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PROGRAMME OF WORK FOR 2008-2009

LAND REGISTRATION AND LAND MARKETS

LAND ADMINISTRATION REVIEW: AZERBAIJAN

Note by the secretariat

Summary

Land administration reviews are part of the programme activities of the Working Party on Land Administration of the UNECE Committee on Housing and Land Management and they have the following main objectives:

- To assist the national authorities of the country under review in assessing the current situation and performance of their land administration systems, and in defining and setting national land administration policies and priorities on the basis of an independent analysis by an international expert team;
- To promote improvements in land administration and a continuous policy dialogue among UNECE member countries through the transfer of information on policies, approaches and experiences of reviewed countries; and
- To support intergovernmental financial institutions and donor organizations in making decisions with regard to current and/or planned land administration projects in a country under review and to prepare recommendations on priorities for donor assistance and its coordination.

UNECE Land administration reviews were already implemented in Armenia (2000), in Georgia (2001), in the Russian Federation (2003) and in Lithuania (2004).

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Introduction

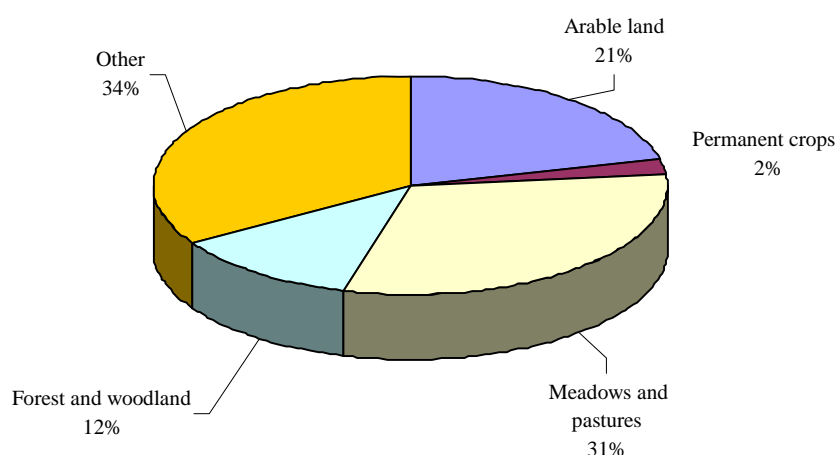
1. The Working Party on Land Administration, at its third session in November 2003, considered the request of the delegation of Azerbaijan to implement a land administration review in its country. A pre-mission for the land administration review of Azerbaijan took place in April 2005. Land administration experts from Georgia, Lithuania and the UNECE secretariat participated in the pre-mission. The research mission of the international experts to Azerbaijan took place from 29 May to 3 June 2006. The team of international experts was composed of Mr. Peter Creuzer **and Mr. Ralph Merten (Germany); Mr. David Egiashvili (Georgia); Mr. Rimantas Ramanauskas (Lithuania); Ms. Anne Rorh-Torp (Norway); Mr. Nigel Wright (United Kingdom); and Mr. Daniel Steudler (Switzerland).** The land administration authorities of Azerbaijan in consultation with the UNECE secretariat prepared the programme of the mission.

I. GENERAL INFORMATION

A. Physical context

2. Azerbaijan, the largest of the three republics of the South Caucasus, occupies the southern part of the isthmus between the Black Sea and the Caspian Sea. The country has a total land area of 86,600 km². The Nakhchivan Autonomous Republic of Azerbaijan is separated from the rest of Azerbaijan by a strip of Armenian territory. The largest city in Azerbaijan is Baku, the capital, with a population of 1,855,300 (estimated as of January 2005). Figure 1 shows the distribution of land by land use.

Figure 1. Land use



Source: The State Statistical Committee. Food Security in Azerbaijan 2001 (Statistical Yearbook).

B. Human context

3. According to the *2006 Statistical Yearbook of Azerbaijan* (produced by the Azerbaijan State Committee on Statistics), Azerbaijan had a population of 8,436,400 as of January 2006, of which men made up 49.2% and women 50.8%. The urban population makes up 51.6% and the rural one 48.4%. The nationality structure of the country's population according to the most recent census (1999) is as follows: Azerbaijanis – 90.6%, Lezghins – 2.2%, Russians – 1.8%, Armenians – 1.5% and other nationalities – 3.9%.

4. The official language of the country is Azeri, a Turkic language, which is closely related to Turkish and Turkmen. The country's literacy rate in 1999 was 97%. The traditional religion of Azerbaijan is Islam. Most Azerbaijanis identify themselves as Muslims.

C. Political context

5. On 23 September 1989, Azerbaijan was among the first Soviet republics to adopt its own Constitutional Law on Sovereignty. The struggle for independence culminated in the adoption on 31 August 1991, by the Supreme Council of the Republic of Azerbaijan, of a declaration on the restoration of the State independence of the Republic of Azerbaijan. This was followed on 18 October of the same year with the passage of an act establishing the State independence of the Republic of Azerbaijan.

6. Throughout this period, the internal politics of the country was largely dominated by the tensions between Armenia and Azerbaijan concerning the conflict in and around the Nagorno-Karabakh region of Azerbaijan, which resulted in occupation of 20% of the territory of Azerbaijan. It is estimated that there are nearly 1 million refugees and internally displaced persons in Azerbaijan.

D. Institutions

7. Azerbaijan is a democratic, secular, unitary republic. The current constitution was adopted by referendum in 1995 and amended by a referendum held on 24 August 2002.

8. Azerbaijan is a presidential republic. The president, who is directly elected for not more than two consecutive five-year terms, is the head of State. The president appoints the prime minister and forms the Government. The current president is Ilham Aliyev, elected on 15 October 2003.

9. The unicameral National Assembly, Milli Mejlis, has 125 members. The winners of the district elections fill 99 seats, and 25 are awarded according to the proportion of votes that the parties win in national elections. The remaining seat for Nagorno-Karabakh is kept vacant. Parliamentary elections are held every five years. The judicial branch has a Supreme Court, an Economic Court and a Constitutional Court.

E. Economic and social context

10. Azerbaijan has enormous economic potential. In addition to its well-known oil and gas reserves, Azerbaijan is a producer of cotton, tobacco, fruits and vegetables. However, the collapse of the Soviet Union and the loss of Soviet markets for many industrial sectors such as plastics, chemicals, manufacturing and capital goods for the oil industry; the occupation of 20% of Azerbaijan's territory; and the presence of around a million refugees and internally displaced persons have significantly affected Azerbaijan's economic performance. There has been a long-

term decline in the agricultural sector, which by 2003 generated less than 15% of GDP, down from about 30% of GDP in 1991.

11. The Government of Azerbaijan has pursued an economic reform programme since the mid-1990s with the aim of establishing a market-oriented economy with a leading role for the private sector. As a result, the Government has achieved macro-economic stability. Despite this achievement, over 20% of Azerbaijan's population is still living in poverty because the vast majority of economic growth is in the oil sector, which is a capital-intensive industry that provides employment for less than 1% of the workforce.

12. The challenge facing Azerbaijan is to build on its macro-economic stability to create jobs in the non-oil sector. The president has already promised to create 600,000 jobs during his current five-year term (to date some 520,000 have been created). For this to occur, an enabling environment needs to be created for both foreign investment and domestic business. The major impediments to private-sector development in Azerbaijan are access to finance, monopoly power, bureaucratic red tape, corruption and lack of modern infrastructure, particularly outside Baku.

13. To date the Milli Mejlis (Parliament) has adopted a large number of new laws aimed at reforming a wide range of activities. The strategy of the reforms mainly consists of three components: economic liberalization through removal of controls over prices and production; macroeconomic stabilization; and privatization of enterprises. Although progress in structural reforms has been mixed, especially in the area of bank restructuring, there has been a gradual shift in the structure of the economy from predominantly state-controlled to market-controlled.

14. Oil has been the driving force of Azerbaijan's economy since Baku emerged as one of the earliest centres of the petroleum industry more than 100 years ago. The country experienced an oil boom at the beginning of the twentieth century and later served as a major refining and oilfield equipment production centre for the former Soviet Union. In August 2002, construction of the long-planned Baku-Tbilisi-Ceyhan (BTC) oil pipeline began. Now the 1,750-km pipeline runs west from the Caspian shore near Baku, across Azerbaijan and into Georgia before turning south and heading into Turkey, where it runs from the north-eastern part of the country down to the Mediterranean port of Ceyhan and on to world markets.

