

A. LEGAL FRAMEWORK

The land administration system in Tajikistan is based on the following legal instruments: the Constitution, the Civil Code, the Land Code, the Tax Code, the Law on Land Reform, the Law on *Dehkan* (Peasant) Farms, the Law on State Registration of Immovable Property and Rights to It, the Law on Mortgages, the Law on Privatization of State Property, the Law on Land Use Planning and the Law on Valuation of Land.

In addition, two Presidential Decrees have been issued, one on Ensuring the Right to Land Use and the other on the Reorganization of Agricultural Enterprises.

Finally, Government resolutions were implemented on the:

- Organization of *Dehkan* (Peasant) Farms
- Restructuring of *Kolkhozes*, *Sovkhozes*, and Other Agricultural Enterprises
- State Control of Land Use and Protection
- Simplified Procedure for Creation and Registration of Land Use Rights
- Simplified Procedure for Determination and Registration of Land Shares.

The **Constitution** postulates that “land, bowels of the earth [i.e. mineral resources], water, airspace, animal and vegetable kingdoms [i.e. flora and fauna], and other natural resources are owned by the State, and the State guarantees their effective use in the interests of the people”.¹⁰³ Thus, no person can own land, because it is the property of the State, which, under the Land Code, can grant people certain land use rights.¹⁰⁴

¹⁰³ Art. 13, Official translation of the Constitution of the Republic of Tajikistan, as of 30 November 1994, available at: <http://www.legislationline.org/documents/section/constitutions/country/49>.

¹⁰⁴ Official translation of the Land Code of the Republic of Tajikistan (adopted in 1996, and subsequently amended in 2004, 2006 and 2008), available on the World Law Guide website (Legislation of Tajikistan) <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwetaj.htm>; specifies the rights and liabilities of land users (chap. 2) and the assignment of land (chap. 3).

The **Civil Code** regulates transactions involving immovable property, such as buying, selling, mortgaging and registration. Article 142 defines immovable property as “buildings, structures, perennial plantings, i.e., objects whose movement is impossible without disproportionate harm to their use”.¹⁰⁵ In addition, the Law on State Registration of Immovable Property and Rights to It specifies that, “immovable property shall be land parcels [such] as State-owned property, residential and non-residential building[s], structure[s] and suspended construction site[s]”.¹⁰⁶

The **Land Code** regulates the allocation of and payments for land use, as well as compensation for withdrawn land use rights. It describes the concept of land management and the process of State registration of land use rights. This legal instrument defines three types of rights: perpetual use rights, fixed-term use rights and lifelong inheritable use rights. The land users can be natural or legal entities and are divided into primary and secondary land users. The primary land users have the right to use a land plot on perpetual terms, fixed terms or on a lifelong inheritable basis, while the secondary land users are entitled to use land under the terms of a lease agreement. The land plots may be leased by agreements for a period of up to 20 years.

Following the amendments made in 2006 and 2008, the Land Code permits conveying of land use to another person (with some exceptions) and the mortgaging of rights to a land plot (only for primary land users). Under Article 27 of the Land Code, “If a building or any other facility on land changes its owner, the right to use the land shall be conveyed together with the buildings to the purchaser or inheritor”.¹⁰⁷ The land plots can be allocated to foreign citizens and foreign legal entities for fixed-term use for a period of up

¹⁰⁵ Official translation of the draft Civil Code of the Republic of Tajikistan (1998), available on the “Tajikistan Development Gateway” website: <http://www.tajik-gateway.org/index.phtml?lang=en&id=446>.

¹⁰⁶ Law on State Registration of Immovable Property and Rights to It, art. 1, available at: http://www.irl.tj/MYSITE/index_files/Law_on_Registration_Eng.doc.

¹⁰⁷ Official translation of the Land Code of the Republic of Tajikistan, available on the World Law Guide website (Legislation of Tajikistan): <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwetaj.htm>.

to 50 years. However, land which is under special protection may not be allocated to foreign citizens and foreign legal entities.

