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Draft technical guidelines on Informal Development: formalization of informal constructions in the ECE Region

Note by the Secretariat

The technical guidelines are an activity of the Programme of Work of the Working Party on Land Administration for both 2016-2017¹ and 2018-2019².

This document contains the proposed draft for the development of Technical Guidelines on informal development: formalization of informal constructions in the ECE Region prepared jointly by the Working Party and the International Federation of Surveyors (FIG), UN-Habitat and other key partners. The guidelines examine the causes of informal development and informal construction in the ECE region and assesses government's policies to address this issue. The guidelines aim is to support member States to address the issue of the development of informal settlements due to informal construction. These guidelines will be reviewed by the Working Party via an online consultation and the adopted guidelines will be presented at the 11th Session of the Working Party and to the CHLM in 2019 for endorsement at its eightieth session.

The Committee is invited to take note of this information. The document is currently unedited.

¹ ECE/HBP/WP.7/2015/7, Annex I

² ECE/HBP/WP.7/2017/6, Annex I

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1 Acknowledgements

(To be drafted once the publication is finalized)

2 Introduction

2.1 Background

Depending on the definition of “informal” used in the various countries, it is estimated that in the developing world about 40% to 70% of the urban dwellers live in informal settlements (UN-Habitat, 2007). Of the 863 million people living in informal settlements worldwide, more than 50 million people are located in 20-member States of the UNECE. This ongoing daily trend burdens the lives of citizens and hampers economies of all nations. Squatting on state and private land occurs in urban and suburban areas, weakening land tenure security and creating environmental and social problems in the region. However, in the majority of cases illegal construction in Europe is well built and can be considered as “affordable housing” rather than as “slums”.

The ECE Committee on Housing and Land Management published a study on informal settlements: *Self Made Cities: In Search of Sustainable Solutions for Informal Settlements in South-East Europe* (UNECE, 2009), and continued the discussion with *Formalizing the Informal: Challenges and Opportunities of Informal Settlements in South-East Europe* (Potsiou et al., 2015). These reports presented an overview of the issues, current response policy recommendations, lessons learned, and best practice recommendations.

Overlapping responsibilities and resulting problems show that countries have not yet managed to coordinate responsible land-related agencies and relevant projects. In many countries, there are several political debates related to planning and land management aspects. There is a need to improve relevant education at all levels, create local expertise, share experience and raise public awareness about the importance of land management tools like cadastre and spatial data infrastructures, property registration, property valuation and taxation, as well as planning, developing the private sector and improving professional ethics for the well-being of the populations of the various countries and the improvement of national economies. There is also a need for stakeholders, local experts, professionals and citizens to realize that such tools must be applied in coordination with each other. Experience shows that legalization, penalties and even demolition has not stopped informal development (Potsiou, 2010).

There is no simple solution to preventing and legalising informal development. The problem is linked to the national level of economic wealth, in combination with the level of social and economic capital in society. On the other hand, solutions are a function of consistent land policies, good governance, and well established institutions and systems.

UNECE and FIG recognize that there is a continuing need within the pan-European region for guidelines and tools to address informal urban/ suburban development and to reduce the phenomenon in the near future.

This study builds upon the experience gained from the previous research in ECE countries and deals mainly with informal construction of “permanent nature”, usually “well-built” that does not comply with the technical and planning standards and often lacks titles but is not characterized as “slums”.

Informal development is not a two-dimensional concept, but can best be described as a continuum, or spectrum of formality (UNECE, 2009). Part of an appropriate solution to the challenges arising from informal development is for policy makers to have a deeper understanding of the nature, types, and socio-economic consequences of the various types of informal constructions. The categories of informality can be described via the type and nature of the informality (title or ownership informality and/or construction or use informality), by the degree of informality upon the spectrum (the full range De Jure to De Facto and if it has a significant or insignificant affect upon the economy), and described by nature of the type of building improvements (property type such as single family home, multi-floor apartment facility or flat, retail, industrial, office or special purpose).

Major political changes coupled with rapid urbanization, and often uncontrolled, massive internal migration, conflicts, marginalization, natural disasters, cumbersome authorization processes for home improvements and modernization, and corruption may be listed as some of the causes of informal development. But the list of causes also includes the absence of good practice policies by the States and their failure to adopt pro-growth planning. Limited affordable housing policies, weaknesses of the private sector, the lack of political will to develop land policies which would facilitate the recognition of existing tenure and private property rights to aid the transition from centrally planned to market economies; and the failure or reluctance of State agencies to implement measures to support economic reforms also play their part as causes of informal development. It is also important to remember the fundamental rule that demand in real estate markets is defined both by the need but also by the desire of consumers. In general, this demand is expected to be satisfied by the private sector; the housing need of the poor is usually satisfied through social and/or affordable housing policies where the State has to set the rules and develop the necessary framework. When neither the state nor the market provides sufficient appropriate formal housing solutions for their citizens, the people turn to informal solutions to their needs as well as their desire (FIG, 2015).

Informal development however is considered both a social challenge and an economic challenge. Improvements and basic services need to be provided or, in case of demolition, decent resettlement is necessary. Informal constructions are typically not within the registration systems (limiting appropriate state planning), cannot be mortgaged, or formally transferred, inherited, or rented. Registration of informal constructions improves security of tenure, establishes property rights over the investment, minimizes lending risks and provides easy access to credit and funding mechanisms; it also improves legal protection, as well as legal empowerment of occupants/owners and ensures their economic freedom. The assets invested in informal constructions represent a non-productive, dead capital.

Informal development is an economic challenge, also because it affects public revenues, productivity and job opportunities; it hampers economic development and the synergies between the factors of production

(land, labour, capital, and entrepreneurship) that underlie the foundation of a nation's economic, social, and cultural performance. As a result of informal development, the tax base is small and high taxes may have to be levied on a small subset of constructions and the related business. Moreover, competition within real estate markets with a great level of informal development is distorted, due to a lack of transparency, as in such markets personal relations matter more than rules and laws.

It is also broadly recognized that, informal development remains substantial in countries where overregulation and bureaucracy, taxation, fees, penalties and related costs give significant incentives to build and also work "under the radar screen". Informal development, its construction, operation as well as its demolition, is also considered a significant environmental challenge, especially when it is spread over highly protected lands, or when by instance construction does not meet the current standards for energy consumption; when demolition is needed, not only is it expensive but it causes environmental impact and should by all means be followed by a special treatment of the debris.

As a response to these challenges, many countries undertook formalization projects. These tended to focus on "privatizing" the occupied state- or municipal-owned land by providing ownership titles to the occupants for free or with appropriate compensation, and on registering the titles to encourage formal property transactions. Many also focus on revising zoning, planning, and permitting regulations and standards, as well as on regularizing and upgrading of informal settlements and individual constructions when needed.

The ECE has been addressing the challenges of land administration and management since the 1990s. The transition from centrally planned to market based economies brought forward critical challenges and opportunities for many countries, where good land administration, spatial planning, secure tenure rights, and healthy land markets were steps toward sustainable development, alleviation of poverty, protection of the most vulnerable groups and more resilient and prosperous national economies. These processes are still underway. Goal 1 of the Sustainable Development Agenda 2030, refers to ending poverty in all its forms everywhere. In this respect the Sustainable Development Target 1.4. by 2030, mentions that countries should ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.

To the purpose of this study, one important Sustainable Development Goal (SDG) of Agenda 2030³ is target 1.4.2 focus on the proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure. Unlocking the full potential of land parcels improved with informal constructions and bringing them more fully into a well-functioning economy will be a strong step forward in strengthening tenure to this portion of the population, often concentrated among a nation's most vulnerable peoples. SDG 5 also has a land-related target and aims to achieve gender equality and empower all women and girls and end all forms of discrimination against all women and girls everywhere, as well as, to eliminate all forms of violence against

³ <https://sustainabledevelopment.un.org/post2015/transformingourworld>

all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation. This noble goal is also advanced by bringing the informal constructions within the formal markets, strengthening tenure rights, and making this portion of the land markets more transparent fostering the appropriate application of the rule of law as fair and unbiased legislation is expanded.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (Voluntary Guidelines on Tenure) were officially endorsed by the Committee on World Food Security (CFS) in May 2012. The text of the Guidelines was finalized during CFS-led intergovernmental negotiations, which were held in July and October 2011 and March 2012. The Guidelines were developed through a broad global partnership of international, regional and national organizations of different types that work together to achieve global changes in governance of tenure. The development followed an inclusive process involving a series of consultations and negotiations.

Aligned with the above international principles and trends, our vision is for this guide to assist policy makers in formalizing informal development, mainly the type of informal development that is not characterized as “slums”, as and when appropriate in order to meet the Sustainable Development Goals in a timely fashion. It offers clear steps in the process, sets priorities for recognizing informal tenure rights, provision of clear ownership titles and registration, and describes the expected challenges, benefits, and rationale for how a formalization program should proceed, and what should be done before, during and after such a program. Concepts and principles of these guidelines may also be applicable on informal settlements of poorer quality and slums, always following pilot projects and considering the overall situation in terms of funding mechanisms and job opportunities available in each country. It is of vital importance that when such guidelines are applied to formalize slums additional measures should be taken in order to provide job opportunities and access to funding mechanisms in parallel with property title provision.

It is not within the concept of this guide to provide detailed assistance in eliminating the phenomenon of informal construction in the future as this requires a number of consistent and coordinated policy and regulatory reforms and is the subject of another guide; however, a general framework is also included here.

2.2 Terminology

There are many definitions of “informal development” and “informal settlements”. The terms have been used to refer to **unregulated, illegal and unauthorized** construction, arising from the conditions and regulations in the various countries, including “spontaneous”, “unplanned”, “unauthorized”, “illegal” or “squatter” settlements. The term “informal” may also be used for settlements of refugees or vulnerable people, overcrowded and dilapidated housing in cities, or slums.

The United Nations has used the term “informal settlements” to refer to (UN, 2001)

- i) residential areas where a group of housing units has been built on land to which the occupants have no legal claim, or which they occupy illegally;
- ii) unplanned settlements where housing is not in compliance with current planning and building regulations (unauthorized housing).

Similar definitions are used by the Organization for Economic Co-Operation and Development (2014) and the World Health Organization (2014).

For clarity, this guide derives experience from the informal development in the ECE region and mainly the type of development of “fairly good quality” that is not considered as “slums”, and deals with informal urban development with illegal aspects that fall into both above-mentioned categories (FIG, 2015):

- Related to ownership and tenure rights. This includes informal developments built on illegally occupied state or private land, implying that occupants have built either in violation of existing legislation on state-ownership rights, or in violation of formally registered private-property rights.
- Related to non-compliance with state regulations on the use of land, or technical specifications for construction. The implication is that owners have built without, or in excess of, one or more permits: (1) planning permit, (2) building permit, (3) occupancy permit, or (4) operational permit (in the case of constructions used for purposes other than private residence, e.g., commercial constructions). These illegalities may include illegal subdivisions of land, or illegal deviations from approved land use, usually on the urban fringe, e.g., from “rural” or “forest” to “residential” or “mixed”. This can happen in violation of existing legislation (such as zoning, planning, construction, or safety regulations) and in some cases in violation of the constitution of the country as well.

When the factors that underpin development are widespread, an “informal real estate market” begins to form around this class of assets. In most of the countries that suffer from informal development informal transactions take place, people invest in informal constructions based only on “mutual trust” without having any security of tenure provided by a legal system.

The term “illegal” is a special type of informality which refers in most cases to the lack of legal right to occupy a piece of land (Stanley et al., 2007) and/or the non-compliance with the planning regulations. However, this term is negatively charged and should not be used if the phenomenon is a significant portion of the market. In such cases it is more likely an indication that there is a failure of the system rather than an abuse of the law by individuals, and in such cases the term “illegal” may be counterproductive. In this report this term “legal informality” is used referring only to the illegal occupation of land that belongs to somebody other than the occupant, and to illegal use of land without a permit. Other type of informalities, such as exceeding the permits and/or non-compliance with technical standards the term “technical informality” is used.