15. The Government has made poverty reduction a priority in the quest for economic development. Related measures include public-sector reforms and the establishment of the Ministry of Economic Development. In October 2002, the Government launched the State Programme on Poverty Reduction and Economic Development (SPPRED) for 2003–2005. May 2004 saw the publication of a report on the Government's first integrated SPPRED implementation and the Millennium Development Goals (MDGs). The report demonstrated a commitment to Poverty Reduction Strategy Papers (PRSP) and MDG alignment in Azerbaijan. While a set of proposed MDG indicators and targets was included in this report, the Government has yet to officially approve MDG indicators and targets. The Government is designing a new poverty reduction strategy for the period 2006–2015, which is the target year for achieving the MDGs.

16. Despite continuing governance problems, including barriers to economic activity and weak institutional capacity in many areas, the Government's commitments to developing capacity and implementing policies for poverty reduction and MDG achievement have created an atmosphere of hope for 2006–2007.

II. THE LEGAL FRAMEWORK FOR LAND ADMINISTRATION

17. *The Law on Privatization of State Property* (7 January 1993) was prepared in connection with the National Programme for Privatization of State Property (1995–1998). The Law states the general principles and procedures for privatization of state property. It also states that foreign legal and natural persons may take part in the privatization programme only in accordance with the legislation of Azerbaijan and the State Privatization Programme.

18. *The Constitution* (27 November 1995) declares general principles and establishes a hierarchy for Azerbaijan's normative legal acts. The Constitution states that property in Azerbaijan can take the form of state property, private property or municipal property, and that each form of ownership is equally recognized. It defines property rights and states that such rights are protected by the state.

19. *The Law on Land Reform* (16 July 1996) defines the basis for carrying out land reform, and covers the entire land fund of Azerbaijan whether the land is in state, municipal or private ownership. Private ownership includes parcels legally used by citizens, such as land under residential houses; household parcels; individual, collective and cooperative gardens; land under management of state-owned "dachas"; and privatized land of state and collective farms. The Law specifies who can obtain ownership rights and land use rights in Azerbaijan. It also enumerates landowners' rights. According to the Law, the various types of ownership have equal status and are protected by the state. The Law determines how state and collective farm lands can be privatized and outlines the consequences of violating the legal requirements of the land reform.

20. *The Land Code* (25 June 1999) establishes the framework and principles for land ownership, land use and lease of land, transfer and related compensation. The Code defines the property rights of the state, municipalities, private individuals and legal entities. These forms of ownership are equally recognized and protected by the state. The Code states that only citizens of Azerbaijan may own land parcels, while foreigners may only lease them. The Land Code empowers the state and municipalities to reclaim land for municipal and public needs. It has regulations regarding registration of rights in land; land valuation; and land taxation and payments. It also defines roles for resolving land disputes. The Land Code states that rights in land parcels must be registered in the State Land Cadastre and the State Land Registry. Unregistered rights are not protected by the state.

21. *The Law on Mortgage* (3 July 1998) specifies what can be subject to mortgage and the types of mortgages. It states that mortgages on real property should be registered and specifies the registration procedure. It also has regulations regarding the responsibility of the body carrying out the registration and the rights and obligations of the mortgagor and mortgagee.

22. *The Law on Land Tax* (24 December 1996) regulates the procedure of establishment, calculation and collection of the land tax and defines taxpayers and the objects of the tax.

23. *The Law on Leasing* (30 April 1992) states that corporate organizations and bodies which are wholly or partially owned by foreign investors may lease property from the owner, not from whoever is currently using or controlling the property. The latter type of lease is available only for national corporate bodies.

24. *The Law on State Land Cadastre, Land Monitoring and Land Use Organization* (22 December 1998) regulates the organization and management of the field of land cadastral, monitoring of lands and land use organization within a unified land fund of Azerbaijan.
25. *The Civil Code* (28 December 1999) has provisions on how transactions in real property shall be conducted. The Civil Code defines the types of legal interest that can apply to real property in general and land in particular. The Code requires that legal interests in real property be registered.
26. *The Law on Land Lease* (12 March 1999) defines the legal basis for leasing state, municipal and private land and issues related to the lease of land. According to the Law, state and municipal land can be leased to persons and legal entities that are conducting activities for the purpose of earning a profit. Foreigners, persons without citizenship, international organizations, enterprises belonging to foreign investors and foreign states may enter into lease relationships.
27. *The Law on Land Market* (26 December 1999) regulates various aspects of the land market. It sets rules for the organization and regulation of the land market, legalizes rights created in the land market, regulates situations where the Law is violated, and provides instruments to solve disputes. The Law specifically states that legal entities and citizens of Azerbaijan can participate in the land market as owners, users, mortgage lenders and borrowers, participants of purchase-sale transactions and other types of transactions such as leasing. It also states that land transactions will be based on market prices for land rather than fixed prices.
28. *The Law on State Register of Real Estate* (29 July 2004) governs the procedure for registration of ownership rights in immovable property and other property rights, creation, limitation (encumbrance) and transfer of property rights. The Law has regulations concerning who is entitled to obtain data from the Register. It states what the Register consists of and how it is operated.
29. *The Law on State Register of Real Estate* (29 June 2004) states the regulations for unified state real estate registration. The Law acknowledges the property rights registered by other registration bodies before the Law became effective, and it has regulations regarding submission of information from the former registration bodies to the new Register. The Law states the requirements for registering property rights and what rights and documents are subject to registration. It states the tasks, obligations and content of the Register. It has provisions regarding cancellation of rights, refusals from registration and corrections of technical mistakes that occur during registration. It also has detailed provisions in certain areas like registration of leasing and land (real property) use rights. Finally, it has provisions regarding responsibility in the event of violation of the relevant legislation.
30. *The Rules on Keeping of the State Register of Real Estate* were approved by the President Decree of 14 October 2004. The Rules were created in accordance with the Civil Code, the Law on the State Register of Real Estate and other relevant acts, and they state that the State Register shall be compiled and kept by the State Register of Real Estate. The Rules state that the Register shall consist of electronic and paper documents. Finally, the Rules have provisions regarding rights formed before the State Register of Real Estate was established.
31. *The Charter of the State Register of Real Estate* (30 August 2005) states that the central executive body developing and keeping the State Register of Real Estate, is the State Register Service of Real Estate. The Charter lists the tasks and responsibilities of the Service that will

keep the Register updated in accordance with the current legislation, and how the Service is to be built up. It lists the Service's rights, among them the right to draft relevant legislation for the Cabinet of Ministers.

III. LAND REFORM

32. Starting in 1930 the most valuable agricultural land in Azerbaijan was in the possession of state collective farms. After Azerbaijan became independent, the new Constitution and all relevant decrees stipulated the exclusive right and inviolability of private ownership of land concerning its possession, use and disposal. The Law on Land Reform was adopted in July 1996. The law specified three forms of land ownership: state, municipal and private. The land reform was completed in 2004. As the result of the reform, 4.92 million ha (56.9% of total land) remained in state ownership, 2.05 million ha (23.7% of total land) were in municipal ownership and 1.67 million ha (19.4% of total land) were privatized. The main types of land in state ownership are pastures (42.34%) and land of the State forestry fund (21.04%).

33. Privatization of agricultural land was mainly carried out through the Farm Privatization Project. Only the best arable land of the former collective and state farms (3.62 million ha) was subject to privatization. Each rural citizen (residents including children born before August 1996 and members of farms) received a land parcel free of charge. The parcel size depended on the area and quality of the land being privatized, as well as on the number of persons eligible to receive a land share in the respective area. Overall, 76.51% of total arable land and 70.32% of total hay land were privatized.

34. During the land reform process, land of inhabited localities, pastures near villages (allocated for possible development of the inhabited localities) and land of little or no agricultural value were transferred to municipal ownership. Each municipality received up to 5% of the agricultural land for a land reserve fund. Land used by the state (i.e. land under state institutions, pipelines, railways and main roads, water and forest resources, summer and winter pastures) remained under state ownership.

35. Local offices of the related state bodies (the State Commission for Agrarian Reforms and the State Committee for Land and Cartography) prepared lists of the eligible persons and project-based plans on the basis of digitized maps of the Soviet period (scale 1:10,000). The land to be privatized was divided into parcels estimated as equal, taking into account the locality and soil quality. Land shares of citizens (families) willing to cultivate land jointly had to be allocated in one place. People in the selection queue participated in a lottery to pick parcels. The local decisions had to be approved by regional or state agrarian reform commissions. The State Committee for Land and Cartography provided technical assistance and issued ownership certificates. The boundaries of the parcels were drawn on the maps using simplified surveying methods.