The **Law on Land Management (2001)** and the **Law on Land Valuation (2001)**, as well as their subsequent amendments, provide the necessary detailed guidance regarding the work of the land management institutions.

The **Penal Code of Tajikistan** contains extensive provisions dealing with land damage which is considered to be a criminal offence.

The **Administrative Code** regulates the functioning of the Governmental bodies and their related rights and obligations.

The **Tax Code** is the only normative and legal act regulating taxation issues.

The **Mortgage Law** is concerned with various aspects of mortgaging of immovable and movable property and further elaborates the provisions of the Civil Code. It is currently being reviewed in order to be improved and updated (see chapter III).

B. INSTITUTIONAL FRAMEWORK

The **Presidential Administration**, the **Parliament (Majlisi Oli)** and the **Government** are the institutions with the major legislative and general decision-making roles in Tajikistan. The **Hukumat Administration** (government body on a district or city level responsible for allocation and withdrawal of land use rights) and the **Jamoat Administration** (municipal government) are involved in land-related activities and play a role in overall physical land use planning, especially in populated areas. They are also responsible for the establishment and approval of tax on adjoining land, as well as the creation of an inventory book.

The **Ministry of Justice** is responsible for the registration of mortgages, which currently are not of any significant number. This Ministry is also responsible for the activities of notaries.

The **Ministry of Agriculture** provides policies for agricultural development and meeting the national food needs. The charter of the Ministry makes it responsible for maintaining the quality of the land and ensuring its efficient use.

On 9 March 2010 by Presidential Decree the **Agency for Land Management, Geodesy and Cartography**

was reorganized into the **State Committee for Land Management, Geodesy and Cartography**. The institution is responsible for land management and registration of land use rights. The body also promotes and develops a unified State policy on land issues, land management work, land cadastres, geodesy, aerial imagery and topographic mapping.

The three specialized organizations of the State Committee are as follows: the State Project Institute on Land Management *Tojizaminsoz*; the Design and Research Institute “FAZO”; and the State Enterprise *Markaz Zamin* (Land Centre).

The **State Project Institute on Land Management Tojizaminsoz** (formerly known as GIPROZEM) operates under the control of the State Committee for Land Management. It manages the transition to market relations, records the resources and their productivity and assesses the value for land use. It also conducts soil and geo-botanical surveys and ensures the increased productivity of the soil and the protection of land related to economic activity.

The **Design and Research Institute FAZO**, also under the control of the State Committee, is the leading organization for geographic information system (GIS) and global positioning system (GPS) activity. Since 2003, it has produced vector maps for 32 districts (supported by a World Bank project). It has an archive of air photos of Tajikistan (1968–1990); data on delimitation of rayons (1960–1990); and materials related to State registration of agricultural lands (1989–2006). It also has a digital database and maps.

The **State Enterprise Markaz Zamin (Land Centre)** is the enterprise authorized by the State Committee to prepare documents for the registration of land use rights. It also undertakes the surveying of land plots and the preparation and issue of Land Use Right Certificates (LURC). The Land Centre has 69 offices located in all districts and cities. It prepares the documentation for clients who apply to the *Hukumat* for allocation of land use rights. Staff at the regional offices carry out the initial survey of the land plot, in the presence of the applicant and the representative from the District or the City Land Committee. Then it prepares the documents for sending to the Land Centre in Dushanbe, where the Land Use Rights Certificate is issued.

The Land Centre is supervised by the State Committee and reports every three months. It also reports to the Statistics and the Taxation Committees.

The **Bureau of Technical Inventory** (BTI) maintains property records. It undertakes technical inventory and valuation of houses and grounds, constructions and structures, monuments, engineering networks and other works. The structures and other objects are registered so as to ensure ownership rights.

C. LAND REFORM

Ever since the 1930s, when the process of land collectivization began, the land in Tajikistan was controlled exclusively by the State. The efforts to promote land reform began immediately after the country gained independence in 1991, and land use rights were provided to private persons, i.e., former collective farm members and small-scale farming entities. However, the process was significantly delayed by the civil war, and the reform was largely unsuccessful in its early stages.