It is worth mentioning that informal development is usually part of a greater “informal sector” (The World Bank Group, 2007) where not only occupants of the houses are illegally occupying land, but builders, carpenters, pumpers, electricians, as well as real estate agents and even notaries may work informally, creating an “informal economy” (Becker, 2004) composed of labour and capital. These are sustained or

spread based on the presence of the institutional, social and legal characteristics of the communities in question that spawned this “informal sector and economy” in the first place.

Formalization of informal settlements can have significant positive social, environmental and economic benefits to the occupants but also to the residents of the surrounding formal neighbourhoods and to the national economy in general, as it will enable a great portion of economic activity to be integrated into the economic circle. It is however important that countries will also focus on eliminating the phenomenon in the future by undertaking all necessary reforms to the actual causes of informal development.

Not addressing formalization and its root causes can in contrast exasperate these issues, potentially causing them to expand in negative effect and scope. This guide only focuses on providing assistance in addressing formalization of the existing informal settlements timely, affordably, inclusively and successfully in order to meet the SDGs. It does not provide guidelines on how to identify and eliminate the causes of the phenomenon of informal development.

2.3 How to deal with informal development

Governments are challenged to solve the problems associated with (a) the occurrence of informal urban development and (b) to take measures to prevent the phenomenon of informal or illegal construction in the future. These two different issues are closely interrelated, but they require different solutions and approaches. In general, existing informal settlements, if possible, need to be formalized and integrated into the economic circle timely, affordably and inclusively, for a number of reasons related to the SDGs; it is also of significant importance that such settlements be upgraded in terms of safety and service provision. The challenge of eliminating the phenomenon in the future is also of significant importance but even more complicated as it requires a series of comprehensive land policy and economic reforms that influence, among others, tools for the good management of land, such as property registration, pro-growth planning and flexible development permitting, property valuation and taxation, as well as other issues relevant to the establishment of well-functioning and transparent real estate markets, the existence of funding mechanisms, professional education, professional ethics and the role of the private sector.

The governments may respond to these problems in a number of ways. This chapter is focused exclusively on how to deal with the existing informal settlements.

a. Ignore the problem

There are examples in the history of many countries where governments have openly recognized the inability of the State to fulfil the need for affordable and social housing. Therefore, they have tolerated informal constructions as an alternative affordable housing policy. However, this ought to be considered a temporary solution to the housing problem and should be accompanied by an appropriate plan for formalization and integration in future.

While easiest, ignoring the presence of informal settlements and constructions and delaying formalization tends to mean that the factors that created them in the first place can possibly grow and get more socially entrenched in the broader economy. Some of the negative economic, environment and social effects of ignoring the problem include direct or indirect loss of state revenue from unregistered properties, unregistered transactions, untaxed real estate, undeclared income, environmental risks, marginalization, insecurity of tenure, and limited access to credit with an increased social impact stemming from this “dead capital.” (de Soto, 2000; Brefort, 2010).

In response to the UN Sustainable Development Agenda 2030 governments should consider the conditions and assess if such negative impacts are small enough that ignoring the problem may be acceptable. In countries where the phenomenon of informal development is extended governments should reform their policies in order to be aligned with these principles. They cannot afford to continue ignoring the problem.

Well-informed local or international investors will not be willing to invest in informal real estate with an unknown future status. But middle- and low-income local residents without other choices are led to invest, sometimes in significant amounts, in such informal real estate. Thus, local informal markets are created.

However, no country in the world can provide affordable housing for all, as well as improve food security, without the contribution of private investment (local or foreign) either through the banking sector or directly in land and/or real estate.

The major problem caused by the existence of informal properties appears in the banking sector that cannot provide loans backed by such informal real estate that carry high risks and in turn cannot attract local or foreign investment in the banking sector due to this problem. Such local informal real estate markets that are characterized by high risks are not easily integrated into the globalized economy unless formalization takes place. In addition, in rural informal settlements, farmers have no access to funding loans for farming without clear ownership titles.

It is important that the state recognizes informal tenure of land and provides and registers clear rights to land and informal real estate so that these properties will be used by their owners as collateral in order for them to have access to capital.

When “strategic” local or international private investment in land and real estate is and should be encouraged, the existence of informal tenure is problematic. Similarly, land consolidation and any other readjustment projects, as well as expropriation or other necessary land reforms both within urban or rural informal settlements may severely affect the existing informal tenure rights and cause social instability (FIG, 2010b). As mentioned in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs)⁴, “States should facilitate

⁴ <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

the operations of efficient and transparent markets to promote participation under equal conditions and opportunities for mutually beneficial transfers of tenure rights which lessen conflict and instability.... states should take measures to prevent undesirable impacts on local communities.”

b. Demolish informal constructions

Demolishing a construction of relatively good quality means the loss of significant capital invested on this construction and individual informal properties tend to be very costly to remove (in every way, e.g., economic, environmental, social). The system that creates informal development is resistant to demolition. Informal buildings are created by an economic and/or social need and while greater regulation, more severe penalties, and more inspections are likely to curtail much of the issue over time, such solutions are subject to more corruption and, are not without cost. Worse still, the social and economic need is still there, and this need will cause the “problem to adapt and change”, and possibly expand or at least alter the negative socio-economic foundation that originally created the informal development, the informal construction of properties and their informal market.

When demolishing individual informal properties, the economic, legal, administrative, court, social, political, equipment, physical demolition, carbon footprint, and environmental costs often apply in a significant manner. These costs are rarely worth the benefits of demolition as an option. In addition, resettlement of people living in the building is usually required in case of no other residence.

Environmental impacts alone caused by demolition of the informal and/or building new formal constructions to resettle the occupants may exceed the benefit of the informal building removal. The social and political impacts of demolition can create huge instability and are often accompanied corruption or the perception of corruption. Additionally, evicted citizens tend to be among the most vulnerable groups in society (immigrants, ethnic minorities, women, political opposition, other vulnerable groups, etc.) and their displacement creates additional problems, including a violation of human rights (as mentioned at paragraph 16.9 of the VGGTs [FAO, 2012]).

c. Formalize informal constructions

Individual informal constructions can be and need to be formalized when the phenomenon of informal construction is so large it creates informal settlements. Through the understanding of the root causes for the informal markets existence, followed by prioritization, prudent regulation, and an inclusive and open-minded view toward solving these problems incrementally, much of the incentive for continued market informality can be erased. The existing informality can be gradually brought within the formal sector and through these processes, future informality can be lessened or removed almost entirely.

The cost benefit analysis of looking at these options usually proves that formalization is the most beneficial way forward. Additionally, addressing the root causes of the informal development, improving institutional structures, increasing flexibility and reducing bureaucracy in construction permitting, upgrading city / zoning plans, adopting appropriate fee structures, and legal processes is usually the best way to reduce

future occurrences of informality and can gradually reverse the growth of a broader informal sector. Unfortunately, ignoring the problem or proposing unproductive or counterproductive legal and administrative measures, high penalties, demolition or even imprisonment is common practice.

A variant to formalization is the option to formalize the informality for only a limited period of time and imposing high penalties for noncompliance - in other words to “rescue for a limited period by high penalties”. This is meant to allow the State to rescue informal constructions for a certain period of time and in the future the state will provide a framework to include them more permanently into the existing permitting regulations and legal registers. This is not recommended as it only delays solutions to the problem at the expenses of the society and the national economy. In reality, there is a high risk that a new government will not be willing to continue, and formalization will fail. The implementation of high fees to be paid by the owners does not bring the property fully back into the formal market, no security of tenure is provided, costly risk and uncertainty is attached to the properties and users of the properties (often the most vulnerable groups) and other obstacles, like difficulties in the case of disposal or mortgaging, still remain.

d. Conclusion

To solve the phenomena of informal settlements and construction there are two main actions possible: demolish or formalise. Doing nothing or “rescue for a limited period” is not an option unless problems have only negligible overall market impact (which tends to be rare).

Since demolishing is only an option when there is no alternative, and that is the case in only very rare situations (e.g., individual real estate of high risk/impact), practically speaking formalization is the only alternative when informality has significant economic impact. For that reason, this publication focuses on this option.

It is of great importance and of first priority to provide clear ownership rights. In terms of planning, the more over regulation that is imposed, the more informality will be created to avoid it. A certain small amount of such informality will actually be acceptable. It takes off steam in the economy and fills niches in even a fairly well crafted legal planning structure. It may well be healthy, both socially and economically at a small level. Therefore, planning regulations and permitting requirements should be flexible and not over prescribe detail into the construction processes. Technical education and specifications for construction stability, as well as appropriate services and professional ethics of the private sector, are also important to ensure the quality of future constructions. More detailed operational permits for constructions that accommodate a large number of people and related public activity is also an issue to be regulated more closely, but all these sectors are dependent upon a good property registration system and a healthy property transaction marketplace. Planning and construction informalities should not hinder the provision of clear property rights and their registration. Transactions and mortgages should be enabled following registration. Even a land parcel with ruins should be transferable.

2.4 Aim of the publication

This publication is meant to be a practical, easy to read, and brief guide to explain exclusively how priorities can be set up and a program for the formalization of informal settlements and constructions can be structured in an affordable, reliable and inclusive manner, to be accomplished timely in order to support governments to meet the SDGs by 2030. It focuses on the formalization process itself, but also describes the preparatory work needed to analyze the magnitude of the problem, how to find political acceptance, as well as how to identify the post formalization factors. It is the authors' hope that this guide can assist in all aspects of the formalization process for informal construction to the benefit of all citizens, governments and stake holders.

3 Rationale

3.1 Impact of no formalization

The formalization of informal construction brings it back into the economic cycle so that real estate transactions such as rent, sale, inheritance use and mortgaging will be legally, administratively, technically and fiscally supported. It refers to the process whereby “informal construction” is brought back into the wider economic circle to become fully productive assets again. Greater access to capital comes with stronger linkages to the broader markets and will create conditions for the further improvement and refurbishment of supporting infrastructure and utilities.

e. Direct economic loss

It is difficult or impossible for governments to regulate, collect fees/permit charges, license or tax most classes of informal construction that not registered. More importantly, extended informal development makes it difficult to regulate, encourage and fairly tax businesses and residents of informal settlements. Rental markets, mortgage credit, and even inheritance of such assets become inefficient, unobtainable or legally complicated. The cadastral system will not work in such regions and extra-legal systems will replace it only partially. Necessary land reforms, such as privatization, urban and/or rural land consolidation, land readjustment, expropriation, etc. will not be efficiently and fairly accomplished.

f. Indirect economic loss

Typically, there will be minimal investment in informal construction (outside the local markets, where there is an urgent need) due to the inherent associated risks. When the property titles are weak there is a high risk of abuse of such properties and new investors will not be willing to invest and improve such real estate. Currently, informal construction is to satisfy the housing of their occupants for the next 20 years or so, but since the property cannot be legally transferred, it will likely stay in the family. When large groups of assets are affected this can have a blighted economic effect on the wider area, clog infrastructure, while negatively impacting formal assets (labour, fixed assets, and capital) as well. Additionally, formal and efficient markets tend to be more economically productive whereas informal markets perform more poorly for the overall economy.

g. Social impacts

Informal construction has insecure tenure for occupants and spawns their own informal processes. Evictions, potential corruption, susceptibility to crime due to poor police security and lack of illuminated public areas, possible governmental eviction/demolition, greater exploitation of vulnerable groups, and indirectly higher social and economic costs to the surrounding formal markets are all symptoms of widespread informality. Other symptoms are lack of basic services such as schools, hospitals, efficient electricity supply, fresh water supply, sanitation networks, garbage collection, lack of proper address system and post mail services, lack of proper road network and fire brigade service. Public transportation and public spaces are usually missing to the detriment of residents and visitors. Lower health/safety standards in construction, design, real estate asset location, density and poor infrastructure will result in negative effects to social stability, as well as less efficient labour, fixed asset and capital markets.

