees of the SDLM, landowners. The ceremonies were widely covered by the press and TV. Public opinion had changed drastically. In a 1995 poll of members of Parliament, 75% were against “privatization” and four years later in 1999, parliament leadership tried to organize a pro and con debate about the desirability of privatization. Not one member of Parliament would take the con position.

As result of conducted work, by the year 1999 in Georgia already existed a wide stratum of landowners of both agricultural and non-agricultural parcels. It became necessary to provide support to them for the purpose of conducting secondary transactions, i.e. the land market itself needed to be activated. The Project played the role of a catalyst in this process as well. With assistance of the Project were formed private companies, which provided brokerage activities to agricultural landowners. The service which they provided to landowners was free-of-charge. These companies provided free-of-charge assistance to both purchasers and sellers of land, as well as to persons interested in mortgages or hypothecation of land. They practically conducted mediation between the SDLM registration offices, banks and other credit organizations on one hand and landowners on the other. This mediation also partly ensured transparency of the registration process.

In May, 2001, the APLR began its collaboration with Terra Institute with whom USAID had developed a Cooperative Agreement, whose objectives are:

- Complete Registration of Title to 2.4 million Agricultural Reform Land Parcels;
- Help Energize Secondary Land Market;
- Strengthen and Formalize Professional Groups Involved in Real Estate Market;
- Communicate Real Property Registration Information to a Wide Public Audience;
- Prepare New Legislative Initiatives; and
- Develop Active Policy Dialogue around Land Policy Issues.

Terra and the APLR have an agreement to work together to achieve these goals, and to work toward the sustainability of the APLR once the agreement with Terra is completed in June, 2003.

What has been achieved to date?

Land Markets:

By the end of the year 2001, there had been registered at the Registration Offices the following number of secondary transactions:

Cumulative Totals by Year:

	1998	1999	2000	2001	% Increase over 2000
Sales:					
Total No. of Sales	1,686	2,244	4,456	10,874	144%
Ag land	N.A.	1,485	2,628	6,357	142%
Non Ag land	N.A.	759	1,828	4,517	147%
Mortgages					
Total	N.A.	993	2,473	5,571	125%
Total of secondary transactions		3,237	7,287	16,445	126%

The land market has started to function. By the end of 2001, there were a total of almost 11,000 sales registered, and over 5,500 mortgages. There had accumulated 6,357 sales of agricultural land by the end of 2001, with an increase of 144% during that year. The accumulation of agricultural land sales represented about 60% of all accumulated land sales by the end of 2001.

By the end of 2000, there were approximately 1 million registered agricultural land parcels, whose owners had ownership certificates in their hands. The 3,729 agricultural land sales in 2001 represented only 0.4% of all registered agricultural land parcels, however, so the market is only beginning.

The non- agricultural land transactions include many types of properties. Estimating that there are 4.9 million people in Georgia, there are approximately 800,000 housing units in the country. Most of these housing units had been registered in the Bureau of Technical Inventory, but none had been initially registered in the new Registration Offices. So, any transactions involving these properties required special initial registration procedures. If all of the non agricultural property sales in 2001 involved housing units, the 2,689 sales would represent just 0.4% of all such properties. Clearly the urban land market is only just beginning also. But it is beginning.

It is necessary to support the greater dynamism of land markets. In 2000, one of its hampering factors was considered to be the high rate of registration fees, which were unaffordable to landowners. In accordance with the Law of Georgia On Land Parcel and Related Immovable Property State Registration Fees, the fee for secondary registration was GEL 26. This amount in light of the bad economic situation of Georgia, was unprofitable both to the state and the landowners. Because of severe social conditions, landowners were unable to pay this amount and were conducting secondary transactions unofficially, without secondary registration. Such conditions were not only impeding the development of land market, but might have become the reason of devaluation of privatization results. As a result

of APLR's and the Project's cooperation with the Parliament regarding this issue, on November 8 of 2000, amendments on decreasing the fees were made to the Law on Land and Related Immovable Property Registration Fees. Based on which the fee of 26 GEL was reduced to 7 GEL. Besides that, there was envisioned a number of other privileges, which were necessary for unimpeded development of land market.

Initial Registration:

The APLR's sector of initial registration engages subcontractor companies to conduct field activities. These activities include the surveying and mapping of privatized agricultural land parcels, the preparation of parcel index maps, the preparation of Registration Cards for each parcel indicating who the owners are, and the preparation of Registration Journals and Base Maps. These materials are turned over to the Rayon Registrars at the end of the initial registration process for their use in recording transactions as they occur.

Ownership certificates are also prepared and distributed to the new owners as part of the initial registration process. With the registration cards and index maps in the Public Registries, and with their ownership certificates, the beneficiaries of the agricultural land reform become owners of land without bureaucratic barriers and payments. They can bequeath, buy or sell land parcels, mortgage them for the purpose of receiving a credit from a bank and developing farming.

By 31 March, 2002, the Terra/APLR project had issued 655,790 parcel ownership Certificates to approximately 171,000 farmers, for a total since 1998 of 1,655,790 certificates issued (the BAH project had issued 1 million such certificates by October, 2000). Farmers' ownership rights to land have been officially legalized through the efforts of the APLR and the Registrars with the significant cooperation and assistance of the Land Arrangers of the State Department of Land Management.

Land Market Support:

The Land Market Support Sector of the APLR works with the development of Broker and Valuer Associations as well as other land market professionals (notaries, registrars in particular) to improve their professional capabilities. This sector also obtains statistical data and analyzes land market tendencies as support to efforts to improve the policy and legal environment of the new market based economy. This sector also provides information to landowners during the process of initial registration and subsequent secondary transactions.