36. Irrespective of the forms of ownership, the State Committee for Land and Cartography is responsible for land-use control, and the Chair of the Committee is the Chief State Inspector on land-use control. The Cabinet of Ministers is responsible for management of state lands. These lands can be given for permanent use only to state bodies and organizations, including local self-government bodies, and to enterprises and companies which are financed from the state or municipal budget.

A. Land management

37. Distribution of responsibilities for land was redefined after the system changed. More power was given to the local authorities (municipal elections in Azerbaijan took place in 1999). According to the law, municipalities (and appropriate local bodies) determine long-term perspectives for development by drafting master plans in urban areas and establishing land-use categories in rural areas. Municipalities are also responsible for the execution of these plans. A change of land-use category requires approval by the Cabinet of Ministers.

38. There is no modern spatial planning system in place. The lack of funds, staff capacities and practical experience in administration of municipalities hinders any effective transition from centralized planning to a regional and local planning and decision-making process. Despite the fact that in Azerbaijan there are many good architects, they cannot work in the absence of a new spatial planning system. There are practically no new master plans or detailed plans for urban areas. Thus, new construction is carried out under the pressure of market forces, basically without proper planning regulations. General principles of spatial planning were ignored during the last decade. The result has been continuing degradation of the urban environment, which is particularly evident in Baku.

39. Decisions on how to manage state land (i.e. whether to buy, sell or lease) are prepared in regional offices the State Committee on Land and Cartography, but the Committee approves them centrally. Currently the focus is on selling parcels of the former state enterprises. Land from the reserve funds of municipalities may be sold if all contracting parties agree. The local bodies determine the procedure and conditions for transactions, and the money from the transactions goes into the local budget. Communally used municipal lands cannot be subject to market transactions. When state or municipal land is sold, the price must at least equal the normative price, which is based on the environmental and economic potential of the land. The management of state and municipal land is not coordinated, and the process is not transparent.

B. Situation in rural areas

40. Along with the dominant oil industry, agriculture is the most important sector of Azerbaijan's economy. After the breakdown of the central planning system, agricultural output rapidly declined by more than 50%. It started to recover only in 1997 after reforms in land ownership, the land market and the trade sector. Today the agrarian sector accounts for 20% of GDP and 40% of total employment. Strong improvements have been made, but self-sufficient supply is still missing for some key agricultural products.

41. The privatized agricultural land belongs to 869,000 families (multiple parcels on different sites with an average farm size of 1.6 ha.). There are also 2,651 registered family farms (6 ha) and 1,191 collective enterprises (29 ha). Parcels totalling 1.2 million ha are leased from the municipalities and the State. The rural physical infrastructure dates from Soviet times, and up to 80% of it is in poor condition. Besides, it was originally designed for collective farms and does not meet the needs of small-scale farming. Some 80% of arable land needs irrigation, and 30% is at risk of salinization. Irrigation structures need to be rehabilitated, and drainage systems need large-scale repair.

42. The State Programme on Poverty Reduction and Economic Development (SPPRED) and the International Agricultural Development and Credit Projects (ADCP) address the rural problems and aim to increase access to small-scale credits, as well as to equipment and know-how, in order to develop markets, processing capacity, rural infrastructure and local capacities.

Farmers' associations for road building and the rehabilitation of irrigation systems are being set up throughout the country. The introduction of small fees for water use increased local responsibility and resulted in lower water use.

43. The existing farm structures are mostly not efficient for market-based agriculture. Little attention is given to the major obstacle, the enormous fragmentation of land parcels.

C. Environmental situation

44. Severe environmental problems exist in the areas of contaminated land, waste disposal, sewage and drinking water. Environmental problems associated with agricultural sector (erosion, salinization, overgrazing of pastures) have increased during the last 15 years. Major problems are concentrated in the highland pastures (state land reserve) that are rented out, in municipally owned pastures that are used communally, and to some extent in privatized agricultural land due to erosion and salinization.

45. Several state institutions monitor rural and ecological development: the State Committee for Land and Cartography monitors land use and makes proposals for further use on the basis of research on soil, erosion and irrigation. The State environmental authorities focus on aspects of erosion, overgrazing and nature conservation. Other organizations work on forests, water and geology. The research and findings are often not coordinated or integrated. This is a result of different focuses, mixed responsibilities, lack of a basic cadastral or topographic mapping system, and differing methods of data keeping.

IV. REAL PROPERTY CADASTRE AND LAND REGISTRATION

46. The establishment and maintenance of an efficient system for registration of ownership and other rights in real property properties and for real estate cadastre is vital for social stability and sustainable economic performance in any country, but in particular countries in transition. Secured private ownership of land provides a sound basis for social and economic policy, because a good policy on land rights and land registration creates confidence and promotes an active land market and efficient land use. Good land administration is also an integral factor for all international investments. Furthermore, a functioning real estate cadastre is an indispensable precondition for implementing spatial planning and environmental tasks that require carefully evaluated decisions.

47. With the creation of private land ownership based on the President's Decree of 1996, the need to have a functioning real estate cadastre became obvious, both for rural areas where land consolidation began during the second phase of the land reform, and for urban areas, such as the Baku, which had rapid growth in real estate transactions and construction activities. The current situation requires a modern real estate cadastre that meets the needs of administration and all customers.

48. The Law on State Land Cadastre, Land Monitoring and Land Use Organization (1998) requires a unified land cadastre system for the whole territory of the Republic of Azerbaijan. It is envisaged that the so-called State Land Cadastre Fund would administer cadastral information on boundaries, geographical location, legal status and other characteristics of real property. The State Land Cadastre Fund will enable the implementation of land legislation and the administration of land resources; facilitate land use, valuation and taxation, and planning; and provide information for environmental protection. Therefore, it is meant to be a multipurpose cadastre for the benefit of citizens, different sectors of administration and business.

A. Developments in institutional responsibilities since 1992

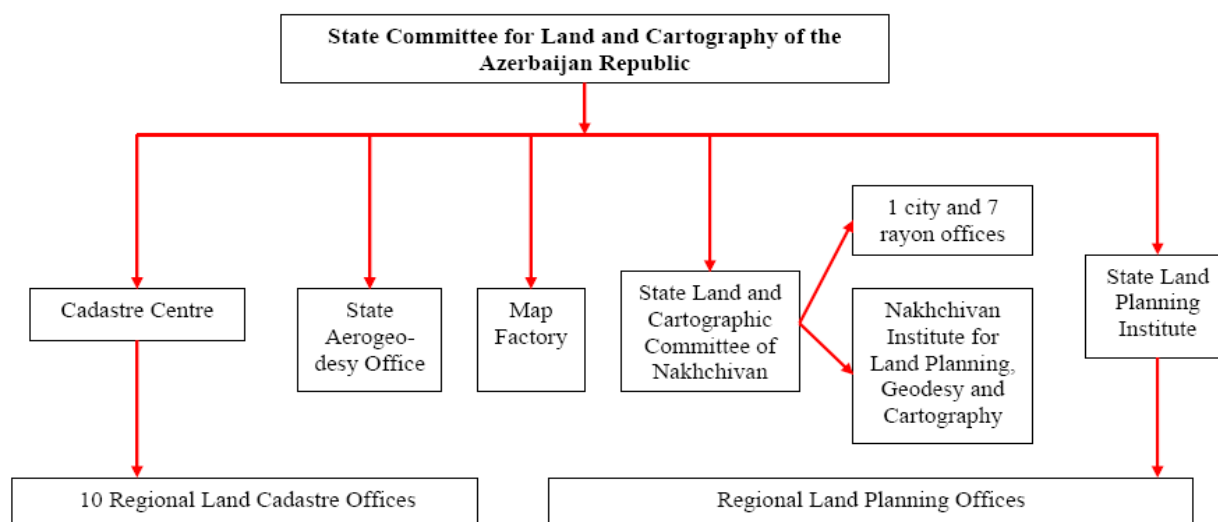
49. The current system for real estate cadastre and land registration (its organizational structure and quality) is influenced by changes and developments in distribution of responsibilities for administration of land resources, for the agricultural sector, land use, taxation and environmental protection in the country.

50. The land reform created three categories of land ownership (state land, municipal land and private land), and different organizations were responsible for registration tasks and cadastral data. Registration of state land fell under the responsibility of the State Committee for Land and Cartography (SCLC) and the Ministry for Economic Development, which registered other immovable properties and privatized land (in rural areas). The SCLC also registered municipal land, but buildings and premises in municipal areas were registered by the Bureaux for Technical Inventories (BTI). In particular, the BTI of Baku with its branch offices was responsible for registration of residential buildings and dwellings in Baku. The State Committee for Management of State Property, which has been responsible for the administration of state land and its privatization, registered some 104,000 land parcels between 2000 and 2003.