Informal properties have little or no access to credit markets and tend to be risky investments. Residents cannot access this dead capital for emergencies or for business investment. This puts a strain on the residents of both the formal and informal markets in the area. Labour markets can be more rigid and are often exploited by the residents' limited options regarding mobility, housing and jobs. Instead corruption and distorted competition and poorer social support networks prevail in communities with widespread informality. Formalization should become the key to increased economic freedom for the residents of informal settlements.

h. Environmental impacts

Informal construction is likely to be more susceptible to flooding, add pollution to air, soils, drinking water sources, and waterways, overburden the underground waters due to uncontrolled drilling for fresh water and poor installation of septic systems, and causes unexpected havoc to the infrastructure of a community. Energy systems can also become compromised through usage beyond capacity, poor efficiency, illegal tapping (water, sewer and electrical), and lesser health/safety standards.

Disasters such as fires due to poor road networks and narrow passages that do not allow easy access of fire brigade cars, illegal electricity connections, and the various activities in settlements within the forested areas who have no information about the risks and the necessary preparedness measures to be taken, are very likely occurrences. Obviously in case of disasters within informal settlements such as flooding, fire or earthquakes the human and economic loss is increased. Disaster recovery and provision of humanitarian support becomes even more difficult due to the lack of information (FIG, 2010a).

Understanding increased disaster risk (both natural and manmade) within informal settlements, strengthening disaster risk governance to manage disaster risk, investing in disaster reduction for resilience, enhancing disaster preparedness for effective response and "Build Back Better" in recovery, rehabilitation and reconstruction is important (UNISDR, 2015).

3.2 Key concept underlying the need for formalization

One major step in achieving the UN SDGs by 2030 is the promotion of greater formalization rates of real estate and consequently improved livelihood and poverty alleviation. Informal settlements need to be upgraded urgently, people living in informal settlements need to improve their health, living and working conditions. Clear, just, affordable and transparent property titles help to legally empower the citizens and allow them to better participate within the formal sector, improve their living conditions and use it as collateral to have access to capital. A stable and transparent framework within which transactions take place is vital for any national economy. It brings greater economic growth and economic freedom to the citizens. This allows for greater access to credit, more fair, transparent and unbiased economic systems, and by extension, can foster improvements in health, environment, greater business activity, access to appropriate housing, better management of land and real estate, funding of planning improvements, efficient management of disasters and environmental improvement, and can allow more resources to be applied to education. It also fosters lower risk-related costs in the real estate sector of a country and thus encourages

mortgage backed foreign investment in the banking and land sectors. Housing is a typical way to create wealth and savings for ordinary citizens over their lifetime and is directly linked to economic development, national prosperity and stability. Improvement in the broader economic foundation over time translates into greater prosperity for people. This leads to the ability to contribute more to the tax base and fund improvement and advancement in all sectors. Therefore, provision of clear, just, affordable and transparent property titles should be the priority of the formalization process.

3.3 Why do we need guidelines?

The problem of wide spread informal constructions, as well as most of its causes, is well known, but its negative impacts are not fully realized by politicians and the society. Political will is easily subverted to other projects that have greater appeal, but generally lesser positive effect and the citizens themselves do not always understand why it is so important to formalize informal construction.

Those who live in informal settlements may believe that it is better to live and work “under the radar screen” in order to avoid taxes and other costs, and those who own formal properties cannot fully understand the general economic benefits to everyone of formalizing the informal.

The concept of “formalizing the informal” or even worse “legalizing the illegal” is usually a difficult argument politically as it appears that the government is in favour of those who do not respect the law. Opposition is often strong but normally comes with a lack of understanding of the benefits of formalization. For instance, tax on real estate will be more fairly collected if informal construction is registered and its value can be better estimated; and the national economy and the banking sector will improve if the majority of the real estate of a country is formal with clear rights and responsibilities.

Solutions for the problems stemming from informality require mid to long term strategy, broad-based understanding, sustained political will. A comprehensive strategy is usually missing, and when governments change, political “orientation” and “will”, can shift, or be averted elsewhere and the momentum to formalize can be lost. This often results in partially completed programmes having no or minimal impact.

Conflicting policies are often applied to deal with the problems of informality. Solutions should not be lengthy and costly to complete and should be inclusive. Implementing a solution may be difficult to achieve even if it is truly understood that the effort and cost is worth it. Usually the expected benefits become gradually visible after a certain time period. This gradual visibility of benefits should be expected. Systemic change such as this needs to mature in the market and become accepted and understood before the full economic benefits of formalization will occur. However, increased tenure security and greater protection for society’s most vulnerable groups tends to be a benefit obtained early in the process after formalization and land titling.

An appropriate solution is needed in order to meet the needs of the community, and the SDGs timely, reliably, inclusively and affordably. For this reason, guidelines on why and how to accomplish this task may be a useful tool to keep political will focused, increase the likelihood that the formalization processes will be successful and limit the chances of more informality in the future.

3.4 Who can benefit from the guidelines?

A very broad group of actors may use and benefit from this technical guide but the primary focus herein will be on providing assistance to the State in how the “formalization of informal settlements” can be efficiently and fairly accomplished, why it should be accomplished (the benefits), and to explain the process, conditions and complications they can expect (costs, time frame and likely roadblocks).

State actors include national governments, governing bodies, and local authorities. Secondary users of this technical guide include both private sector (real estate professionals/agents, lawyers, planners, economists, notaries, surveyors, engineers, construction contractors, appraisers, investors, financial institutions, etc.) and broader societal institutions (schools/-academia, and NGOs).

3.5 How can these guidelines be utilized?

A careful analysis of these guidelines should be made while considering the context of the local informalization, its causes, scope, size and character. These guidelines are broad-based and will need interpretation such that “fit for purpose” and locally pragmatic, inclusive and affordable approaches are applied. This will more adequately address local and specific issues and better utilize existing information, increasing both the chances for successful implementation, and the socio-economic benefits from formalization.

4 Global process of formalization

4.1 Introduction

The Global Process of formalization proposes an expected “Work Flow” of items to be considered, information to be gathered, and work to be performed. This chapter will show a list of such process items. In the next paragraphs a short description of the main processes is given.

4.2 Prepare the strategy for formalization

This phase is an extremely important part of the formalization program. It sets the conditions for success, organizes political and stakeholder support, gathers all background and informality data from which all future formalization decisions will draw upon, sets priorities, carries out the cost / benefit study that leads to the appropriate fit for purpose formalization program, and proposes the communication plan for all parties.

The following actions are performed within the strategy phase:

- *Organize the necessary support and political will* (relevant ministers, and stakeholders). This typically includes the participation and support of finance, justice, physical planning, environment, transportation and housing, etc.

- *Analyze Informality and the RE Market*. This includes preparing a background paper that accurately describes the formal procedures and the situation (causes, type, location and extent) regarding and informal constructions at the national level, as well as detailed socioeconomic, environmental, broader based data that may apply.

- *Prepare a background paper*

- *Prepare an Informality Inventory base map and paper*; determine the location and scope of the informality. It is important to be inclusive in general and especially in terms of the poor, vulnerable, gender matters, ethnic minorities, etc.

- *Carry out cost benefit analysis and determine the consequences of no action*. This includes a global cost/benefit analysis that explains what benefits can be expected from formalization over time (economic, social and environmental), what resources/costs are needed and what direct and indirect revenues can be expected

- *Agree on an appropriate formalization strategy and goal*. The informality inventory paper as well as the formalization strategy should be clearly aligned with the guiding principles of responsible tenure governance and follow the general principles of human dignity, non-discrimination, equity and justice, gender equality, holistic and sustainable approach, consultation and participation, rule of law, transparency, accountability, and continuous improvement as mentioned in VGGTs (FAO, 2012).

- *Develop a communication plan and draft a Strategy Report*. The communication plan aims to:

- Raise awareness about the scope, objectives and expected benefits of the program. This part is fundamental and should obtain the necessary attention among politicians and society including education institutes and the private sector.
- Instruct government, local authorities and citizen-participants regarding their role and professionals on how they should act according to the priorities of the project.

- After the appropriate data is gathered and analyzed, and the strategy proposal of a general plan has been structured in a way that is appropriate to the local context, the specifics of the local informalization problem, as well as the aims of stakeholders and government, then, a draft *policy paper* should be produced. This policy paper should summarize the findings, analyses and the proposed strategy to formalize informal construction and settlements. It should help clarify both how and why formalization should proceed and communicate effectively while helping strengthen support.

The most important outcome of the strategy phase is the compilation of a well-documented paper on the broadly accepted political decision to start the formalization program which is in contradiction to the existing legal framework and requires decisions for a legal reform, as well as a general understanding of the path forward by all actors. The deliverables of this process are a wide range of reports and a clear path for future work.

4.3 Prepare the framework for formalization

Policy, legal and organizational frameworks should be consistent with their existing obligations under national and international law. However, the frameworks depend on and should be supported by a broader reform to the legal system and public services in order to: (a) ensure a maximum tenure recognition including existing tenure rights that are not currently protected by law and to facilitate, promote and protect the exercise of such tenure rights, as mentioned in the VGGTs (FAO, 2012), and (b) provide planning amnesty for the constructions built without or in excess of a building and planning permit.

The framework for formalization has to be carefully defined and set up. All the provisions like the categories and classes of informality, legal issues and relevant laws, general organization, registration processes, the approach for the formalization process itself, fees and penalties, institutional and professional responsibilities, budget planning, necessary resources, implementation and many more related details will need to be described and developed. This is done in a way that respects the overall strategy and the grand scale decisions made at the high political level.

An important step in the framework is preparing the organizational structure for the formalization, which includes appointing the responsible ministry, the institute or agency charged with the implementation and the lineup of many involved institutions, municipalities, tax authorities, land registry, cadaster agencies, etc. Each institution should clearly understand their role in the process, and a reasonable financial and resource budget should be included to insure adequate performance.

Preparing the framework will explain:

- What is an informal construction that can or cannot be formalized (in its various classes of informality)
- What is the action process to formalize / legalize for each separate class of informality?

- What are the (technical) requirements, procedure and condition to formalize / legalize
- How citizens can comply, and governments can monitor compliance with the technical, legal, and physical steps required to formalize
- The legal status and title after formalization for various classes and types of informalities
- How we shall accomplish the titling aspect of formalization for various classes of ownership and title registration
- What penalties and fees are to be applied (if any), how they are calculated and collected, and the way registration should be accomplished.

The framework will analyze and allocate appropriate administration and technical facilities, staff, and budget that are required to carry out the formalization process, preparation for formalization, including the monitoring of all aspects of the development process. This may include a “committee of controls and acceptance” which provides monitoring and statistical data throughout the process, insures and approves relatively standardized documentation, maintains records, or oversees and coordinates with other institutions that are entrusted with these functions so that they can be efficiently utilized and are managed appropriately. Classification of informalities and controls should be simplified and standardized so that this “committee” will not be overpopulated. On-site inspections should be minimized to reduce corruption, time and costs.

The framework will provide technical aspects relating to construction and registration but allowing for flexible transparent physical aspects within the approval process such that the results are appropriate, while minimizing corruption in the system.

The framework will test for reasonableness, that each step of the procedural framework is planned in such a way to accomplish the overall goals as analyzed in the cost / benefit analysis, prior strategy phase, and accomplishes maximum participation in the program and long-term benefits. A heavy focus on short term fee / penalty maximization can be attractive to some governmental officials but is likely to increase citizen distrust, create fertile ground for corruption, lower participation, and greatly decrease the long-term benefits and should thus be avoided.