Land reform is fundamental for developing the agricultural sector. For an extended period of time the system supported the large State collective farms. until it became necessary to introduce a new system, which includes several land use categories: Presidential land plots, collective *dehkan* farms, individual *dehkan* farms, and State collective farms.

In 5 March 1992, the Law on *Dehkan* Farms was adopted, specifying the type of farm organization that the members of the former State and collective farms could be granted. Every citizen could create a *dehkan* (private) farm, primarily from the land kept in the local district administration's land reserve fund. The law provided for the division of *sovkhoses* and *kolkhozes* into individual, inheritable land shares certified by proper documentation.

Also in 14 March 1992, the Law on Land Reform introduced some additional requirements for restructuring the *kolkhozes* and *sovkhoses* into *dehkan* farms, lease share enterprises and agricultural cooperatives.¹⁰⁸

In October 1993, under Presidential Decree No. 699 some detailed provisions on the organization of *dehkan* farms were approved, establishing the procedures for allocation of land. However, the applicants faced insurmountable bureaucratic obstacles, since the process detailed in this Decree required numerous

different approvals for the allocation of a *dehkan* farm.¹⁰⁹ Therefore, the subsequent measures focused on the following priorities: simplification of the land allocation procedures; further reorganization of the inefficient collective farms; and development of the agricultural land market.

Developing the sector of small household plots¹¹⁰ was considered as "an intermediate step that would improve the economic situation of households in cotton regions",¹¹¹ on which the country's economy is dependent.

The enlargement of the household plots was established by two Presidential decrees: Decree No. 342 of October 1995, which increased the total area of arable land in household plots from 8% to 15%; and Decree No. 874 of December 1997, which allocated additional land, thus increasing the total area of arable land up to 18%.

In October 1995, the reorganization of the traditional large-scale farms was initiated by Presidential Decree No. 621 "On the Structural Reorganization of *Kolkhozes* and *Sovkhoses* and Other Agricultural Enterprises". The unprofitable large farms were supposed to be restructured into lease share enterprises, cooperatives and *dehkan* farms, while the profitable State farms were required to reorganize into collective farms. Specific targets for reorganization were set for each region. Thus, the sector of traditional farm enterprises had been gradually eliminated to facilitate the restructuring of farms by 31 December 2005.

The Presidential Decree on the Reorganization of Agricultural Enterprises and Organizations (June 1996) is considered to be a key document establishing the rights of individual members to hold land shares

¹⁰⁹ Ibid.

¹¹⁰ The term "household plots" refers to "agricultural land allotted to individuals in accordance with norms established by the Land Code of the Republic of Tajikistan, including the land area occupied by structures and courtyards. Household plots shall not include parcels of land allotted following the established procedure for the establishment of peasant (owner-operated) farms, and they shall not include parcels of land provided to individuals under a lease arrangement". Definition taken from the Tax Code of the Republic of Tajikistan, available at: http://www.tajikistan.jp/doc/Laws/laws_tax_code_ch2.htm.

¹¹¹ Publication "Land Reform and Farm Reorganization in Tajikistan: Policy Issues Paper", produced for review by the United States Agency for International Development, 2004. Available at: http://pdf.usaid.gov/pdf_docs/PNADD469.pdf.

¹⁰⁸ Report of the Rural Development Institute "Agricultural Land Reform and Farm Reorganization in Tajikistan", by Jennifer Duncan, May 2000, p. 4, available at: www.rdiland.org/images/publications/RDI_106.pdf.

in farm enterprises. This decree establishes the right to withdraw a land share from a farm enterprise without the need for management approval.

In May 1997, the Law on Privatization of State Property was adopted, defining the legal principles for privatization: legality, transparency, equal rights of citizens, competition and succession.¹¹² However, sound principles of private property are limited in this legislation.