51. The SCLC was founded in 1992 to provide accurate and comprehensive information on the land and territory of Azerbaijan. It consists of four independently working bodies that are operated separately and on a self-sustaining basis: the State Land Planning Institute, the State Aero-geodesy Office, the Map Factory and the Cadastre Centre. The State Land and Cartographic Institute of the Autonomous Republic of Nakhchivan also belongs to the SCLC. The SCLC has also been responsible for the establishment and maintenance of a real estate cadastre. The Cadastre Centre of the SCLC and its 10 regional offices carry out all practical work in this area.

52. With the Law of the Republic of Azerbaijan on State Register of Real Estate adopted in June 2004, responsibilities for registration of all real estate and land parcels were shifted to a new organization: the State Register Service of Real Estate under the Cabinet of Ministers of Azerbaijan. According to the Charter for this organization, which was signed by the President of the Republic of Azerbaijan in August 2005, overall responsibility for the real estate cadastre and its maintenance was allocated to the State Register of Real Estate.

Figure 2. Organizational chart of the State Committee for Land and Cartography



B. Land registration

53. The State Register Service of Real Estate has a central office in Baku with 80 employees. It is proposed to increase the staff to 120 to meet the needs of new responsibilities of the State Register. There are 25 regional offices, including 4 offices (not yet in operation) in the Nagorno-Karabakh region. Each regional office employs about 30 people, and there are plans to increase the number of employees.

54. In the three months from 1 March 2006 to the end of May 2006 (date of the mission), the State Register dealt with 15,179 applications. A total of 11,695 registrations have been completed and 747 mortgages registered. There is a legal requirement to register mortgages. Old registration documents remain valid.

55. The process of buying land appears to be straightforward and relatively inexpensive. When one is buying land privately, the first step is to visit a notary and sign a contract. There are two registration documents: an ownership document and a certificate that there have been no changes in the status of the land. The documentation is then sent to the State Register's office. The registration fee is the equivalent of about US\$10. The whole process costs between US\$25 and US\$30. The regional offices are self-financed, while the central office is financed by the State.

56. The participation of a notary is required in sales between private individuals, but not where an individual is buying land from a municipality. The municipality then applies to the Land Committee to obtain the normative value. The municipality would then resolve to sell the land, and a contract is prepared and sent to the State Land Committee to be stamped. Finally the documentation is sent to the State Register.

57. The State Register allots a unique registration number to the owner. The land parcel is given a number, a code of the area, a parcel number, information on the type of ownership, and the type of building. All this information is used to constitute the unique registration number.

58. The register has four parts, recording legal information, cadastral data, technical details and information on valuation. The State Register also records rights related to the land parcel. There are state registration books and certificates of land-use planning.

59. The authorities of the State Register central office in Baku report that the organization has the following major tasks: (a) creating unique accurate information for all registers; (b) building the capacity of staff in regional offices, training staff, and implementing computerization; and (c) making the necessary measurements to render cadastral maps more accurate.

60. The mission visited the regional office of the State Land Committee in Quba, 150 km north of Baku. The office has two regional branch offices: the land use planning office and the State Land Cadastre registration office. The regional land use planning office has more details regarding the purchase of land from a municipality. This is the office that provides the certificate of the minimum value of the land. The municipality can sell land for more than this valuation, but not less. It can sell it to someone other than the original applicant, or it can auction the land, but there is no obligation to do so. The real property market seems to be reasonably active.

61. The regional State Land Cadastre office prepares certificates of title for private individuals, and electronic maps for the municipalities in its area. It has been equipped by the State Land Committee and has a GPS total station. The office collects information from the

parties to a transaction, enters it into a computer and issues certificates. It processes 70 registrations a day and for the last two years has been very busy. Its functions are now being passed to the State Registers, and at the time of the mission the future of this office and its staff had not been decided.

62. However, the practical work is still carried out by the SCLC and its Cadastre Centre, which up to now has been the only organization with the necessary practical experience and human and technological resources to fulfil this task. The Cadastre Centre works in close cooperation with the other departments of the SCLC. The State Register under the Cabinet of Ministers of Azerbaijan currently lacks those resources.

C. Real estate cadastre

63. Development of the real estate cadastre has been very heterogeneous across Azerbaijan for historical reasons originating in the land reform and its implementation in 1997–1998. For lands that were privatized, the SCLC created and maintained a real estate cadastre. To satisfy the immediate demand for cadastre maps, the old existing plans (mostly 1:10,000) were simply digitized without updating or quality improvement. They do not necessarily show the current situation, and a seamless real estate database is not yet in place. Some 20% of the territory of Azerbaijan is covered by cadastre maps. The SCLC estimates that annual progress in data capture of 15% country territory coverage is realistic.

64. For most of the land that has remained in state ownership (i.e. more than half of the territory of Azerbaijan) there is no real estate cadastre in place (except for lands leased to farmers or other users). This also applies to municipal land, although there are plans (normally scaled 1:2,000) that were established and kept by the SCLC, as well as measurements of the municipal lands that were privatized. The absence of a cadastre in urban areas, including an inventory of all land owners and cadastre maps for urban areas (in particular in the capital), is a serious problem that needs to be addressed as soon as possible.

65. To establish a unified real estate cadastre to cover the whole territory of Azerbaijan (both urban and rural) is a challenging task. It should be achieved by using high-resolution orthophotos and additional field measurements to improve the quality of the digital cadastre map. Financial and technological support along with international assistance are crucial for improving the current situation.

66. The Law on State Land Cadastre stipulates that the following information has to be maintained in the cadastre: legal status of land parcels, ownership rights, use rights and lease rights, quantitative and qualitative characteristics of land parcels, valuation information, and information on land use and protection as stipulated by other laws of Azerbaijan. The unified land cadastre documentation should include both legal and technical documents.

67. In practice the following information is captured and stored in the cadastre database: boundaries of land parcels, distances between boundary marks, parcel numbers, information on ownership, area of the land parcel, quality of the land (as a basis for valuation purposes). The cadastral map (scale 1:10,000) is derived from digitized plans of the former *kolkhozes* and *sovkhoses*. It was established without quality improvement in order to avoid field measurements and to quickly establish a national database. There are of course problems with the edge matching of these plans in the digital cadastre dataset, since accuracy is not very high.

68. The central cadastre database, maintained in the Cadastre Centre of the SCLC in Baku, covers privatized land, leased state land and land of municipalities. The state land is not entered

into the database. Most urban areas are not covered by cadastre maps even though the most urgent need for cadastre data is in these areas.

69. Since 1998 there have been efforts to integrate all cadastre-related information into a single database. Besides the central database in Baku, 10 regional databases exist in the 10 regional offices of the Cadastre Centre. For customer service reasons, the regional offices could not update the data of the central database. Updates have to be submitted to the Cadastre Centre in Baku for processing. This procedure is cumbersome and inefficient and prevents the continual updating of information. Given the legal character of the cadastral map, this is a big disadvantage. It would be much more useful to submit digital updates from the regions directly to the central database where they could be processed overnight (batch process). The central cadastre database would then be updated on a daily basis.

70. Another problem is the missing link between the database of the State Register Service under the Cabinet of Ministers and the cadastre database of the SCLC. The State Register uses software that was separately developed to cover all necessary registration procedures. The State Register issues unique identifiers for land parcels (including area code, parcel number, kind of ownership, flat number and type of building) and unique register numbers. Current legislation requires registration to be done both on paper and digitally, with only the paper-based version being legally binding.

V. THE LAND MARKET

71. Land market in Azerbaijan came into being as a result of a successfully implemented land reform. The Law on Land Reform laid down the foundation of land market. According to Article 19 of this Law, some municipal reserve lands, land parcels owned by the citizens and legal entities of the Republic Azerbaijan can be a subject of purchase and sale contracts. The Guidelines on Land Purchase and Sale have been developed and approved in 1997. The Law on Land Markets (1999), which deals with a wide array of different aspects of land markets, specifically states that legal entities and private individual of Azerbaijan can participate in the land market as owners, users, mortgage lenders and other transactions like leasing.

72. The land market activities are steadily increasing. Whereas it speeds up in the capital and major towns, it only started in rural areas. Transactions in the state property and municipal parcels out of the agricultural reserve form a significant share of all land transactions (about 11,000 per year). Selling of private lands is uncommon. The dynamics of the land market is presented in Table 1.