The following actions are performed in the framework phase:

- *Define categories for formalization* (note the categories should be taken from the strategy document such that appropriate formalization can proceed).
 - Type of construction (age/quality/size/use of construction)
 - Type of informality (legal: ownership and land-use illegality)

- Type of informality (technical: construction safety/non-compliance with technical regulations/standards)
- *Determine legal and regulatory issues* and consider the administrative structure and legal framework in the design the formalization system.
- *Define appropriate action for formalization.* This includes proposals on how to act on specific types of technical and legal informalities.
- *Define the registration process* for unregistered parcels and how tenure problems will be addressed.
- *Design the draft formalization (and establish penalties and fees) process* considering local realities and use appropriate strategies.
- *Determine the involved institutions, gather political support, and prepare the administrative structure.*
- *Determine and implement the administrative system*
 - Activate the communication plan
 - Prepare the legal framework specifically
 - Allocate appropriate administration and technical facilities
 - Provide technical aspects relating to constructions
 - Form a “committee of controls and acceptance” which provides monitoring and statistical data throughout the process
 - Develop methods of citizen and government compliance
 - Test for reasonableness that each step of the procedural framework meets the expected needs, has the resources, and won’t bottleneck the process, if a problem is encountered.

4.4 Formalize construction

Once the strategy and framework for formalization has been decided upon, the actual process of formalization begins. This includes a wide variety of administrative and legal functions, fee collection, registration, and monitoring as appropriate. Within this process the previously created inventory of informality basemap should be used on which the areas under formalization should be delineated, in order to process the registration of informality in a sustainable manner, impose and collect penalties, set controls and methodology for the first registration of informal parcels, and monitor the formalization process. This monitoring process will give feedback and allow for it to operate efficiently, achieve the goals set within the strategy phase. The overall process should be transparent, inclusive, corruption free, sustainable, and flexible enough to adjust to many unusual situations. These steps include:

- *Submitting and processing documents and marking the location of each building on the inventory base map.*
- Management of documents
- *Registration of informal constructions* when appropriate.

- *Legal actions when required.* Including (a) existing tenure recognition: title disputes resolution, government/municipal land privatization, subdivisions when needed, inheritance issues resolution, adverse possession issues, and (b) planning amnesty: allow connection to utility services, health and safety action plan determination, environmental risk assessment and preparation of actions to be taken once the properties are registered in the cadastre and access to funding is possible, etc.
- *Impose and collect penalties,* and consider deferrals, low fees, special transaction taxes, installments, and the ability of the informal residents to pay.
- *Monitor and assess the formalization process* and gather data for future improvements to make formalization sustainable, watch to make sure the pace is acceptable, corruption is minimal, the program is fair, just transparent, inclusive, and that vulnerable groups are not being taken advantage of.

The outcome should be that informal settlements are eliminated, informality minimized, that informalities are brought within the formal land market, informal constructions are registered, and that the residents of these housing units are empowered and able to more fully utilize their assets to their benefit and that of the nation.

Special attention should be paid in order to discourage future informality by adopting appropriate planning and permitting procedures, affordable housing policies, flexible regulations, etc. However, detailed guidelines on these issues are topics for another publication.

5 Prepare the strategy for formalization

5.1 Introduction

This chapter describes the strategy phase of formalization in greater detail. Within this early phase it is necessary to:

- Organize the necessary support and political will
- Analyze the existing informality within the local real estate market
- Carry out cost benefit analysis and determine the consequences of no action
- Agree on an appropriate formalization strategy
- Develop a communication plan
- Draft a strategy report.

In short, this phase gathers support, analyzes the problem, proposes the solution, and communicates the overall plan for an adequate application of the formalization process.

The following two phases (The Framework of Formalization and Formalization of Constructions) go into much greater detail on how the supporting institutional and legal frameworks are designed. This includes how the process will proceed and interface within the balance of governmental operations. The registering of land parcels, and how the entire system will be monitored to ensure inclusiveness, and a lack of corruption, and protection for societies most vulnerable groups are two examples of important aspects of the project that are planned in the strategy document but designed in greater detail in these later phases.

The goal of formalization is to remove the current level of informality and provide an opportunity for settlements upgrading. It should also make the formal market sustainable in that it discourages future informality as well. To do this it is important to understand the root causes of informality such that these underlying problems are adequately addressed and mitigated within society and the land markets. These concepts are considered in detail within the cost / benefit study, which then leads to the determination of the appropriate solutions to the informality problems. The formulation of the strategy should take the long-term formalization goals into account as it considers the available data and plans the most appropriate response to the challenges at hand.

Additionally, an important outcome of this phase is the creation of sufficient sustained political will to provide the required legal reform and formalize. This can then lead to the development of a realistic overarching strategy that will bring the existing informalities into the formal market while discouraging future informal development.

5.2 Organize the necessary support and political will

The most important outcome of the strategy phase is the political decision to start the formalization program, as well as a general understanding of the path forward by all actors. If this is not accomplished,

or if support is insufficient (political will, public, and other stakeholders) to follow through with the entirety of the formalization program, then the actors should consider delaying until sufficient support is achieved. Raising awareness is very important.

This step includes organizing the support of involved relevant ministers, usually of finance, justice, physical planning, environment, transportation and housing, etc., as appropriate. Later in the strategy phase (as more data is available) the release of a communication plan focused more on citizens, professionals and the business sector is suggested.

While vitally important, gathering support is politically connected to the local governing body, stakeholder priorities, and other powerful groups / individuals. As such, a detailed discussion of how to accomplish this task is beyond the scope of this document and should be handled on a case by case basis. Education is playing a crucial role, therefore international trends and UN, FAO, FIG and World Bank publications relevant to the good management of land, land administration, property markets, etc., should be included in the academic documents for professional training. Media, schools, religious institutions, professional associations, as well as political parties also have responsibility to share information and knowledge and educate their members and in turn to raise awareness and prepare society for creating the political will. The UN Sustainable Development Agenda 2030 and its major principles and goals should be widely communicated among local groups. Organizing support will strengthen during the remainder of the strategy phase process as the cost benefit study is prepared and analyzed, and the full scope of the project gets better understood by all parties.

5.3 Analysis of the existing informality within the local real estate market

Prepare a background paper

This step of the strategy phase analyses and a background paper is produced on the root socioeconomic causes, size, types, and extent of the informal development and informal market of informal buildings. It also summarizes the broader affected area, social, economic cultural, and environmental forces. It is assumed that at this stage, the relevant state authorities (municipalities, utility agencies, relevant ministries, planning and permitting agencies, cadaster, taxation office, land registry, privatization agencies, etc.), professionals/private sector (lawyers, valuers, real estate agents, surveyors, civil engineers/constructors/electrical and mechanical engineers, notaries, registrars, architects, planners, etc.) and other market actors (e.g., the banking sector, NGOs, academics, economists, etc.) have already been identified and that they already have realized that there is likely significant informal development (and thus an informal market) that is broadly and negatively impacting the economic and social performance of an area.

Before the extent of the impact can be analyzed and solutions considered, a socio-economic understanding and background paper on the broader formal and informal sectors and how they interact with society is strongly recommended to be commissioned. Real estate markets do not operate in a void and impact most levels of societal activity. A thorough understanding of the core elements surrounding informality of

construction greatly increases the chance that the recommended solutions will achieve their desired and positive results.

Prepare informality inventory base map and paper

The geographic locations should be determined (mark the informal settlements on a base map/orthophotomap, GIS, etc.), types and extent of informality in the real estate sector of the affected region. List and analyze relevant informality data from any other sources available (e.g., local authorities, privatization agencies, ministries, tax office, utility services, private sector such as constructors, lawyers, notaries). A report on informality in its many forms should be prepared to as good a level of detail as the available data can provide. This will help frame ideas for solutions to the identified problems and suggest the path forward for an effective formalization program. This will also enable a better understanding of the socio-economic impact of these informal markets on the broader economy, society and culture.

The analysis should identify the type of informality (e.g., informal tenure/ownership of the land, lack of planning/construction permit, lack of occupancy permit, lack of operational permit, etc.). It should also identify the scale/size of the informal sector (e.g., roughly estimated figures for: numbers of parcels affected of each type, which land uses are affected by which type of informality, how much in estimated fixed asset values by type of asset and type of informality, how many and what types of people live within or utilize these assets regularly (size of families, income, ethnic minorities, etc.). Classification should not be overly complex and detailed. This is to generally avoid high upfront complexity, time and cost. Classification may be done according to the period of construction (old, new), the size of construction (single family homes, multi-story apartments, and commercial constructions) and the quality of construction; for the sake of simplicity it may be combined e.g., old and bad quality construction. It can also be done based on the types of informality (classified as technical or legal; See section 6), environmental, political or societal impact. In general, a thorough understanding of the informal assets and their relation to the surrounding society and economy will allow more prudent formalization decisions to be made and a more accurate cost / benefit analysis to be performed. In most cases the compilation of pilot projects may help significantly in identifying the problems and the bottlenecks and may allow for fast and efficient improvements.

5.4 Carry out cost benefit analysis and determine the consequences of no action

This chapter discusses the consequences/losses of no action, of allowing informal settlements to continue to exist and develop without been formalized. Estimating the benefits of formalization is the same methodology of estimating the costs of no action.

The cost benefit analysis study is a critical step in determining what form and scope of formalization process should be undertaken, if the formalization process should be undertaken at all, and if this is the right time for it. The benefit analysis is the first step in this process.

The formalization of informal real estate assets will have many direct and indirect economic benefits. A careful study can be made to estimate such affects and over what time period they will likely be realized

(Potsiou and Nystrom, 2016). A detailed study of the methods and options for reasonably estimating the short, middle and long term economic benefits derived from formalizing the informal real estate constructions is beyond the scope of this guide. So far, unfortunately some examples of bad practice in this field have already been identified, e.g., long, costly and complex formalization procedures have been justified with the excuse that the whole formalization process will keep engineers, surveyors, lawyers, architects, valuers, etc., busy for a long period of time. The formalization process is not intended as “benefits” to those groups, or as “make-work projects” for other professionals, favoring only specific social groups instead of the whole community.

Environmental and social cost and benefit studies can also be performed to analyze the type, form and scope of benefits obtainable from formalization of the informal constructions. These environmental and social cost and benefit studies are by nature more subjective and value-driven by the society and culture, but no less important.

Once the benefits of formalization have been reasonably estimated, this should then be compared to the costs of formalization in order to decide the most appropriate procedure to maximize benefits and minimize costs. These costs and benefits include social, cultural, economic, time, environmental, and political costs/benefits. Additionally, the benefits study should also be performed with a mind to the related costs of formalization. For instance, depending on the scale and scope of the formalization process does it formalize informal tenure rights or does it only provide planning amnesty? Does it include 50%, 75% or 95% of informality in a region? How large is the affected region? What is the scale of the entire project? What are the inherent problems and associated costs that can be expected and are local society-based? Both the costs and benefits estimated could change wildly. The appropriate level of formalization chosen in an appropriate manner should consider both the cost and benefits expected over the short and long term.

5.5 Agree on a fit for purpose formalization strategy

This juncture of the global formalization process allows for the comparison of the estimated benefits of formalization, and the costs of the various options, e.g., ignore the problem (or some parts of the problem), to demolish parts of informal construction, or to investigate various formalization options. Following this analysis, it is usually determined that fast formalization of as many informal buildings as possible, is the most prudent way forward. However, the economic, political, environmental, time, cultural and social costs of formalizing the informal constructions need to be estimated to determine what form of formalization is most appropriate for best results. Specific types of informalities may be easier to deal with and formalization may be accomplished faster and cheaper than with other types, (e.g., old constructions of small or medium size lacking construction permits; or single family houses up to 400 m² built without a planning/building permit; or illegal extensions of houses built legally, etc.). Others may require more documentation e.g., multi-story blocks of apartments that are built without permits on plots that are lacking ownership titles, and yet others may require some on-site inspection as well e.g., multi-story restaurants, schools, hospitals, public or private offices, etc. that usually accumulate large numbers of occupants.

This stage of the strategy phase calls for a reexamination of the strengths and weaknesses of political support for formalization, the expected societal and cultural support, and the range of anticipated benefits

and associated costs of each possible formalization program (considering the range of formalization options, economic, social, cultural and environmental costs / benefits). Now that all of these components have been gathered separately, they need to be reconciled against each other to show the optimal solution to inclusively maximize benefits and minimize costs.