In June 1998, Land Use Certificates and Passports were introduced for both *dehkan* farmers and users of household plots by Presidential Decree No. 1,021 “On Ensuring the Right to Land Use”. In July 1998, a standard sample of a Land Use Certificate was published, as well as a schedule with the number of enterprises by region which had to be restructured successively in three stages: September 1998, December 1998 and March 1999.

In February 1999, two Government resolutions were adopted. They have simplified the procedures for registration of land use rights, as well as the determination of land shares distributed to members of former *kolkhozes* and *sovkhoses*.

In April 2001, the Law on Land Use Planning laid the foundations for registration and titling by introducing procedures for surveying, mapping and demarcation of land plots. However, this law also provided for State intervention in farm production activities. In January 2008 the law was amended, but some of its provisions still allow for the Government to intervene, which contradicts the principles of private ownership.

In April 2002, a new Law on *Dekhkan* Farms was adopted, which replaced the 1992 law. It introduced three forms of *dehkan* farms: “(a) a *dekhkan* [sic] farm founded on individual activity; (b) a *dekhkan* [sic] farm founded on the family business and joint estate; (c) a *dekhkan* [sic] farm built in the form of a special partnership on the basis of common property and founded under the contract of joint activity”.¹¹³ However, these new forms of farms do not differ much from the former collective farm in reality, and

¹¹² Article 4 of the Law on Privatization of State Property of the Republic of Tajikistan, available on the “Tajikistan Development Gateway” web site: <http://www.tajik-gateway.org/index.phtml?lang=en&id=422>.

¹¹³ Article 6 of the Law on *Dekhkan* [sic] Farms of the Republic of Tajikistan, available on the World Law Guide website (Legislation of Tajikistan) <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwetaj.htm> [accessed 28 September 2010].

the State can always influence the land market through price regulations and control over production.

Clearly, Tajik land reform still faces a number of obstacles. The legal provisions regulating the right of land ownership are “vague, over-broad, and include inappropriate rights of withdrawal for private, non-public interests”,¹¹⁴ which could eventually decrease land tenure security and further discourage private investments. In this regard, more detailed provisions regulating land withdrawal procedures should be adopted, to ensure secure private rights to land.

The international donors monitoring the farm reorganization process observed that “the conditions for a land market in Tajikistan are very poor, because few agricultural workers have private use rights to land”.¹¹⁵ Moreover, there is still a large portion of agricultural land occupied by unreformed farms, as well as a lack of access to information on the ongoing restructuring. According to the data provided by the State Committee during the fact-finding mission in Tajikistan in February 2010, 35% of the agricultural land is still owned by the agricultural enterprises and an additional 20% is owned by the collective *dehkan* farms.

The second weakness, as pointed out in a report of the Food and Agriculture Organization of the United Nations (FAO),¹¹⁶ is the obligation imposed on many farmers to plant and grow cotton. The so-called *Hukumat* intervention is enforced almost entirely on cotton growers alone and no other farmers. This diminishes both the incentives to plant cotton and the profits of cotton farmers.

The third major weakness of the land reform is that managers of farms often have few choices for financing cotton sowing and marketing. According to the *FAO 2007–2008 Survey*, practically all cotton growers among family *dehkan* farms (90%) signed forward contracts with non-bank financial agents who advance inputs for sowing in exchange for a share of the harvest and the exclusive right to gin and market the cotton.¹¹⁷ As a result, almost all farms are heavily in debt. This situation is worsened by the

¹¹⁴ Publication “Land Reform and Farm Reorganization in Tajikistan: Policy Issues Paper”, produced for review by the United States Agency for International Development, 2004. Available at: http://pdf.usaid.gov/pdf_docs/PNADD469.pdf.

¹¹⁵ Ibid.

¹¹⁶ FAO, 2008, *The Economic Effects of Land Reform in Tajikistan*. Available at: http://www.fao.org/world/Regional/reu/RT_Policy_Studies/docs/Tajikistan_en.pdf.