73. Landowners have the right to transfer their land by sale, mortgage, exchange, grant, or by other means, subject to certain restrictions established by law. A foreign owner must sell a land parcel within one year if the land parcel was transferred to the foreigner as a result of inheritance, gift, or foreclosure. State or municipal authorities, as the case may be, have the right to enforce a mandatory sale if a foreigner fails to comply with this requirement.

74. The state or municipalities (depending on the status of land) may transfer land parcels from the state or municipal fund respectively into ownership or use by citizens and legal entities of Azerbaijan, with or without payment. Certain land parcels of the state or municipal funds cannot be transferred into private ownership. Land users and lessees have the right to transfer their land use rights subject to restrictions that may be imposed by the landowner.

75. All land use rights, including easements and servitudes as well as transactions therewith, are subject to state registration. Land transactions between private persons are subject to notarization. Transactions relating to state owned land parcels and rights to use such parcels must also be registered in the State Register of State Owned Property, maintained by the Ministry of Economic Development. At present, the main form of land exchange is renting of land, because the buying and selling of land is more complicated.

Table 1. Dynamics of land parcel sales

Year	1998	1999	2000	2001	2002	2003	2004	2005
Number of parcels	7	54	217	680	1972	3,538	7,535	12,021

Source: Data from SCLC.

76. Land owned by the citizens of the Republic of Azerbaijan and legal entities and municipal reserve land, including unfit agricultural land, can be the subject of various purchase and sale contracts. Purchase and sale operations are registered in the land and real property register. According to the current legislation, land parcels can be sold only to citizens and legal entities of the Republic of Azerbaijan. The price of land that is purchased and sold, mortgaged or inherited or undergoes other operations is determined on the basis of market price; however, the price may not be less than the normative price.

A. Land use and lease

77. A perpetual or temporary land use right is granted free of charge. Such temporary land use right is granted for up to 99 years and may be extended by the parties. A perpetual land use right is granted for an indefinite period. The holder of such rights is liable only for the land tax for the land use. Perpetual and temporary land use rights are granted by the state and municipalities only in exceptional circumstances to a limited number of persons listed in the Land Code. Landowners may grant perpetual or temporary land use rights under an agreement with the land user. Land use terms are defined by an agreement between the landowner and the land user.

78. Landowners and holders of a perpetual or temporary land use right may, if the conditions of the land use so provide, lease land. Under the Law on Lease of Land, foreign individuals and legal entities may only be lessees or sub-lessees of land parcels. Purchase option provisions in land lease agreements concluded with foreign individuals and legal entities and enterprises owned by foreign individuals and legal entities are prohibited.

79. The Law on Lease of Land establishes that state, municipal, and private land can be leased. Leases are concluded for a period agreed by the parties, and lease fees may be paid in cash or in kind. Lease fees of private land parcels are freely negotiable. Lease fees for state or municipal land parcels are determined according to market conditions, but cannot be lower than the specified statutory fees. With regard to agricultural land, reductions in statutory fees are possible depending on the market situation in the agricultural sector.

80. In rural areas of Azerbaijan, landowners are successfully leasing land and often receive payment in the form of harvested crops. Citizens, legal entities of Azerbaijan, and foreigners are allowed to lease land. In line with the rules for organizing auctions related to the renting of state

and municipal land, about 6,000 persons (borrowers) have been given acts about temporary use of state and municipal land. Their signed rent contracts were taken to registration.

81. Lessees may sub-lease the leased land parcels unless this is prohibited by the lease contract. Easements may be established by an agreement between interested parties or by court. Generally, the easement holder must pay for the easement right, unless otherwise provided for by law. Easements established on agricultural lands for enterprises or individuals engaged in agricultural activities are free. Easement rights remain in place upon the transfer of land or land use rights.

82. Land renting between households has a positive impact on equity and efficiency. First, households with more human capital can access the land through a combination of buying and renting arrangements in order to enlarge farm holdings. Thus, the rental markets contribute to increased efficiency of family farms. Second, households with older and less educated members can rent out the land to get additional income. Third, rental markets reduce inequality of access to land by transferring land from households with high land privileges to those with low land privileges. Sales markets, on the other hand, seem to contribute to inequality of land ownership.

B. Mortgages

83. In Azerbaijan, the Law on Mortgage was passed in July 1998. However, credit resources are few and the price of credit is very high. The World Bank is considering initiatives to develop local financial intermediaries such as credit cooperatives to serve rural areas.

84. A mortgage agreement relating to immovable property should be notarized. Furthermore, if a debtor is a married person, he/she should obtain the notarized consent of a spouse for the mortgage of property. Similarly, if several persons own the property, the notarized consent of each co-owner must be obtained. All mortgage agreements should be registered at the State Real Estate Register or, where relevant, at the Ministry for Economic Development.

85. The number of mortgages concerning real property in Azerbaijan has been constantly increasing. This activity is mainly concentrated in the metropolitan region of Baku. It also contributes to the country's increased business activity. This is especially noticeable in the rapid growth in Baku's housing sector. Improving land management and the existing property registration process are high-priority tasks.

86. The Law on Mortgage provides for a mortgage certificate, which is treated as a security evidencing the rights of a mortgagee. The certificate provides more security to mortgagee and mortgager alike. Security may be guaranteed through the court or through out-of-court procedures. An out-of-court procedure for enforcing security is available if explicitly permitted by the loan agreement or where the owner of the property and the mortgagee enter into a notarized agreement to that effect. In the case of immovable property, the mortgagee should submit a notice of enforcement to the owner and should register the notice in the Registry within seven days from the date of the notice. (A failure to register the notice will bar enforcement.)

87. Upon mortgage, the owner of the property can only dispose of, lease or grant use of the encumbered property with the consent of the mortgagee, unless the agreement specifies otherwise.

C. Land and property tax

88. A land tax is imposed on the owners and users of land in an amount (defined under the Tax Code) depending on the location, quality and size of the land plot. The tax is payable by

resident and non-resident individuals and enterprises operating in Azerbaijan. The land tax is established on the basis of documents that confirm the right of ownership and use of lands. The tax rate for agricultural land is calculated for each hectare of such land based on conventional points determined based on the purpose, geographical location and quality of agricultural land.

89. A property tax is assessed annually on the book value of fixed assets maintained by a resident or non-resident enterprise operating in Azerbaijan. Both resident and non-resident individuals owning properties in Azerbaijan pay the tax. Rates generally depend on the type of asset and its value.

VI. TOPOGRAPHIC AND CADASTRE MAPPING

A. Geodetic bases

90. The establishment and maintenance of the geodetic framework are the responsibility of the State Aerogeodesy Corporation of SCLC with its staff of some 220 people. It cooperates with Turkey and the Russian Federation.

91. The geodetic framework used in Azerbaijan is based on the 6°-Gauss-Krüger projection system. The basic geodetic framework is made up of 7 points of the order 0 – including Nakhchivan – and 153 first-order points, while work on the second- and third-order points is still being performed. The density of second- and third-order points will be one point every 5–7 km². The 0-order control points are connected to international networks.

92. Mainly GPS technology is used for this framework, and preliminary work is being done to establish permanent GPS stations.

B. Topographic mapping

93. The State Cartography Factory of SCLC carries out topographic mapping. The factory is self-financed and employs some 100 people. Its main task is to print topographic, thematic and military maps. The customers are mainly ministries and state departments, though production is also done for tourism-, educational, scientific and economy-related purposes. The factory has a monopoly on topographic maps but not on thematic mapping.

94. Topographic maps are established on scales of 1:10,000 (75% coverage, data source from cadastral map), 1:25,000 (100% coverage), 1:50,000 (100% coverage) and 1:100,000. Data are acquired through air-borne and satellite imagery, and the updating frequency is 5–6 years in settlement areas and 8–10 years in mountain areas. Digital general geographic orthophoto maps with a 1:50,000 scale are available for 60% of the territory of Azerbaijan.

95. For non-topographic maps, the state cartography factory is in competition with the private sector. Its competitive advantage is that it can pay lower salaries while providing a broader and more interesting range of work.

C. Cadastral data

96. The cadastre is the responsibility of the Cadastre and Monitoring Division of SCLC. Cadastral surveying is carried out in the 10 regional offices, which operate according to regulations and standards defined by the central office in Baku. The main purpose is to collect the information and location of the over 10 million rural parcels.

97. Cadastral maps basically show boundaries, corners, distances between corners and parcel numbers (in rural areas also buildings). They cover all registered land in private ownership, as

well as land rented by the state, but otherwise no state land. A cadastral map is legally required in order to register land ownership for a property.