An appropriate formalization plan should be proposed in the strategy phase based on the expected costs, benefits and political realities. Several different formalization possibilities should be explored that consider these variable costs and benefits, as well as consideration of interim step solutions to the problems. No one size fits all programs, nor will it work in all situations. Choosing the appropriate one for a given region should be based on local realities, and the best mix of short and long-term net benefits for society.

Additionally, the appropriate solution should adhere to the UN Sustainable Development Goals, be transparent, inclusive, and attempt to alleviate social pressure for society's most vulnerable groups. Officials should attempt to foresee likely problems based on the types and extent of informality identified.

When analyzing the background, informality types, informality scale, and solution options, officials should be open and inclusive regardless of who is the occupant (ethnic minorities, gender issues, vulnerable groups, etc.), and should include all informal settlements regardless of where they are built, including all areas regardless of the land-use type, and those in remote locations and the type of informality, and regardless of the land owner. Officials should strive to be just, fair, transparent, and scientific in the gathering and consideration of this data, as well as in developing the proposed methodologies and services as mentioned in the VGGTs.

By doing so, many types of problems (social, economic, legal, and administrative, etc.) can be avoided or minimized and it is more likely that the conclusions and solutions will be more accurate and beneficial for all concerned. This data gathering, and analysis phase and proposals are key to understanding and solving the problems. Accurately performing the cost / benefit analysis will underpin how the formalization process should proceed to produce the best and most appropriate results.

5.6 Develop a communication plan

This section of the formalization plan calls for the development of a communication program, but communication will in fact build across the entire program. Initially, the communication plan should focus on gathering sustainable political will and stakeholder support, but at this stage the technical analysis of the cost benefit studies and proposal of appropriate solutions have been made. A more detailed and broad scope communication will be needed to be educated institutional actors that are likely to be involved, professional organization that will be utilized, involved actors among the business and international communities, as well as affected informal and formal market citizens.

The developed communication plan should promote international trends and the UN Sustainable Development Agenda 2030 as well as in the VGGTs. Documents should clearly show the objectives, scope, and the reality of the costs / benefits in a streamlined easy-to-understand fashion; simplified documents should be distributed within the informal settlements and within the educational and/or religious institutions. It should tailor the data to give the most relevant details to each group based on their need for the data and their understanding of the information with more technical data given to those of technical background. Workshops and publications (via professional channels, social media, news media) should be made available and timed for release somewhat ahead to minimize unreasoning opposition and maximize creative and useful input by the associated involved parties.

5.7 Draft a strategy report

After the appropriate data is gathered and analyzed, cost / benefit has been examined, and the general plan has been structured in a way that is appropriate in the local society, culture, and environment, considering the specifics of the local informalization problem, as well as the aims of stakeholders and government, a policy paper is required (Draft Strategy Report). This policy paper should summarize the findings, analyses and the proposed strategy to formalize the informal constructions and settlements, should clarify what areas can be formalized (and which constructions should be demolished due to severe environmental or social damage, always in respect for people's rights), and should help clarify both how and why formalization should proceed. It should also communicate effectively while helping solidify support utilizing all of the concepts in this section. Additionally, the draft strategy report will likely have some revisions as the communication plan moves forward and more actors make their opinions heard and considered. However, the formalization plan should continue to move forward as quickly as reasonably possible to minimize time-related costs and maximize the chances for success while political and stakeholder support continue.

The strategy report should contain the legal requirements/documents for formalization and the main characteristics of the adopted policy and procedure, such as whether penalties will be applied, should formalization will be compulsory, how the cost is to be distributed (e.g., who bears the registration cost, cost for technical report, etc.). For example, penalties and fees for providing ownership rights may be low or even nonexistent in order to speed up the privatization and property registration process for primary residences. Structural and planning improvements should be required at a later stage following property registration, so that costs for structural improvements may be born either by the current occupant or by a future one following a transaction (formalization of ownership rights should be made compulsory prior to a transaction).

6 Prepare the framework for formalization

6.1 Introduction

This chapter describes how a framework is set up in a series of logical steps. The specific plan of action that was considered most appropriate within the strategy phase, and will be implemented within the next phase, is described in this chapter.

The general steps within the framework phase include:

- Define areas and categories eligible for formalization
- Determine the legal and regulatory issues
- Define the appropriate actions for formalization
- Define the registration process
- Design the draft formalization process and establish penalties and fines
- Determine the involved institutions
- Determine and implement the administrative system to:
 - o Activate the communication plan
 - o Prepare the specific legal framework
 - o Allocate appropriate administration and technical facilities
 - o Provide technical aspects relating to constructions
 - o Form a committee of controls and acceptance
 - o Develop methods of citizen and government compliance
 - o Test for reasonableness

This phase designs and creates the infrastructure to be used throughout the entire formalization process. The framework for formalization has to be carefully defined and set up. All the provisions like law, organization, the approach for the formalization process itself, institutional and professional responsibilities, budget planning and many more related details will require description and development.

6.2 Define areas and categories of construction for formalization

Within the strategy phase the compilation of a GIS base map detailing zones where formalization is possible and the inventory of informal construction according to the *types of informality*, the *scale/size of the informal sector* and the formalization process, as well as the *environmental, political or societal impact* should be analyzed. Considerations should be made on unclear ownership of the land, non-compliance with planning/construction permits, occupancy permits, operational permits, etc. Also consideration should be given to roughly estimated figures for numbers of parcels affected of each type, which land uses are affected by which type of informality, how much in estimated fixed asset values by type of asset and type of informality, how many and what types of people live within or utilize these assets regularly.

A thorough understanding of the informal assets and their relation to the surrounding society and economy within the strategy phase is critical. This understanding can lead to the proposal for a formalization strategy appropriate for the specific local economy, society, culture and environment; part of the decision in determining what actions are appropriate for groupings of informal constructions and how many different

groupings there will be should also be considered. For instance, the appropriate response for minor informality where there is clear ownership, registration, good quality construction, and no significant negative societal or environmental impact (say additions to good quality legally built homes, violations in excess of permitting regarding size, use, or approvals), may be a very streamlined process with minimal penalties, costs or no inspections. In contrast, another grouping may be of high potential risk to the public such as “illegal” development on squatted land in environmentally risky areas, possibly threatening the health and safety of a broader area (say a squatter settlement in a radioactive area that threatens an entire community). These are two potential categories that could be realistically defined at this stage so that the proper response and administrative handling of these issues is appropriate to the specific issues involved.

There are broad categories of informality that could and should be a basis for defining the appropriate categorization in a specific region and will be discussed in more detail here. However, local conditions, impacts, political reality, society and culture will always be the core foundation upon which the specifically defined categories are created, such that an appropriate coordinated formalization process can be applied to each grouping of informal constructions in a fair, transparent, inclusive and unbiased manner.

That being said, the type of area zones where formalization may take place and the categories of constructions for formalization considering the following, multiple items may apply to an individual property. Additionally, these defined categories are the starting point for stakeholders to decide their responses and groupings of constructions within the formalization process. A merging of classes, where possible, is preferable to simplify the process (e.g., the new constructions may be merged with those of good quality and the old with those of bad or medium quality, etc.).

i. Zones for formalization and type of construction

First the areas within which formalization will be made possible and areas that should be protected need to be defined and delineated on the base map. Areas with informal settlements should be included within the areas under formalization and upgrading. Protected areas should be monitored regularly preferably by using automated methods. Individual illegal constructions within such areas may be examined separately whether they may be rescued or demolished.

Within the areas under formalization and upgrading various types of construction such as single-family residences, multi-floor apartment facilities, commercial uses (retail, industrial, office, special purpose), or other miscellaneous building improvements may be identified. It should be noticed that even within such areas specific individual constructions (e.g., those constructed in some central public areas, in the route of main roads, etc.) may still not be eligible for formalization.

The type of the real estate may impact what formalization steps and documents are considered most appropriate to be submitted. For instance, relatively small sized single family self-made residential homes may be processed very differently from the informality of large facilities that accommodate large amounts of people, such as schools, restaurants, cinemas, hotels, or multi-story residential buildings. Each is likely to have very different levels and types of impact on the surrounding area and the way the formalization process is designed.

j. Type of informality (legal)

Type of legal informality includes (a) the absence of or incomplete title (tenure, title, and/or property registration, ownership of land informality, occupancy permit informality, etc.) and/or (b) absence of a planning and building permit (built in areas where construction is forbidden, such as agricultural land of high productivity, or forest land, archaeological site or coastal zone).

- (a) Legal formalization steps should be defined for informal constructions built completely or partially within private land that belongs to a person other than the occupant (e.g., adverse possession), and cases of informality upon state land, municipal land, land that belongs to social enterprises, cooperative land, or on land where the occupants have only the right to use (e.g., privatization). Various classifications and the procedures, fees and documents should be clearly defined. It may also be the case that a construction is built on legally owned land, but the construction is built either without a permit or exceeding a permit and then the building may be subdivided and parts of it are sold to others, but only through an informal agreement thus lacking property titles and/or shares on the plot and/or the common parts of the building. Such issues should be legally solved, and clear property titles should be delivered.

A political decision is needed in order to allow title provision and determine fees and costs for every combination of type of construction, category of informality and sort of title defect. Rights of use are usually transformed into ownership rights free of charge (depending on the time length of those rights) or with a symbolic or scalable fee. As an example, when providing ownership titles to condominiums it may be preferable to provide shared group ownership rights on the parcel too. That way, in case of a future reconstruction all co-owners of the land will easily become co-owners of the new construction. Such issues are dealt with in the civil code but in many countries this remedy is still missing. A specific formalization procedure for this type of occurrence, if a common one, may be an appropriate category in the organization of the formalization program.

- (b) Planning and construction informalities may influence the right to use the building but, in some cases, may also cause problems in ownership rights. For instance, planning and construction permit informality would refer to informal settlements built without permits in areas that may or may be not dedicated for construction, exceeding their permits or without permits, or to entirely different buildings than allowed by their permits. When an informal settlement is built in land not planned for construction such as highly protected agricultural or forest land, even if the land is legally privately owned, the buildings may be considered to be illegal and according to the law must be demolished so registration of the buildings is not allowed, therefore transactions or mortgages are forbidden. In such cases the state-ownership in such type of land may be defined and protected by the law, or even by the constitution of the country and recognition of existing tenure rights may require a major legal reform.

Formalization steps should be prepared for an informal settlement that is built either on legally owned land or not. Formalization should be prepared for each type of the above informal settlements providing planning amnesty so that ownership rights will be cleared out and such buildings will be registered in the cadastre and will be included in the economic procedure of transaction and mortgage. Priority should be given to formalize property titles first. The process should be different if a construction is built on legally owned land, but the construction or alteration is built either without a permit, exceeding a permit or for a use that is not legally

allowed. Formalization procedures should define various classes or categories, requiring documents and fees accordingly.

k. Type of informality (technical)

This type of informality includes unclear rights to use of a building for a specific purpose due to technical developmental / construction problems. Operational permits are required either for residential or commercial use. Operational permit informality may include a permitted construction but with a use that is not allowed for that building or for that location, or an initially permitted construction which has not gone through final inspections for safety and compliance with the required technical standards and therefore final approvals have not been obtained, permitting fees have not paid; therefore, registration of the created cadastral units is not allowed. Such informalities should also be classified in terms of importance and risk. For example, inspections for safety should be a priority for issuing operational permits in multi-story buildings that may accommodate a large number of residents and for commercial and public uses as well. Relatively small and single family residential constructions may acquire operational permits without inspections assuming that the occupants will undertake the risks and will be aware of the actions to be taken for safety purposes. This lack of inspections should be listed in the title of the property as a warning to future owners. Formalization of such informalities related to a lack of occupancy permit should be classified and provided accordingly in an appropriate manner.