¹¹⁷ Ibid..

fact that creditors use this indebtedness to dictate terms of purchase of farm inputs, cotton processing and sales, thus deepening the debt and dependence. In effect, many farmers have simply become bonded producers.¹¹⁸

The unfinished land reform has caused a financial crisis in Tajik agriculture. The lack of profits and the continued lending by banks regardless of the creditworthiness of agricultural enterprises and collective *dehkan* farms has created unsustainable debt. Although the farms growing cotton are the most concerned, it is a general problem for all the enterprises and collective *dehkan* farms.

D. CADASTRE AND LAND REGISTRATION

Cadastre and land registration systems facilitate the implementation of sound land policies, promote efficient land markets and ensure sustainable land development. In recent decades, several international organizations have conducted several campaigns to introduce sound governance principles and land administration projects. Many of these campaign initiatives have been influenced by the World Bank, the United Nations Human Settlements Programme (UN-Habitat), UNECE, FAO, UNDP and the International Federation of Surveyors (FIG). According to a recent UNECE publication,¹¹⁹ “an efficient, integrated system of identification, cataloguing and classification of real estate and property rights should be established so that every asset is associated with information on their legitimate owners/title holders”.

During the fact-finding mission in Tajikistan, similar goals were defined by the local and foreign experts working on the development of a real property cadastre and register system in the country. However, a lot of work still needs to be done to implement the reorganization projects. Several institutions are responsible for land administration issues, but their activities are not well coordinated, and data integration and sharing processes are not well developed.

¹¹⁸ UNDP Project Document (undated), *Demonstrating Local Responses to Combating Land Degradation and Improving Sustainable Land Management in SW Tajikistan*. Available at: http://www.undp.tj/files/Prodoc%20for%20SLM%20in%20Shartuz_eng%20.pdf.

¹¹⁹ *Policy Framework for Sustainable Real Estate Markets: Principles and guidance for the development of a country's real estate sector*. United Nations Economic Commission for Europe (UNECE), Working Party on Land Administration (WPLA), Real Estate Market Advisory Group (REM). Geneva, 2010, p. 4.

Registration of land units in Tajikistan started in 1998. The primary rules were set forth in the Land Code (Articles 6, 15, 16, 17 and 18) and in the Regulations on Organization of *Dehkan* Farming. According to these legal instruments, land registration falls under the jurisdiction of the State Committee.

Land registration requires information about the incoming land user and a description of the piece of land, including the land category, land use type, size of plot, its boundaries, cadastre number and other characteristics. The process of official registration includes issuing of a title deed, which contains a registration number and plan or drawing of the plot boundaries.

Currently, about 750,000 land use rights have been registered. Typical fees for this work are 11.40 somoni (\$3.35) and 40 somoni (\$11.76) for hardcover certificates. The fees for the survey of a land plot vary between 29 and 35 somoni or \$8.53 and \$10.29. The Bureau of Technical Inventory has records of about 1.5 million State and privately owned buildings and apartments. According to the most recent data collected during the fact-finding mission in Tajikistan, the total number of land plots and housing units remaining to be registered is estimated at over 3 million. Approximately half of these are agricultural land plots and the rest are dwellings, buildings and apartments.

Although land registration and cadastral services are provided by various institutions, a building cannot be registered before the registration of the land plot on which it is located. According to Article 1 of the Law on State Registration of Immovable Property and Rights to It,¹²⁰ a “unified State register of immovable property and rights to it shall be an integrated collection of data and documents regarding registered units of immovable property”, and a “cadastral map shall be a document of the Unified State Register of Immovable property and Rights to It, which contains a graphic image of the respective registration district's territory”. These legal provisions mean that the immovable property register is linked to the property's graphic description, i.e., cadastre. Thus they provide the legal preconditions for a unified real estate cadastre and registration system. However, in practice an effective cadastre and registration system has not yet been implemented due to the lack of financial, technical and human resource capacities.