98. In urban areas, there is no cadastre, even though the political pressure to have one is rapidly increasing. The problem is that urban parcels are smaller and more numerous, and the required accuracy is higher, which increases the costs.

99. The cadastral surveying data are acquired and kept in databases in the 10 regional offices, from where they are transmitted to a central database in Baku. This central database is supplied with field data, existing digital CAD maps, scanned paper maps, and photogrammetric restitution products. All data in the central database are imported into the database, structured and validated according to the established model.

VII. INTERNATIONAL COOPERATION

100. Donor assistance to the Government of Azerbaijan in this field is largely lacking, mainly because the system is scattered among state agencies and donors are not able to work with a single responsible entity to develop a unified system of cadastre and registration.

101. In 1999–2003 the World Bank implemented an Agricultural Development Project to create precise digital cadastre maps using space imaging, and to study the possibility of creating a unified system of cadastre and land registration, including for buildings. During this project, 10 cadastre offices were established in different regions of Azerbaijan with the aim of decentralizing cadastre work.

102. The Government of Switzerland made a US\$2 million grant, which was used during the period 2003–2005. The overall objective of the project was to improve the production capacity of the Production Centre of State Land Cadastre.

103. The KfW banking group has conducted a number of negotiations with the Government of Azerbaijan to implement a cadastre and land registration project. A basic condition is that the Government of Azerbaijan should first integrate cadastre and land registration functions into one agency.

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. Legal aspects

Conclusions

104. The legal framework and legislation seem to cover the current needs of land administration in Azerbaijan. The Land Code is regarded as a law that works well, and the regulations concerning registration of rights and land parcels are considered sufficient. On the other hand, there are a great number of decrees regarding various areas. This seems to result in a complex situation which makes it hard to get an overview of the institutional structure and consistency of legislation in the field of land administration. The decrees are not always created in line with the relevant law.

Recommendations

105. The major task is to create a unified institutional system for land administration, with clear distribution of responsibilities, and the legislation should be developed with that task in mind. A step has already been taken by establishing the State Register of Real Estate, and the

relevant legislation has been created. However, there is still a need to simplify institutional responsibilities, and legislation should be streamlined accordingly.

106. The decree-making process should be more selective in order to meet real needs, and the preparation of a new decree should be a logical continuation of the relevant law.

B. Land reform

Conclusions

107. The land reform in rural areas is almost accomplished. The best arable land was transferred to private ownership free of charge. Recommendations for farm privatization pilot projects were implemented quickly. The process of privatization was considered fair and helped in the relatively smooth land reform of agricultural land parcels. Considering the intention to privatize land to many inhabitants in order to decrease poverty and unemployment in rural areas, the land reform could be judged fairly successful. Nevertheless, now land consolidation is a necessity, as subsistence farming is prevalent, and as a result of privatization the existing farm structures are mostly not efficient enough for market-oriented agriculture.

108. At the same time, land management decisions on state and municipal land ownership were made without all-embracing consideration of territorial development, simply because respective master plans did not exist. The land reform work was carried out on the basis of digitized maps from the Soviet period, with a small scale and without comprehensive new surveying. Despite the lack of homogeneity of the issued certificate maps and missing objects, the certificates are mostly reliable in the relative sense (with regard to adjacent lands). Prompt improvements are needed mainly in villages and areas with development potential.

Recommendations

109. A policy on land consolidation to improve the current farming structures should be developed as soon as possible. Even if the majority of rural families cling to small-scale subsistence farming, business-oriented family farms could reduce the country's dependence on food imports and even be competitive in the international market. Improved rural structures and consolidated land plots are a precondition to rural and agricultural development for alleviation of poverty.

C. Privatization in urban areas

Conclusions

110. The process of issuing ownership certificates in urban areas is seriously delayed. Uncertainties regarding the technical design of the cadastral system (including mapping) and the lack of capacity-building activity hinder the process of land privatization. The quality of maps is inadequate for creating digital cadastral maps as the basis for a modern multi-purpose cadastre. Without reliable privatization decisions, economic development will at best be postponed. Legal disputes may also arise on a large scale and in the near future.

Recommendations

111. Land reform in urban areas should be completed quickly independent of any decision on future technical considerations. The funds should be allocated as soon as possible. Considering the economic impact of delay and the risk of unsettled ownership rights, priorities should be established. At the first stage, non-homogeneous maps may be used as long as the decision on

the design and production of reliable maps is delayed. Certificates of first registration should be issued disregarding application and free of charge.

112. A policy to establish a consistent cadastral map/topographic map for the whole territory of Azerbaijan should be developed. The basic data should serve as the main information for national institutions and there should be the option of future extension. The design of the system should take the interests of all users into account. All land parcels in the whole country should be recorded and registered.

D. Land-use and spatial planning

Conclusions

113. Most municipalities in Azerbaijan lack financial autonomy and professional skills in administration. The preparation of regional and municipal planning documentation is slow or does not exist. Important decisions on land use and future territorial development are not transparent. They are made without the necessary strategic considerations and without the participation of all authorities concerned, as well as the general public.

114. It is not quite clear who is responsible for the preparation of plans and issuing of permission for changes in land-use and building permits. State planning authorities still try to oversee planning issues that might be handled at the regional or local (municipal) level. As state responsibility gradually decreases in favour of communal and private responsibility, the need for state permission regarding local developments should be assessed. Huge social and economic problems are the main reason why little attention is given to environmental issues.

115. Vertical integration of the planning process at different levels (state, regional and municipal) is missing. At the same time there is no proper horizontal coordination, and planning schemes are prepared by different bodies and institutions. Overlapping functions between these authorities and unclear distribution of responsibilities in the decision-making and implementation process related to land management are major problems. The planning procedures and decision-making are not transparent, which opens the door to corruption. The result is uncontrolled construction activity, especially in the city of Baku.

Recommendations

116. A new spatial planning system to improve integrated planning should be adopted and implemented. Horizontal and vertical integration should be instituted before any planning schemes or programmes are implemented.

117. The Government should work out an integrated strategy for sustainable land use. Discussions on a national level might stimulate a debate on important issues also at the regional and local levels to develop targeted programmes on specific issues.

118. The State should take practical measures to facilitate the territorial planning and implementation process, especially at the regional and local levels. Assistance with funding and knowledge is needed, as are state planning guidelines to ensure sustainable development of the whole territory of Azerbaijan.

119. The State's planning responsibilities at the regional and local levels as well as State control of land use should be reconsidered. Communities should be responsible for local planning and implementation as long as State objectives are not affected. Municipal governments could issue permission for changes in land use in cases where legal instruments are in place and long-term objectives of integrated development are served.

120. Public participation and transparency in drafting and revision of territorial planning documents should be considered priorities. Plans should be open for comments by the general public.

E. Managing state and municipal land

Conclusions

121. After the land reform, the majority of pasture land and much arable land of medium quality remain in State and municipal ownership. Due to the need to foster agricultural development, the selling of State land could be considered. However, municipal land is sold without considering the long-term development of the respective area, as master plans are not available. Management of State and municipal land is not coordinated. The procedure usually does not adequately integrate regional needs and expectations and/or consider other public interests (e.g. environment, agriculture, transport). As a result, the state will have to buy the privatized land if a development scheme of national or regional significance is implemented.

122. Determining market values for land is still difficult, and any attempt to fix it by an expert assessment creates uncertainties. Public sales of parcels could facilitate the development of the land market, and it could give information on the market value of land. The existence of normative prices may serve as security in emerging markets and prevent corruption. Publication of market information will help build confidence and knowledge among the general public regarding the features of a free land market.

Recommendations

123. Lands under individual houses, homestead land, and gardens and cottages on state farms should be gradually privatized. Land parcels under multi-family residential buildings should be transferred to permanent use by the managing organizations or homeowners organizations.

124. Every sale of State and municipal land has to be done by public sale. Since the normative price system is inapplicable in a free land market, it should be abolished as soon as a transparent land market is in place.

125. Even leasing arrangements should incorporate competitive elements. Market-driven fees will assist the transformation from subsistence farming to scale economy farming. The *Good Practice Guidelines for Agricultural Leasing Arrangements* (FAO, 1999) should be taken into consideration.

126. Relevant data on transactions with State participation should be included in analyses of the land market's development to develop confidence. Research on land transactions should be carried out by organizations that are not responsible for managing State lands.