By all means, priority should be given to the provision of clear ownership rights and property registration and transactions should be totally independent of the existence or not of an occupancy permit and should be allowed even if a construction is condemned as a ruin. Using the building will of course require the occupancy permit and for that construction improvements may be required but this can be accomplished either by the current owner or by a future one, who may choose another type of use for the particular building.

To summarize, the classes or categories most appropriate for a given region should take all of the following into account, much of which was analyzed within the strategy phase and the development of the informality inventory. The decision on how to group the classes for the formalization process should include combinations and consideration of all of these factors:

- Type of Informality (legal); various classes could apply under this category;
- Type of Informality (technical); Various classes could apply under this category;
- Scale, size or number of various groupings of informalities;
- Environmental, political, or societal impact.

6.3 Determine the legal and regulatory issues

At this stage, actors should consider the likely administrative structure and legal framework as they proceed with designing the formalization system (theoretically prepared up to this stage). The political, legal, and administrative functions related to formalization are likely to work in reasonable concert (preferable), or to go into some level of conflict (not optimal) depending on how well thought-out these processes are; a

relative success here will be accomplished during the strategy and framework phases of the formalization process.

It is important to prioritize title provision and registration-according to SDGs, VGGTs, and define the procedure for the adjudication of occupants/owners (ensuring gender, vulnerable groups and ethnic equity). Technical aspects, adoption of modern technologies, planning amnesty, environmental balancing measures, and international legal and ethical standards should be coupled with the current legal framework as much as reasonably possible. Any weakness in the given national land local legal framework should be supplemented by international standards for similar laws, and when necessary, new laws should be written to handle expected issues arising from formalization. The adoption of new laws or improvements of old ones will have to be accomplished and considered on a case by case basis as no two countries will have the exact same legal system or informality problems. As such, the appropriate legal solutions should be adapted to the specific local challenges and situation.

Great care will be needed defining what the legal status, title, use permit/license, or tenures will be the best appropriate solutions after formalization for various classes and types of informalities. Legal and administrative support for this must be both appropriate and have sufficient capacity to meet the demands during formalization of large numbers of informal constructions.

Local legal, political and technical experts working with stakeholders who are international legal and technical experts should examine the legal challenges and derive a reasonable solution to bridge the gap between existing laws and what will be needed to accomplish and maximize formalization success. Local citizen groups, business, and technical communities, along with interested stakeholders should be involved at some stage as well (within the implementation of the communication plan) so that their early input can be considered within the drafting of any new or changed laws. Getting the support and input of these parties early will publicize the legal aspects and all interests, and the involvement of these groups at an early stage could mean much less opposition at the implementation phase. All of this needs to be considered and carefully weighed when making decisions on how to change the legal structure to accommodate formalization, and how and when to involve the other relevant parties while maximizing the chances of success to the benefit of all.

6.4 Define the appropriate actions for formalization

Based on the classes of informal buildings (defined and categorized earlier in the framework) and type of informalities, the appropriate action for each class is designed and determined at this stage. This determination should be based on the overall strategy for formalization, and the economic, political, societal and cultural impact of a given class of informality.

A minimum action may be taken when the owner is informed that the informality is formalized and that no further actions are taken, nor future penalties imposed. An example of a maximum action taken is when the health and safety of the public is at risk from a given informal construction, and the danger must be corrected (preferably by replacing the danger with a series of balancing measures) or if this is not possible the

construction removed. For example, settlements built in protected lands may be formalized, but environmentally balancing measures should be provided in parallel.

Within this phase the actors should define what the action process should be for each separate class of informality. The actors also need to define what the (technical and financial) requirements and condition to formalize / legalize will be for each class of informality. This should also be done in an appropriate and inclusive fashion.

Possible actions can be put in a table/matrix to show the various combinations of constructions, public impact (minimal or large societal or environmental impact), and informality types (various legal or technical informalities). Using this table or matrix, the combinations can then refer to a specific appropriate action list and procedures for administrators, and legal and technical experts to follow. A detailed list of a matrix and actions to be performed is beyond the scope of this document as it will be very specific to the regional informality problems, legal structure, economy, and local societal situations as they apply at a given point in time.

To obtain maximum participation and remove informality from the market, the action process should be as open, inclusive, transparent, just, unprejudiced, affordable in both time and cost, and not be designed primarily with the objective of fee collection, as this may cause serious mistrust and delays. The primary benefits of formalization will be reaped longer term benefits to the economy and society and this should not be handicapped by short-term fee collection goals.

6.5 Define the registration process

Informality can be generally classified into the categories of “technical” and “legal” informality, as previously described. Technical informalities in the buildings should not hinder properties to be registered, mortgaged and transferred legally within the relevant governmental systems, assuming that the technical informality issues (such as lack of operational permits for not being built according to the approved permit) will be solved by an amnesty, with simplified procedures, and the necessary restoration of titles-if needed. Safety and stability of multi-story buildings built in excess of building permits may be guaranteed by the involved constructors who actually made the construction and can ensure that all important factors have been taken into consideration for the construction of the building. If a constructor cannot guarantee safety of construction such buildings may require on-site inspections to assess the risks and according to the assessment maybe operational permits will not be issued unless improvements will be made. However, property titles, registration, mortgage and transfer should be unblocked in order to facilitate funding purposes and market. Serious improvements may be accomplished either by the current owners or by a future owner; then operational permits may be issued and the use of the building may be permitted

Those constructions that have “legal” informality (in terms of titles or land-use) on the other hand are very likely to have a legal defect or are not at all or not correctly within the governmental land registration or cadaster system (such as constructions built on governmental land or not properly permitted subdivision of land into small residential plots, etc.).

Those constructions with legal informality need to be first offered property ownership rights and registered and brought within the cadastral registration and map. Each different classification of legally informal constructions (class and categories of informality described earlier in this section), may require a slightly different timing or type of rights and registration and appropriate tenure depending on a variety of factors relating to the nature of the legal informality. Good practice will usually recognize long existing informal tenure rights or rights to use and will allow easy, affordable or free of charge, and inclusive transformation of such rights into ownership rights.

Things to consider when defining and designing the registration process for “legally” informal constructions are:

- Is the construction on private, cooperative, communal or state land?
- Is there a serious environmental or health/safety risk involved?
- Has the parcel of land been subdivided into smaller units illegally?
- Are there unusual tenure factors that should be incorporated during registration?
- Are there ownership disputes between land owners and occupiers of the land?
- Are the possible land disputes resolvable?
- Is there unacceptable uncertainty over ownership of land and buildings?
- In the case of government owned land with informal constructions and occupants, is there a long existing right to use the land offered to the occupants? If not, are long term equitable lease, license, land grant, or deferred land payment sales / rentals possible legal solutions?

These and other questions need to be considered and are to be expected in the design of the registration process for informal constructions. Actors need to be able to define the legal status and title following formalization for various classes and types of informalities. They also need to define how to accomplish the titling aspect of formalization for various classes of ownership and title registration (or lack thereof). There will be legal questions, cooperation needed with governmental authorities, and realistic long-term just, fair, and transparent, solutions that protect the interests of society’s most vulnerable groups while also being fair to the general public, stakeholders and the political and social realities of local and national government.

6.6 Design the draft formalization process and develop penalties and fees

This phase of the project creates the draft formalization process based on our analysis of the informality problem and overall strategy. This process will determine the institutions involved in formalization, and the steps necessary to prepare the administrative system for this workload (described in the coming sections). After the creation of the draft formalization process it is recommended to develop a matrix on penalties and fees based on the types and classes of informality.

The draft formalization process should plan for the implementation of the following steps. Many of these steps were discussed and considered within the overall strategy but improved refinements should have been made as more information became available in this framework development stage, and additional refinements will be made throughout the entire process:

- Involve related governmental institutions and choose lead ministries
- Commence the communication plan
- Create and apply necessary legal framework for formalization
- Plan for various legal actions throughout the process
- Allocate appropriate resources, administrative, and technical facilities
- Plan for the administration and the electronic system to support the acceptance and processing of documents
- Disseminate technical requirements for the submitted documents
- Create and apply of a monitoring process (committee of controls and acceptance)
- Give guidance on how citizens, private professionals and institutions will comply with formalization
- Plan for imposition and collection of fees and penalties
- Test for reasonableness and refine the process as applicable

These items are all discussed throughout the remainder of this section, and into the following section. However, it is at this stage that the draft plan in its entirety should be put together since after it begins to be implemented it will be much more difficult to alter. Throughout the formalization process, the application of penalties and fees may be applied

Define what penalties are to be applied (if any) to each class of informality. This should be carefully considered such that there is maximum public participation in the program. Limited or no penalties, as well as deferred, minimal or no upfront costs imposed on informal residents should be advocated so that there is maximum participation and long-term benefits from the formalization program. In the situation of informal development on government, consider granting the land at a fair or nominal cost, consider deferred payments over time, long term rental payments at nominal amounts, and like solutions that take into account the limited ability to pay upfront costs by many informal residents. Impossible and unrealistic fee / penalty goals are not sustainable and will not solve the informality problem. In case informal constructions are built on private land owned by another party, depending on the affordability of the occupant, whether this is his first and only residence, and the duration of occupancy, as well as the history of the legal reaction of the real owner, various types of compensation to the registered owner may be required for a new title provision to the occupant. In case of poor and vulnerable occupants the state may consider the option of land exchange for the registered owner.

Excessive focus on fee collection, especially among societies most vulnerable groups, may in fact be counterproductive, in that it prevents the success of the system, inflames local opposition, and still has significant administrative cost. Fee structures should be limited to mild deterrent (in cases where informal residents can surely afford the charge), and to cover a portion of the costs of the system. This should not be considered a significant revenue source, should never be set outside of the residents' ability to pay, should carefully consider timing of payment, and should be fair, just and transparent.

Government and stakeholders keep in mind that the real benefit to the economy and society will be achieved over time through more efficient performance of the entire economic system (labour, land capital) and potential for annual tax revenue.

Table 1. Sample overview of actions taken matrix

<i>Type of Construction</i>	<i>Type of Informality technical</i>	<i>Type of informality legal</i>	<i>Action</i>	<i>Penalty</i>	<i>Remark</i>
House	No building permit to build No occupancy permit	None With Ownership title, & With a Planning permit (built within an area planned for construction)	Register in cadaster & technical inspection if the area size is more than 2 floors & larger than 400m ² In case of block of apartments: Guarantee from the constructor required or technical inspection	€/m ² ? Fee for a permit Fee for registration Fee for technical inspection-if needed	Consider health/safety And Inform occupants about the risks
House	No building permit to build No occupancy permit	no land ownership, No planning permit	Provision of ownership & planning amnesty Register in title register (& technical inspection as above)	€/m ² ? Purchase of ownership title (if not a first & only residence) Fee for permit Fee for registration Fee for technical inspection-if needed	Legalization of ownership & resolution of any disputes, Legalization of land-use (balancing measures-if required) (consider health/safety as above)
House	No permit for extension	None	Provision of ownership rights to all	fee for registration-if needed	Only inspection costs and fee, if needed

	No occupancy permit		occupants-if needed Registration of all owners -if needed Guarantee for safety from the constructor, or (Technical inspection as above)	fee for technical inspection-if needed	(consider health/safety as above)
Small Store	No permit to build No occupancy permit No permit for operating a store	no land ownership, no planning permit	Provision of ownership Register in title register technical inspection-if needed (depending on the size and type of store, as above) provision of operational permit	€/m ² ? Fee for the ownership title Fee for registration Fee for technical inspection-if needed Fee for operational permit	Legalization of ownership & resolution of any disputes, consider health/safety as above Provision of operational permit
Small Store	No permit for operating a store	None	Normally this property is registered, if not: registration Technical inspection-if needed according to the size and type of store	Fee for registration-if not registered fee for technical inspection-if needed as above	Does use impact health / safety of the area?