¹²⁰ Official translation of the Law on State Registration of Immovable Property and Rights to It is available at: http://www.irl.tj/MYSITE/index_files/Law_on_Registration_Eng.doc.

take a lot of time and are expensive for both the Government and the property owners. A recent survey of 183 countries ranked Tajikistan in seventy-eighth position in terms of property registration,¹²¹ due to the duplication of registration data and the fact that the land-parcel-based system remains to be completed.

The project on Capacity-building for Implementation of the Law of Registration of Land and Immovable Property and Rights to It introduces some recommendations on how to integrate the work of the various institutions responsible for cadastre, registration and land administration into one structure that could operate on the one-stop-shop principle and offer users access to a broad range of public services in one place. Figure 13 shows a possible organizational structure:

Two new institutions deal with registration issues. The Specially Authorized State Body (SASB) was established to develop policy and standards for registration activities. The self-funded Republican Enterprise for State Registration will implement practical work on a national level concerning the ongoing transactions and registrations, and will supervise the Territorial Enterprises.

E. PUBLIC ACCESS TO LAND REGISTRY

As public access to the land registry is not explicitly either denied or provided for, the degree of access depends largely on the discretion of the State Committee officials. This limited public access threatens the long-term integrity of the system and its usefulness as a source of land market information could, therefore, remain untapped. To increase public access to information, the charges for consultations should be kept to a minimal fee that covers only the costs of administrative assistance provided by the registration office.

Timeliness is also important. Under ideal circumstances, the provision of immediate access to the register should be granted to any individual who can prove they hold a right to the unit concerned. If it is not possible, due to administrative or personnel constraints, the delay between the request for information and the provision of access to that information should be kept to a minimum.

¹²¹ *Doing Business 2010: Reforming through Difficult Times*. A co-publication of the World Bank, IFC and Palgarve MacMillan, 2009, p. 156.

F. REGISTRATION OF MORTGAGES

Tajikistan has two legal instruments which regulate the mortgages of immovable property: the Civil Code and the new Law on Mortgage, No. 364, that was adopted in 2008. The general rules of the Civil Code and the Mortgage Law must be observed in concluding a mortgage agreement.

A mortgage is established through a credit agreement, a loan agreement or other obligations, including obligations based on purchase and sale, lease, and contracts. The mortgage agreement is subject to notarial authentication.

The new mortgage law states that a mortgage shall be subject to state registration in the Unified State Register of Immovable Property and Rights Thereto in accordance with established procedures in the Law on State Registration of Immovable Property and Rights Thereto. The institution responsible for the registration of mortgages is the Ministry of Justice. The mortgage becomes effective upon state registration.

G. NOTARY ACTIVITIES

Notaries play a public role in the State registration of transaction documents. Notaries draft necessary documents, check and certify the parties' identity and signatures. Their main role is to protect both parties to a transaction and to ensure that they comply with the law.

There is at least one notary office in each district. The total network consists of 69 offices across the country and 128 notaries, who are all employed by the Ministry of Justice (i.e., there are no private notaries).

The Civil Code requires the notarization and the registration of all immovable property (buildings, apartments). This process takes a significant percentage of the notaries' time, as there are a large number of changes of ownership for each real estate unit.

The fees charged by notaries vary depending on the type of transaction. They are specified in a Government decree on tariffs. For a sale of property, the maximum fee is 25% of the minimal salary, which is approximately 5 somoni or \$1.50. However if a person belongs to a disadvantaged group (pensioner, children or disabled person), no fee is charged. There is also a transfer tax which amounts to 1.5% of the total property value. All these fees are levied by the fiscal authorities.

H. TOPOGRAPHIC AND CADASTRAL MAPPING

The experts investigating cadastral mapping in Tajikistan¹²² consider the sustainable management of land resources as a key issue for agricultural and infrastructural development. The GIS information and analysis are crucial to define the priorities and to improve decision-making efficiency. However, the lack of access to geospatial data and tools has constrained the ability of governmental institutions to effectively assess, plan, and monitor land and other natural resources.