F. Rural situation

Conclusions

127. The sustainable development programmes of the State identify economic development of rural areas and improvement of local skills and capacities as priorities. The main goals are awareness building at the local level, transfer of responsibilities to the local level, capacity-building and financial means, and increasing the transparency of municipal decision-making.

128. At the same time, it is clear that not enough attention is given to the fact that the numerous family farms will not be efficient and competitive in the long run, because they are too small and the individual parcels are too scattered. Without help from the State, the necessary transformation into bigger and more consolidated farms will be retarded. There is also a risk that former State farm managers will dominate certain localities and influence the decision-making in order to preserve their power and interests, which would not benefit overall rural development. In many areas there is a need for modernization and construction of water supply and irrigation systems.

Recommendations

129. It is recommended to launch an international pilot project to integrate the rehabilitation of water and drainage systems with the allocation of land parcels. This project might focus both on the immediate benefit of modernizing irrigation systems and on the medium- and long-term development of farming.

130. The use and eventual sale of State land should be integrated into a wider policy on sustainable rural development. This policy should incorporate environment, transport, housing, rural tourism and other aspects of the rural economy.

131. Further fragmentation of land should be avoided by establishing a minimum land parcel size for every transaction. Land consolidation will also help resolve land use conflicts emerging during the elaboration of public projects that affect private parcels.

132. State institutions should assist local processes with their skills and funds. A corporate body composed of all affected landowners could be established to oversee common tasks and thereby contribute to a positive local self-image.

G. Environmental aspects

Conclusions

133. Monitoring of the environmental aspects of rural development is carried out by the Ministry of Ecology and Natural Resources, the Ministry of Agriculture, the State Committee for Land and Cartography and the State Committee for Amelioration and Water Management. Cooperation and coordination between these organizations is not very well developed. Monitoring results are stored in different ways and registers in analog or digital form. As a result, the decision-making process is complicated and implementation is difficult. Overgrazing, erosion and salinization are the most serious threats to sustainable rural development.

134. The experience of West European countries shows that related problems and conflicting private and public interests should be handled through integrated planning with the participation of all parties concerned. The reorganization of parcels and the main structures during a land

consolidation process should improve farm exploitation and contribute to land conservation and to the wider sustainable land management goals of the area.

Recommendations

135. To avoid duplication of work, relieve the State budget and ensure compatibility, the Government should set up a coordinating inter-ministerial body to agree on distribution of responsibilities for land management among the parties concerned. The body should also establish priorities and agree on a database consolidating information on land and land use with data on socio-economic development in order to get a complete picture for strategic and integrated planning. The base data on land management and land conservation for different scales should be provided through the newly designed cadastre system and digital topographic mapping. Special attention should be given to the dissemination of data and access to data, including by the general public.

H. Real property cadastre and land registration

Conclusions

136. While Azerbaijan has made many efforts to improve the situation in real estate cadastre and real estate registration, further improvements are needed. Although the legal framework for the unified registration and cadastre system is in place, implementation seems to be rather difficult.

137. Some aspects of the institutional framework for the land register and the real estate cadastre remain unclear and cause overlapping and duplication of efforts. Institutional responsibilities were already been unclear in the past, and the establishment of a unified registration system and real estate cadastre turned out to be a very ambitious task. The uncertainties concerning institutional responsibilities for registration and real estate cadastre have been one reason why donor organizations stopped supporting the development of a unified register and cadastre in Azerbaijan pending clarification of the situation. An appropriate institutional setup is a key factor in the success or failure of a unified land registration system.

138. The SCLC and all other institutions and organizations that have been involved in the registration process have to supply all necessary datasets to the State Register Service of Real Estate to enable the proper registration process there. The State Register has expressed concerns about the quality of the submitted cadastre data and is considering re-measuring those data and procurement of the necessary field equipment. This situation does not ensure an efficient workflow and leads to overlapping activities and duplication of efforts. A comprehensive real estate cadastre, covering all of the country and including digital cadastre maps, does not exist. Quality of the existing cadastre records is very heterogeneous. Registration of real estate by the State Register Service has started only in 2006. There is no unified database for the whole country and the existing records lack the necessary quality for security of land ownership rights. A quarterly update of the cadastre data in the State Register Service is not sufficient. Possible technical solutions (for example, internet based services) to improve the situation are not in place. Registration procedures are cumbersome for clients and require several different steps involving many different administrative bodies responsible for different land-use categories.

139. Urban land registration has fallen behind registration in rural areas. Attention should be given to improving the overall structure of the State Register Service. There are 25 regional offices in the State Register Service, each with about 30 employees, which is not sufficient.

140. The regional registration offices finance their activities from fee income, whereas the central office in Baku is financed by the central government. If the fees were adjusted to include a segment to cover the operating costs of the Baku office, then this would be an incentive to keep operating costs down. It would also remove a financial burden from the central government.

141. The existing staff in the Cadastre Centre and in the State Register Service would not be able to cope with the workload related to the establishment of an urban and rural unified cadastre. At the same time, the private sector that could take over the bulk of the work is not sufficiently developed, but it is urgently needed.

142. A unified system with only one database in one organization for land registration and cadastre is the most efficient setup, and this goal should be tackled in the medium to long term. As the State Register Service of Real Estate under the Cabinet of Ministers of the Republic of Azerbaijan is operating, it should be encouraged to avoid any duplication of functions with the SCLC. A useful interim arrangement might be to keep both the SCLC and the State Register of Real Estate involved in the cadastre maintenance and land registration while clearly distributing responsibilities between these organizations. This might be the most feasible option at this moment to prepare for a unified registration and cadastre system in the future.

143. As a first step, clear regulations for the sharing of data need to be established, and mutually agreed responsibilities need to be defined for the SCLC and the State Register Service. The involvement of the private sector in the whole registration process (including real estate cadastre) is necessary in order to handle the anticipated enormous workload along with the tasks of land registration and completion of the real estate cadastre within a reasonable time frame.

144. As a second step, it should be decided which organization will maintain the cadastre in the future. Several possibilities could be discussed, among them (a) the incorporation of the Cadastre Centre of the SCLC with all its resources into the newly founded State Register Service for Real Estate under the Cabinet of Ministers (b) the maintenance of the cadastre in the SCLC as a separate organization with clearly defined responsibilities for data capture and maintenance, with procedures being established for data exchange and links to the State Register and notaries.

145. Since the establishment of the new State Register for Real Estate and the legal clarification of institutional issues, international assistance that was previously halted has started again. The World Bank project dealing with a unified registration and cadastre system in the Autonomous Republic of Nakhchivan is an example of how to move forward. Experience gained in this project could be used in a new project currently being developed for the whole territory of the Republic of Azerbaijan.

Recommendations

146. It is recommended to:

- (a) Establish a unified, fully integrated system consisting of a land register, a real estate cadastre and a digital real estate map for the whole territory of Azerbaijan (state land as well as privately owned land) within an appropriate time frame;
- (b) Establish a unified database with access for all authorities and other parties involved in the registration process;
- (c) Pay particular attention to the establishment of a digital cadastre map for urban areas such as Baku;
- (d) Start systematic and compulsory registration of all real estate (including flats) in an economical and customer-oriented manner and introduce the “one-stop shop” principle for easy registration of all real estate;
- (e) Develop a strategy for registration of land parcels and flats in urban areas in the medium term;
- (f) Give as much technical support as possible to the registration process with regard to IT systems, staff training and the like to achieve the stated objective of creating unique, accurate information for all registers, and also to extend registration over as much land as possible in Azerbaijan;
- (g) Clarify all outstanding institutional questions concerning responsibility for different steps of the registration process;
- (h) Consider the possibility of reducing the number of registration offices to around 10 or 12 larger offices and thereby enabling the organization to take advantage of economies of scale;
- (i) Develop appropriate fees and charges guidelines for the registration process, including fees for real estate cadastre;
- (j) Establish a basis for a healthy private sector in the field of real estate cadastre, including regulations for entering into public-private partnership agreements;
- (k) Involve the private sector in data capture (field measurements, digitizing) for the cadastre database as soon as possible to reach the above goals in a reasonable period of time;
- (l) Establish quality control procedures to be carried out by the responsible organization in order to get correct data from the private sector and to guarantee high-quality datasets;

(m) Make sure that both the public and private sectors have opportunities for capacity-building and vocational training and involve the universities and the international community in this process;

(n) Take into account the results of the World Bank project carried out in the Autonomous Republic of Nakhchivan;

(o) Use digital orthophotos and additional field measurements to update existing cadastre records and improve their quality and to create currently missing cadastre maps in urban areas;

(p) Take the requirements of a modern e-government environment, including a geodata portal, into account from the start to avoid later duplication of efforts;

(q) Make efficient use of available modern technologies to speed up the whole process, including harmonization of the registration and cadastre software to enable secure and reliable data exchange;

(r) Continue international experience exchange and collaboration and make best use of experience gathered abroad (e.g. study tours);

(s) Prepare a public awareness campaign concerning the benefits of systematic registration and a current real estate cadastre for the society of Azerbaijan.