6.7 Determine which institutions to involve

At this stage actors should prepare the institutional structure for formalization. This includes appointing the responsible ministry, the institute or agency charged with the implementation and the lineup of many involved institutions, municipalities, tax authorities, land registry, cadastre, and professionals as well as citizens, etc. Sometimes the establishment of a new agency responsible to handle formalization is preferable. In that case technical equipment and qualified personnel are required; in such case it is important that the team should be limited and highly educated. Most of the services should be provided electronically; mobile services are preferable.

Each involved institution should clearly understand their role in the process. A reasonable financial and resource budget should be included to insure adequate performance. This budget should not be based on the collection of fees and penalties as that would almost certainly create incentives that would undermine the success of the project.

A few key aspects to be considered as the institutional structure is prepared are; sustainability and flexibility of the program over a possible extended period, monitoring and flexibility for legal/technical improvements, some degree of independence from political changes, adequate financial and technical resources, good leadership, a history of adequate past performance, and good familiarity with the relevant legal, economic and governmental forces that will be involved in the formalization process. The organization of political support is also crucial at this stage as key resources and responsibilities are beginning to be allocated.

6.8 Determine and implement the administration system

At this point in the process, the strategy and decision making has been primarily accomplished. The plan for all of the supporting structures and the administrative system is ready to be implemented and the project launched. The following is a general list of the formalization supporting structures to launch.

a. Activate the communication plan

Prior to this stage there is a need to develop a communication plan. Some aspects of this plan should have been underway already, primarily related to gathering political and technical support. However, many aspects of the communication plan should be delayed until the full formalization plan is developed by the stakeholders so that there is flexibility to make improvements in the plan right up to launch.

This communication plan should now engage the occupants, technical professionals, local and state authority staff, and the general society and begin creating greater public awareness of what the project will

entail and what the long-term benefit will be. It should also define how citizens can comply, and how the government will monitor compliance with the technical, legal, and physical steps required to formalize. It should also show how the progress of the program will itself be transparent to stakeholders and the citizens and how it will itself be monitored. Workshops and public forums may be organized for various aspects of the program to educate the public and help reach maximum coverage of formalization and minimize all avoidable problems related to misunderstanding.

b. Prepare the specific legal framework

The adoption of new laws and improvements of old ones for compliance should be accomplished as necessary and in an appropriate manner. Specific legal solutions should now be adapted to the specific local challenges and situations. Prior to this the specific legal challenges should be considered and the best available solutions must be implemented.

The legal status, title, use permit/license, or tenures after formalization for various classes and types of informalities will soon be launched and any needed forms, staffing, or legal drafting must be accomplished. Legal and administrative support for this should now be made ready, appropriate and have sufficient capacity to meet the expected demands during formalization.

Local legal, political and technical experts working with stakeholders who are international legal and technical experts should finalize their reasonable solutions to bridge the gap between existing laws and what is needed to accomplish and maximize formalization success. Local citizen groups, business, and technical communities, along with interested stakeholders should have a voice during the finalization of the legal apparatus.

c. Allocate appropriate administrative and technical facilities and resources

Actors should next allocate appropriate administration and technical facilities, staff, and budget that are required to carry out the formalization process, and preparation for formalization, including the monitoring of all aspects of the development process. Appropriate resources must be allocated for updating legal drafts, in anticipation of a large influx of new contractual and ownership documentation and possible dispute resolution.

Rapid application for registration of many new parcels, buildings and property units will occur and the resources to support that must be in place. Controls of applications and submitted documents should be standardized to avoid bottlenecks and provide registration timely. Many of these registrations will require subdivision from their existing land boundary lines and complex ownership changes. Administrative institutions need the resources to handle an influx of documentation, the creation and processing of documents, fees and penalties, higher volumes of questions and complaints, and changes to existing systems related to the formalization program and associated legal issues. Electronic resolution of questions should be provided; workshops should be organized regularly.

To maximize the coverage and benefits of formalization, a relatively fast and simple system of formalization is likely to meet with greater success. If insufficient resources are made available, unfairness or corruption is perceived in the system, and the entire success of the project could be put into jeopardy. Political objection may come in the form of starving the project for needed resources, and this should be avoided by any realistic means possible so that the long terms benefits of formality are enjoyed by all of society.

d. Provide technical aspects relating to construction

Administrative institutions will need definition of the (technical) requirements, conditions and the necessary documents to formalize / legalize. They should be provided at this stage with technical aspects relating to informal construction. There should be an apparatus to allow for flexible determinations on compliance for physical aspects of the constructions within the approval process. The results should be appropriate, while minimizing corruption in the system, avoid extra costs and be designed to screen out health / safety and environmental threats to society, while being open-minded to the reality of informal housing responses to the economic and societal conditions that past and existing laws have created.

The short-term goal is formalization of the maximum amount of informal constructions as long as they do not create serious health or safety risks difficult to deal with, and ownership disputes are manageable. To minimize such health or safety risks certain interventions are urgently needed. For that, access to funding and capital is urgently needed, too. Therefore, it is important that clear titles and property registration should be given a priority. Once registration is accomplished, and transactions and mortgages will be allowed, incentives should be provided so that owners (current or future) through lending mechanisms will undertake the costs for such health or safety interventions. To speed up the process, such incentives may even allow the amount of money allocated for penalties and fees (or part of that) to be used directly for health or safety improvements by the occupants instead of been collected by the government. The long-term benefits to society (especially the most vulnerable groups) from formalization and a broader inclusive and fair economy, including this sector, are such that flexible application of technical construction standards at the registration phase are important to the overall success of the program. Reduced geometric accuracies and required technical documentation may allow the use of mobile services and crowdsourcing techniques, as well as orthophotomaps, or even aerial photos as base map tools for the preparation of the technical documentation, thus speeding up the process and reducing the costs for the occupants. In the future, removing the incentives for informality, better addressing actual housing needs, responsive planning, and realistic construction requirements will be needed to mitigate the societal demand for this housing product and perhaps curtail most future informality.

e. Create a monitoring and evaluation system

A monitoring system or “committee of standardized controls and acceptance” should be created at this point. This system provides monitoring and statistical data throughout the process, insures and approves relatively standardized documentation, maintains records on the program, or oversees and coordinates with

other institutions that are entrusted with these functions so that they can be efficiently utilized and are managed appropriately.

The monitoring system is designed to increase transparency and the just, fair, and inclusive application of the formalization program. Proper monitoring and oversight should minimize corruption within the process and allow stakeholders a better understanding of how each phase and sector of the project is being handled. Good monitoring should uncover problems in the system early in the process, allowing for more rapid responses and a better final outcome of the project.

To make monitoring of the progress easy, governments use a GIS based on an orthophomap on which informal settlement boundary lines are marked, and also the declared individual informal buildings are marked, too. All constructions within the boundary lines of the settlements, built until the date of production of that base map may be formalized. However, mentioning a deadline in the formalization law is not recommended, especially if major reforms to minimize the causes that lead to informal development are not made prior to formalization. Defining a deadline has always a risk to cause a new generation of informal settlements.

f. Develop methods of citizen and government compliance

Occupants of informal constructions, governmental institutions, and technical and legal professionals will need clear direction how to comply with the formalization program, and what the specific expected role for each will be. The monitoring system will oversee this process as it unfolds but clear and simple forms and directions to all parties will be needed for the program to be successful while creating public trust. In some cases, valuable information about informal buildings may be available in the records of the involved private sector, for example constructors may have the plans and all necessary information about the size of individual units, the safety/stability of construction, etc., while notaries or real estate agents may have records of informal private agreements, including transaction prices, made to facilitate informal transactions as these units are not registered in the cadastral system. In such cases the cooperation with these professionals will speed up the process of data collection and adjudication of owners and will reduce the time and costs of the project. The municipalities or the tax office may also have valuable records that may help the adjudication of owners. It is recommended that such information be collected first and then an open call for citizen participation for declaration submission be made.

The communication plan should promote the overall plan, methodology and what is expected of all parties. As the program progresses, changes in these systems may be required to avoid bottlenecks, setbacks, and misunderstandings. Pilot projects may be useful in case of extended informal development of varying characteristics in large countries. A streamlined process with clear expectations for all parties should minimize problems and allow for the most benefits to accrue to society, the individual informal residents, and the economy itself.

g. Test of reasonableness

A test for reasonableness should be performed for each step of the procedural framework. Reasonableness is determined if the individual step efficiently and justly accomplishes the stated overall goals as analyzed in the cost / benefit analysis and strategy phase and accomplishes maximum participation in the program for long term benefits.

A heavy focus on detailed plans, high geometric accuracy of submitted plans, detailed on-site inspections as well as on short term fee / penalty maximization should be avoided, corruption or the appearance of corruption eliminated (minimal “gatekeepers” in the process), the monitoring system (including outside stakeholders) should have access to all levels of the process for review only, and progress should be judged regularly in relation to stated realistic timeframe goals and the possibility of and response to unavoidable problems. These tests of reasonableness should be performed early in the program development stage but should also later be considered by both stakeholders and the monitoring system such that optimal, realistic, efficient, just, inclusive and transparent actions are performed at all levels of the program. Some of the results of these studies could become part of the communication plan and show the responsiveness of the actors to any perceived issues as quickly as is reasonably possible.

7 Formalization of constructions

7.1 Beginning the formalization procedures

After the strategy and frameworks for formalization have been decided upon, the actual process of formalization begins. This includes a wide variety of administrative and legal functions, fee collection, inspections, registration, and monitoring as appropriate. Within this process, the inventory of informality alluded to within the framework and the GIS system and basemap will be used, to process the registration of informality in a sustainable manner, impose and collect penalties, set controls and methodology for the first registration of informal parcels, and monitor the formalization process.

The entire process has been described within the framework stage, and will vary based on the country, legal systems, societal needs, political realities, current state of the cadaster and institutional framework and the nature of the informality in question. The program should be transparent, inclusive, should be free of corruption, be sustainable, and be flexible enough to adjust to many unusual situations.

In section 6.6, Table 1, a partial sample of an action matrix for several hypothetical informal property types is shown. The stakeholders, and governmental administrators will have to decide what they feel is appropriate for their specific informal constructions and citizens, and a more detailed matrix with a much longer list of property types, actions and fees will have to be created. This should work well with the class and classifications of informality groupings that were also decided upon within the framework phase.

7.2 Accepting and processing documents

Formalization will create demand for a great deal of historical documentation as well as new documentation. This will be related to existing rights, registration processes, cadastral data, evidence of ownership or lease, permitting data, technical inspection data, subdivision data, historical evidence, legal documentation, penalty / fee records and other information, all needed on a case by case basis. Attention should be paid so that required certificates from the various agencies will be provided free of charge preferably electronically to reduce bureaucracy, time and costs. An appropriate procedure should be planned for that.

The administrative structure was designed within the framework phase and resources are allocated, but it is now that the actual work is done and acceptance and processing of documentation starts. Any flaws in the system, either in the processing or document design, should be noted by the administrative staff, citizen users, or monitoring body and corrected at once.

7.3 Registration of informal construction

Those constructions with legal informality need to be formalized urgently and property titles must be registered and brought within the cadaster so that they can become part of the formal market system and the economy. It is noted that in some country projects informal constructions are registered but in a special evidence list, but the property rights are not clarified immediately. This practice increases bureaucracy and does not help meeting the purpose of formalization timely. Each different classification of legally informal constructions may require a slightly different timing or type of registration and appropriate tenure depending on a variety of factors relating to the nature of the legal informality. General decisions on how to handle this were suggested within the framework section of this document, as appropriate to the local conditions.

First registration will be completed for many informal properties as part of this program, and all parcels should be registered. Technical informalities such as pending technical inspections and improvements may or may be not mentioned on the registry records depending on the decisions of the stakeholder and state agencies. Transactions should be allowed even if the existing construction is of very poor quality so that the informal construction can be placed back into service, either after a new owner renovates or demolishes the informal building, and these decisions should have been made within the strategy and framework phases.