All the territory of Tajikistan, except the Pamir Mountain region, is mapped in the following scales:

Agricultural lands (paper photo plans): with a scale of 1:10,000 and 1:25,000. The contouring was done by simple translation from topographic maps without any stereo devices. The maps are either in the system adopted in 1942 or in that of 1963, with the Baltic system for heights. For irrigated lands the 1:10,000 scale is used, while the 1:25,000 scale was used for mountain zones.

Towns, villages and other localities (paper photo plans in scale 1:5,000) are in a local coordinate system. These types of maps are available for the regions of Asht, Matchinsk, Dzilinkul, Fajzabad, Vahsh, and partly for Kumsangir and Kabodien. The region of Dushanbe is also in the local coordinate system, but with a 1:2,000 scale map.

The maps show the hydrography, topography, settlements, industrial and cultural objects, roads, boundaries, agricultural and other types of lands. The symbols for each element are the same as those used for topographic maps.

Initially, cadastral mapping was done on updated photo plans, which caused congestion and confusion due to the large number of updates. As a consequence, some plans had to be corrected many times. Since 2001, the map boards have been updated digitally. In Dushanbe a recent cadastral mapping has been completed for the Firdavsi district. Each map covers approximately 100

¹²² Part H of this Chapter was written on the basis of information provided by Romuald Kaczynski, international team leader and key expert No. 1 in photogrammetry and satellite image processing (e-mail: romuald.kaczynski@finnmap.com) and Akbar Yatimov, Director of the Design and Research Institute FAZO (e-mail: tahmina79@mail.ru), in the report on “Progress in Cadastral Mapping in Tajikistan”.

hectares and is done in a scale of 1:2,000. For the south districts of Kabidiyan and Jilikul, 60 maps have also been finalized. This year, cadastral maps have been started for the Southern districts of Vakhsh and Bokhtar.

The Design and Research Institute FAZO holds an archive of land cadastre and settlement maps (on a scale of 1:10,000), which are currently being digitized and updated.

The *Tojikzaminsoz* runs an archive including air photographs and paper maps on scales of 1:10,000 and 1:20,000. The thematic focus is on land cover and land use, agricultural land cadastre, economic appraisal of land and soil and geobotanical characteristics.

The Soil Sciences Research Institute holds a stock of soil, erosion and vegetation maps including a thematic soil atlas (encompassing two tomes from 1984) on a scale of 1:500,000.

A comprehensive list of available cartographic materials can be found in the State Committee archives, covering thematic topics such as natural resources, land cover, vegetation, natural hazards, geology and geomorphology, glaciology, melioration and land development on scales of 1:500,000, 1:200,000 and 1:50,000.

The establishment of a new geodetic network based on GPS technology for cadastral mapping has been subsidized by international donors in order to map all agricultural parcel boundaries. The first order geodetic GPS network for cadastral mapping was established in 2008 and the second order was established at the end of 2009.

The necessary IKONOS and QuickBird high-resolution satellite imagery has been provided through the World Bank project and is now used by FAZO for orthorectification. More than 2,000 digital orthophoto maps in a scale of 1:5,000 have been produced with accepted accuracy.

The creation of a new satellite data is planned for 2010. WorldView-1, WorldView-2 and GeoEye will be used for the agricultural regions, where more accurate and up-to-date maps are needed. On the basis of generated digital orthophoto maps, the cartographic layer of agricultural borders have been elaborated by the FAZO Institute with the use of ArcGIS software.

Comprehensive technical and operation manuals

for the methods of GPS surveying and for geodetic calculations have been elaborated and implemented at FAZO. Also, a range of technical manuals and standard operational procedures have been compiled and completed in the field of digital photogrammetry, processing of satellite imagery, orthophoto generation from aerial photography and Shuttle Radar Topography Mission (SRTM) data use for digital elevation model (DEM) generation. Quality control procedures for all the steps in the mapping processes have been designed and implemented at FAZO.