I. Land market

Conclusions

147. Most legal and institutional framework elements for the effective land market are in place, but legal norms are not strictly observed, and different institutions interpret them in different ways.

148. The development of land transactions up to 2006 has been stable and invariable. Still, there is insufficient information for a reliable land market analysis, and the respective government institutions do not try to collect such information.

149. Buying and selling of land between private land market participants is not active for various reasons: financial resources are lacking, particularly outside big cities; no small-credit system has been developed; and the buying and selling procedure is complicated and time-consuming.

150. A clear land tax system has been developed, but it does not promote land market development because it is not based on the actual market value and therefore does not generate a market.

Recommendations

151. Central government authorities must supervise and control the activities of their units and local government authorities more strictly to make the process of real property transactions more

transparent and public. There should be stronger sanctions for violations in executing transactions as well as for delaying the issuing of documents needed to conclude a transaction.

152. The development and dynamics of the market should be analysed more carefully. It is necessary to create a mechanism for the collection and analysis of land transaction prices in order to forecast market changes and, if needed, to adjust transaction procedures and eliminate major hindrances, as well as to publish information on market prices.

153. Notaries should have greater responsibility in determining the legality and validity of transactions.

154. It is necessary to simplify the real property conveyance procedure and attempt to implement the “one-stop shop” principle.

155. The State should encourage crediting institutions to participate more actively in the development of the land market through the realization of a land pledge on the basis of mortgage law.

156. The land tax base should be developed and should be based on the market value.

J. Topographic and cadastre mapping

Conclusions

157. The geodetic framework seems to be appropriate, and international cooperation with a Swiss development and training project was established in 2004.

158. While a traditional printing process is used, the data are prepared using computer technology. Software packages used include Photoshop, Adobe Illustrator, CorelDraw and AutoCAD. A backup system with an active server is used to safeguard the data.

159. The whole production process appears to work in an orderly manner using tools appropriate to the available educational and financial possibilities. However, the adoption of effective modern production tools such as those used in other countries should be considered. Many of the map data are handled using CAD tools, while GIS technology and the use of data modelling do not seem to be stressed.

160. With a central database, cadastral mapping data are now available in GIS format and in a single national coordinate system, enabling users to produce maps across municipality boundaries. The management of this GIS-based cadastral mapping system and the database requires qualifications that are lacking in most regional offices. Therefore the level of technology in the regional offices is kept to a minimum, and for the time being they only perform field surveys and field data processing. There are plans to upgrade the regional offices and increase the level of technology according to the number of transactions. This concept allows flexible and individualized development based on the speed of growth and available resources.

161. During the field visit, these advantages were not obvious, however. Updating of the central database is done by physically sending a memory stick 1–2 times per month. There was no Internet or other connection to the central database in Baku.

162. Even though the cadastral concept in Azerbaijan foresees a unified cadastre that covers urban and rural areas in the same manner, it was often mentioned that different approaches are being discussed and that it is possible that two different cadastres will be developed. Experience in many other countries shows that only a unified cadastre, with standards that are valid for the whole territory of the jurisdiction, can efficiently and reliably contribute to land ownership security.

163. Given the increasing political pressure and the limited capacity of the state organization, a public-private partnership (PPP) and the involvement of the private sector should be considered. The overall responsibility, which would have to include definition of standards and verification of the work, would remain in the hands of the public sector. The international arena provides many successful examples of PPPs providing the required service in an effective and reliable way.

164. The purpose of the cadastral data can be seen as twofold. First, the cadastral data provide security of land ownership. Second, with the use of modern technology, they are a valuable basis of geo-information for many political and administrative tasks. In this context, it is crucial to recognize that the old “map-making” paradigm must be replaced by an “information service” paradigm.

165. The State Register Service central office expressed some concerns about the reliability and efficiency of the data and service provided by the cadastre. It also suggested that the cadastre could improve the service by, for example, establishing its own field surveying teams. Although with income from registration fees the State Register central office might have the financial ability to do so, these improvements would not bring many macro-economic benefits.

166. It was pointed out that updates from the cadastre are to be transferred to the State Register Service central office only once every three months. As the central office deals legally binding ownership data and an accelerating land market, three-month updates are not sufficient for effective operation of the State Register Service.

Recommendations

167. The State Cartography Factory should consider using appropriate GIS technology and data modelling techniques to better benefit from synergies, to eliminate duplication of data acquisition and to provide a more flexible service to clients.

168. The Cadastre Centre should:

(a) Make more use of Web-based technology, not only for data connection to regional offices but also to provide information services to clients;

(b) Develop a unified cadastre which covers both rural and urban areas using the same conceptual approach and standards;

(c) Together with the relevant authorities, facilitate the involvement of the private sector in cadastral activities. A partnership with the private sector requires a clear definition of responsibilities, standards and interfaces, but can provide considerable benefits such as

acceleration of data acquisition, more efficient and less costly progress, and the influx of innovation into the whole system;

(d) Recognize and embrace the information service paradigm;

(e) Make appropriate use of modern technology, including provision of Internet services and products, provision of access to relevant data, and efficient data links with regional offices;

(f) Be more open towards potential clients.

169. The Cadastre Centre and the Registration Centre should solve the ambiguity of responsibility as soon as possible and move forward to provide reliable, secure and efficient service to clients.

170. The Registration Centre should stop any activity directed towards establishing its own “surveying” unit. It should rather try to find an efficient and satisfactory solution together with the Cadastre Centre.

171. Many of the above-mentioned issues have been encountered by other national agencies and international groups, and there are many lessons to share.

K. International cooperation

Recommendations

172. The Government of Azerbaijan should strengthen cooperation with international organizations and donors to implement assistance projects in the field of cadastre and land registration.

173. Representatives of the cadastre and registration organizations should more actively participate in international seminars and workshops, that will allow them to deepen their knowledge about international experience and different systems implemented in different countries and ultimately use as appropriate, the best practices. It is recommended to translate relevant documents with international recognition into Azeri language and distribute them among the professional community.

IX. REREFENCES

Policy, Legal and Institutional Framework, UNECE Environment Performance Review 2004

Living Conditions in the Azerbaijan Republic, UNDP, 2006

Normative-Legal and Organizational Basis for Land Use Organization

Legal Aspects of Land Reform in Azerbaijan by Amin Ismailov, Head, Center for Land Cadastre and Geoinformation Service State Land Committee

Land Reform in Eastern Europe by Renee Giovarelli, David Bledsoe, October 2001

BTC Project Resettlement Action Plan Azerbaijan Final Report, November 2002

Black Sea Energy Review – Azerbaijan, Overall Economic Legislation.

Annex

MISSION PROGRAMME

Sunday, 28 May

Arrival of the international experts in Baku.

Monday, 29 May

Preparatory meeting of the experts at the hotel:

- (a) Opening of the meeting; agenda of the meeting;
- (b) Discussion of the outline of the study and final details concerning distribution of responsibilities among experts;
- (c) Review of the background information;
- (d) Discussion of the main issues in each chapter;
- (e) Preliminary identification of the main problem areas;
- (f) Discussion on the details of the mission's programme; questions to be clarified in each organization;
- (g) Discussion of the tentative timetable for work after the mission.

Tuesday, 30 May

- Meeting at the State Committee for Land and Cartography (organizational meeting).
- Meeting at the Ministry of Agriculture.
- Meeting of international experts at the hotel.

Wednesday, 31 May

- Meetings and study visits at the State Committee for Land and Cartography (land cadastre, land registration, cartography).
- Meeting at the new service for registration of real property under the Cabinet of Ministers
- Meeting at the Ministry of Economic Development
- Meeting of international experts at the hotel

Thursday, 1 June

- Meeting at the Ministry of Taxation.
- Meeting at the State Committee of Architecture and Construction.
- Meeting at the Ministry of Ecology and Natural Resources.
- Meeting with representatives of private companies dealing with land administration.

Friday, 2 June

- Technical visit to a local cadastre and land registration office.
- Final meeting at the State Committee for Land and Cartography.
- Meeting of international experts at the hotel.

Saturday, 3 June

Departure of the experts.