This guide focuses on the formalization process, and while registration of informal parcels is key to that, a complete description of how to accomplish the registration process is beyond the scope of this document. There have been many examples worldwide of registration projects taken on by international stakeholders in collaboration with state agencies. We refer to these other examples both of what has worked in the past and what has not worked well.

7.4 Legal action as required

The formalization process and registration of informalities will require a wide variety of legal actions to be performed, and these will be handled throughout the formalization process, and likely for some time afterwards. These relate to potential title disputes, government land, subdivisions, health and safety determinations, inspections when needed, environmental risk and disaster assessment, inheritance, utility services, processing, system-wide norms for housing units, application of future zoning requirements (current informal use should be “grandfathered in” or allowed), and other matters as well.

Resources were allocated, facilities prepared, and plans for how to accomplish various legal tasks related to first time registrations, subdivisions, ownership disputes, and transfer of state owned land to informal occupants (as appropriate for the situation) were made during the framework phase. During the actual formalization process some of these planned actions and resources will be sufficient, and others will have to be changed or supplemented to address different or greater need for specific legal services. It is also important to note that while a large amount of legal work is during formalization, the problems and need for it were created over the entire time period when the informalities were being built. What is new is that the issues that had been ignored for many years are finally being addressed and resolved to the betterment of society as a whole.

7.5 Impose and collect penalties

During formalization, the process of imposing and collecting fees should be handled very professionally to maintain confidence in the program. It is important that when penalties are imposed, they are then collected as a partial deterrent to reduce future informality, while the best deterrent will still be to solve the weaknesses in the housing and land markets, planning and zoning flaws, affordability of housing, or unfairness in the system that was the cause of the informality to begin with. As mentioned in the VGGTs, “States should take all appropriate measures to limit the informal tenure that results from overly complex legal and administrative requirements for land use change and development on land. Development requirements and processes should be clear, simple and affordable to reduce the burden of compliance”. Fees and penalties should be appropriate to the specific informality, should be affordable and within the ability of the informal residents to pay, and should be based on consideration of long-term solutions like deferrals, installments over time, nominal fees/penalties, special transaction taxes to occur upon a future event like a transfer of ownership, and other events that will not discourage participation in the formalization program and the creation of a formal market that includes nearly all parcels. First registration of informal properties and property units should be made regardless of informality and preferably regardless of the payment of fees.

The imposition of fees and penalties can give rise to some aspects of corruption. It is important that the monitoring process is sufficient to minimize this factor, and that fees and penalties are applied and collected in a just, fair, unbiased, affordable and transparent manner. This should help to maximize participation and trust in the program.

Part of applied fees may be balanced with necessary improvements of the constructions or the neighborhood and receipts of such expenses may be submitted instead.

Following formalization of properties and integration of them in the market attention should be paid for fair property valuation and taxation. Several documents including the VGGTs provide information about the international trends and examples of good practice on this issue.

7.6 Monitor formalization process

The monitoring system or “committee of controls and acceptance” should be fully activated at this point for their primary duty (that of monitoring the actual formalization program as up to now has focused on feedback for the framework design). This system provides monitoring and open access to statistical data to all including those stakeholders and administrators as needed, helps ensure standardized documentation, maintains records of the program, or is overseeing and coordinating with other institutions that are entrusted with these functions. They should be tracking the formalization process, the decreasing number of informalities, the legal issues arising and their resolutions, inspections, and registrations, and provide feedback to the responsible institutions.

The monitoring system was designed to increase transparency and the just, fair, and inclusive application of the formalization program. If it is working well it will minimize corruption within the process, provide a better understanding on how each phase and sector of the project is being handled, uncover problems in the system early in the process, extend deadlines if needed, provide incentives and allow for more rapid responses, help protect society's most vulnerable groups and provide a better final outcome for the project. If the monitoring process is not accomplishing these tasks adequately then some adjustment may be required to make it effective.

Reporting on the progress at frequent intervals based on evaluation of the achievements is necessary. Reporting on the obstacles and suggested improvement in the process, to be agreed by the appropriate level is also needed.

8 Actions to be taken in parallel with to the formalization

8.1 Introduction

A number of activities are recommended in parallel with the formalization program. Formalization should not be delayed during implementation or improvements in these systems, but the broader success of the factors of production (land labour and capital) will be advanced by strengthening all of the supporting pillars of the formal land markets, and it will slow the growth of informality.

8.2 Registration and titling process for informal assets

The registration process must be prepared for the influx of informal assets being registered during the formalization procedures. This has been discussed within the framework and formalization phases, however, there may be broader weaknesses within the registration system in a specific country, and if so, improvement to the entire registration system and cadaster is recommended to proceed in parallel with formalization and registration of the informal assets.

The long-term sustainability of formal land markets is partially based on removing the incentives to the creation of informal assets. A robust registration, titling and/or cadaster along with other institutional, legal, political, and economic reforms such as in the housing sector, the planning and permitting system, in the property valuation and taxation system, in the judicial system and in the banking sector will assist in keeping the land markets functioning without informal development and supporting economic growth for the nation as a whole and for residents of both the formal and currently informal settlements.

8.3 Revise the urban planning process

Revising the planning legal framework to become pro-growth, clearly defining protected or environmentally sensitive lands and government owned property can help remove reasons for informality. High costs, unclear property valuation, unfair and high property taxation, long or corrupt approval processes, over complexity, inconsistency, and other efficiency weaknesses in the planning and approval process can be a major cause of informality. Improving, streamlining, and making the planning / approval processes just, fair, fit for purpose, and transparent will help deliver the needed housing and land related products to the market, limiting the incentive for informality.

An analysis of the existing planning and approval processes and laws should be performed in parallel with the formalization process for all real estate. There should be an intent to remove exclusionary, and overly complex or costly policies if the demands for land of a significant sector of society is not being adequately met.

8.4 Revise permitting of construction procedure

In parallel with formalization, revising the development permitting procedure to become timely and affordable (fit for purpose), and revising construction standards from complex ideal levels to practical ones

that meet the needs of society can be key to removing the incentives for informality in some countries. Formalization should not be delayed during the revision of construction procedures and requirements but the analysis of how to make the system more responsive to the needs of society without producing undue risk to health and safety should be regularly undertaken.

Delays or overly costly / complex construction requirements can be a source of informality. The existing system should be explored for ways to make it less costly and more efficient, which can benefit society and the economy even in cases where it is not a significant source of informality.

8.5 Introduce a monitoring and inspection process

Automated monitoring of protected lands instead of on-site inspections, fit for purpose technical inspections and requirements, appropriate use of technology in record keeping and processing, and regular review of key processes supporting the land markets can uncover inefficiencies. Correcting these flaws, limiting the influence of corruption, speeding the processes or making transfers and rental markets safer, less costly, faster and less risky can have huge benefits for the land markets and the economy as a whole. A review of the appropriateness of the current monitoring and inspection processes should be performed to determine if any changes could increase efficiency and performance in a fit for purpose fashion.

9 Action to be taken after the formalization

9.1 Introduction

What is needed to prevent future new informalities? The formalization of the existing informality is the first productive step to unlock this dead capital and begin to link it to the broader economy, while also protecting the residents (often the most vulnerable groups in society). The benefits of this are legion, but it will not be sustained if the root causes that created the informality are not mitigated or removed entirely. While a small amount of informality is often realistic in any market, widespread informality creates many overt and subtle weaknesses within a socio-economic system and should explore how to prevent the resurgence of new informality once the formalization process is underway.

9.2 Improve the land and building Code

Often, a significant reason for the creation of informal constructions and informal settlements, is a lack of clear, accessible, affordable, and relevant land planning and building codes. The formalization process should not be stalled until such improvements in planning and building codes is accomplished. However, the necessary overhaul of these must be accomplished to avoid the creation informality, and to enhance the efficiency and functionality of the broader real estate market. In some circumstances this is the primary source of the problem.

9.3 Improve formalized housing

Many of the building constructions formalized will be significantly below the appropriate building code standards as they relate to energy efficiency, structural stability, housing density, utilities service within the structure, environmental impact and other relevant codes. These factors are major impediments to safety and security; however, their presence should not prevent the formalization process unless demolition and resettlement as well as treatment of the debris is realistic and possible. Punishment, high penalties and even imprisonment or forced evictions will not solve the housing problem. Urgent steps should be taken to incrementally improve these deficiencies in all informal settlements, and this requires funding. Countries that suffer from extended informal development usually do not have enough public funds to provide either demolition, resettlement of all occupants and treatment of the debris or improvement of all informal settlements. Therefore, the new recognized owners should undertake much of this task. Much care should be taken to provide incentives to new formalization property occupants to make such improvements, without overburdening their limited resources in any given year. It is important that a well-functioning banking system will provide lending opportunities for such purposes. An incremental improvement process should be followed.

9.4 Improve utilities and infrastructure

Utility services supporting the appropriate economically, societally, and environmentally appropriate use of land is often lacking in areas where informal constructions are common. The formalization process should not be stalled while these infrastructure and utility service expansion issues are appropriately considered and planned. Improved utilities, infrastructure, planning and other land related administrative functions should be enhanced in the newly formalized areas over time. Existing urban regeneration methods

for planning improvements should be adapted for informally developed areas with simplified norms and standards. The success of the formalization process will hinge on a new balance and harmony between the formal areas and the newly formalized one's going forward for any individual community and land market.

9.5 Introduce or extend property taxation

In many countries property taxation is a major source of income for municipalities, and the State. It is also considered one of the most efficient and non-economically distorting sources of taxation, despite being fairly unpopular. The potential for property taxation is a primary motivation for governments to improve tenure security, have a relatively reliable cadaster, formalize informal constructions, and improve the functionality of their property markets. This is not a misplaced motivation in that all of this and the supporting legal, financial, valuation and institutional infrastructure need to be in place before property taxation or the market can be fully effective. Additionally, the introduction of such a tax needs to be accomplished incrementally and to be based on appropriate values. Assessments of values should be made public. Small, transparent and fair charges should be applied in the initial years such that trust, and competence, is built over time. The greatest chance of successful implementation of such a system is when the citizens understand that tax monies directly benefit their local community, the amount is fair, and there is no corruption.

9.6 Prevention of new informalities

The primary purpose of this guide is to show the process by which the formalization of informal constructions can be accomplished. However, as a practical matter, if the root social causes that created the informality in the first place are not addressed, then informality will again begin to appear. Government should adequately remove the social and economic needs that by their very nature had not been adequately addressed by both governments and the free market. Typically, this is what causes the need for informal construction in the first place.

Throughout the formalization process most of the key elements to prevent future informality have been considered, and are as follows:

1. Keep ownership rights secure, and property title registries current. The market for real property assets will only function appropriately if the legal and administrative infrastructure can keep up to date records, data is fairly transparent, and the rights of citizens are protected. It must work free of corruption and incorporate a reasonable fee structure that does not give incentive for citizens to once again work outside the legal systems.
2. Continue to keep the planning and building codes relevant to the current and evolving needs of society, and the environment. Avoid lengthy, or costly approval processes or inefficient bureaucratic institutions that prevent societal needs from being met. These potential roadblocks are often the root cause of informality.
3. Consider and protect the rights of the most vulnerable groups. If prejudicial legal or economic systems are in force, these can create pressure in the markets that create informality by removing legal housing options for these segments of society.
4. Apply only appropriate fee structures including real estate taxation (if it is employed), as well as utility, infrastructure legalization, formalization and other methods of taxation and revenue generation. If high

upfront costs are employed, uncertainty enhanced, perceived unfair charges are imposed for utilities or infrastructure or formalization, distrust or uncertainty regarding government, and the citizen's unwillingness or inability to pay may force the markets to return to informality again. The greatest benefits for both the nation and people will be reaped when the barriers to an efficient land market are removed and the entire system functions in concert with the balance of society.

After formalizing the informal constructions and minimizing the root causes of informality creation, the long-term benefits of a stable, transparent, inclusive and fair land market will begin to be enjoyed by all members of society.

10 Conclusions

(To be drafted as the final product is completed)

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