Public Education:

The public education sector conducts a campaign of increasing public awareness, based on active work with landowners, farmers, various layers of the population, government agencies, NGOs and representatives of the mass media. The sector also manages preparation of quarterly TV programs, which are aired on the First Channel of Georgian Television. Beginning this year, the sector began publishing a 12-page newspaper, which will reflect the work carried out by the Project and problems of the land market, already formed in Georgia.

Other public education activities include:

- Seminars, workshops, and public meetings to discuss and debate land registration and policy issues;
- Surveys to gain citizen input;
- Preparation of a series of TV programs and press releases; and
- Organization of a Citizens' Information Center at APLR headquarters and in the APLR regional offices to handle problems and complaints (Kutaisi, Telavi, Gori and Akhaltsikhe have regional APLR offices, proposed offices are to be opened in Zugdidi and Ozurgeti).

Legislation and Policy:

The Legal and Policy Research Sector of the APLR prepares the projects of legislative initiatives and amendments, which will be submitted to the Parliament of Georgia, and coordinates policy studies. Duties include:

1. Prepare legislation addressing privatization of remaining large agricultural parcels, and other land policy issues

The Project has helped prepare draft laws "On the Privatization of the Agricultural Land Existing in the State Ownership", changes and amendments to the Law "On Land Registration", changes and amendments to the Law "On Registration Fees". After the discussion and correspondingly adoption of these draft laws by the Parliament the Project plans to take a significant part in implementing the privatization of agricultural land existing in the state ownership.

2. Identify institutional and procedural problems with land registration system, & propose appropriate solutions through meetings and discussions with the Registrars, Notaries and officials from BTI.
3. Develop national (and South Caucasus regional) dialogue on land policy issues:

- Land administration system;
- Land management and planning;
- Property market development;
- Sustainable agriculture and rural development;
- Environmental resource management & protection;
- Economic growth and poverty alleviation; and
- Sustainable housing and urban development.

Quality Control:

The Sector of Quality Control and Audit controls the information obtained by the sub-contractors in regions. With this mechanism the control is accomplished according to the hierarchy and the mistakes and inaccuracies are completely excluded.

Compared to the previous years of the work of the APLR and BAH, this sector is an innovation. The reason is that the initial registration work results must be of the highest accuracy, and this monitoring will catch errors before the cards and maps are given to the Registrars, and will encourage the sub-contractors to conduct their work with care.

It should be noted that from the beginning of the Land Market program in 1998 until October 2000, the financial and administrative responsibility was carried out by the American company Booz-Allen & Hamilton on the basis of the Agreement that BAH had with USAID. That agreement expired at the end of October 2000 and the Project in fact temporarily stopped functioning. With the encouragement of USAID, the implementation of the Project management had been transferred to the Association for the Protection of Landowners' Rights together with the American non-profit organization Terra Institute. Terra's role has three main aspects, 1) strengthen the APLR in organizational terms to become self sustaining; 2) assist the APLR with defining and modifying the methods of initial registration, the strengthening of land market institutions, particularly the Public Registries and the professional self regulating organizations involved in the operations of land markets; and 3) encourage linkages between the APLR and international organizations and other NGO's with similar mandates.

The cooperation and facilitation which has been established between the APLR and the State institutions, as well as with donor organizations, are noteworthy. These relationships which the APLR has cultivated, are of critical importance for achieving the immediate goals of the project, as well as for the long term sustainability and effectiveness of the APLR. For example, the APLR has developed the following agreements:

- With the UNDP for the implementation of a comprehensive initial registration program in the Gori Rayon, for all properties, urban and rural, publicly and privately owned;
- With KfW for sharing orthophotos and integrating the initial registration efforts of the two projects;
- With the World Bank Land Registration Unit for dealing with the property rights conflicts in the peri-urban community of Dighomi where the World Bank team has had difficulties with the SDLM representative. In this situation the APLR has worked with community leaders to provide the Bank's contractors with access to local records about land rights and transactions, and to control the improper actions of a local SDLM official; and
- With BP for a public education program explaining to property owners the process of acquisition of land for the use of the pipeline, and for representing the property owners in cases of disputes.

The APLR is developing other possible collaborations with the Swedish International Development Agency for a program of training for Registrars, with GTZ for improving the operations of the Tbilisi Registration Office, and with DFID for an arbitration/mediation program for resolving property disputes.

There are also opportunities for cooperation and synergies with other USAID projects which have been initiated or will be sought with:

- Oil / Gas Pipeline Corridor (PA Consulting);
- Ministry of Agricultural and Food Restructuring for the further privatization of agricultural land and the restructuring of SDLM and the Ministry (DAI);
- Ministry of Revenue Tax Administration Reform (Barents);
- Dispute Mediation Services (CARE);
- Local Governance (Urban Institute);
- Rule of Law / Training of Judges (ABA / IRIS);
- Regional Land Policy Dialogue (Eurasia Foundation); and
- Others (e.g., Proposed Agri-business Project)

Directly related to the APLR long term sustainability, the following work has been done or is underway:

- New Charter adopted, and Board of Directors elected;
- Administrative and financial Procedures Manual developed;
- Professional Development training for staff members underway;
- Member services and products to be increased and improved; and
- Membership to be increased, and financial sustainability to be achieved.

The APLR's future vision and focus is moving from a primary focus on registration of privatized land, and aims to:

- Address a broader agenda of rural development issues (e.g, land consolidation; agri-business development; information dissemination; support of farmers' legal & economic interests generally);
- Provide national leadership for other professional organizations involved in the real estate market;
- Participate as a national-level NGO in a variety of issues (e.g., local elections and governance; corruption fighting, etc.); and
- Develop land policy dialogue and conduct land policy research at national & regional (South Caucasus) levels.