I. TAXATION

Currently, the tax system of Tajikistan is structured in two different platforms. First, there are two types of taxation — direct and indirect. Second, the tax revenues are distributed between the national and the local budgets.¹²³ The Tax Code encompasses a total of 20 taxes: 16 are national and 4 are local (see chapter III)

Based on the information obtained during the fact-finding mission in Tajikistan, it can be said that the country has competitive tax rates. The top income tax rate is 13% and the top corporate tax rate is 25%. Other types of taxes include the value-added tax and the tax on immovable property. In the most recent year, overall tax revenue, as a percentage of GDP, amounted to 17.8%.

The taxes pertaining to land and other immovable property are mainly:

- Land tax, levied at the national level (the average tax rates from 1 hectare (ha) are established based on the cadastre zones).
- Immovable property (real estate) tax, levied at the local level, in accordance with Chapter 46 of the Tax Code.

Land tax

According to chapter 36 of the Tax Code,¹²⁴ “the land tax shall be paid by landholders who have been allotted parcels of land for tenure on an indefinite basis, for limited-time tenure, or for lifetime inheritable tenure” (art. 264, “Taxpayers”).

With reference to article 265 of the Tax Code, land taxation is conducted considering “the quality and the location of the parcel of land, the land registry appraisal of the land, the nature of its use, and the environmental aspects of the parcel of land”. If the area of land in use is greater than the area of land indicated in the taxpayer’s land registry documentation, “the area of land actually in use shall be applied for taxation purposes” (art. 265 regulating the object of taxation). The amount of the land use tax is assessed annually on the basis of the actual land area and does not depend on the results of a landholder’s economic activities.

The tax rates vary from 180 somoni per hectare for small cities and urban-type settlements to 500 somoni for the city of Dushanbe (as stated in art. 266,

Table 6. Average tax rates per hectare of land outside cities and urban-type settlements

Name of land registry zone	Type of land			
	Arable land and perennial plantings: irrigated/dry	Pastures and hayfields	Roads, streets, public buildings, forests, squares, canals, irrigations ditches, and reservoirs	Other land not used in the production of agricultural products
Sogd	30.0/5.5	4.0	12.0	3.75
Gissar	32.0/13.0	4.0	9.0	2.75
Rasht	26.0/19.0	4.0	6.0	1.25
Kulyab	33.0/15.5	4.0	9.0	2.75
Vakhsh	46.5/11.5	4.0	13.0	4.25
GBAO (not including Murgab zone)	9.0/4.0	2.0	6.0	1.25

Source: Tax Code: Article 267. Land Tax Rates for Land Outside Cities and Urban-Type Settlements.

¹²³ Information available on the website of the Embassy of Tajikistan to the United States of America <http://www.tjus.org/Tax%20System.htm>.

¹²⁴ Chapter 36 of the Tax Code of the Republic of Tajikistan regulates the land tax issues; articles thereof quoted in this study were taken from the Web source http://www.tajikistan.jp/doc/Laws/laws_tax_code_ch36.htm.

“Land Tax Rates for Land in Cities and Urban-Type Settlements”). The average tax rates per hectare for land outside cities and urban-type settlements are from 0.8 to 93 somoni.

All types of allocated land are subject to taxation, including land occupied by structures and buildings, public health areas, industrial zones, etc. (art. 266).

The average tax rates per hectare of land outside cities and urban-type shall be assessed as indicated in article 267, “Land Tax Rates for Land Outside Cities and Urban-Type Settlements”, as set forth in Table 6.

Each year, before 1 March, taxpayers have to submit a land use tax statement to the tax authorities responsible for the area in which the parcel is located (art. 269 regulating the procedure for submission of a tax statement).

Local tax authorities prepare the land use tax statements and inform citizens about their obligations once a year no later than 1 June. The authorities keep a register of all taxpayers and monitor the correct assessment of the land taxes as well as their prompt payment.

Article 271 of the Tax Code provides for land tax concessions, i.e., types of land tax exemptions.

According to the information collected during the fact-finding mission in Tajikistan in February 2010, the rental fee for agricultural land depends on the quality and the location of the land plot in question, which could be examined in the existing cadastral data. The amount of rental fees for other types of land depends on their location, the character of their use and the ecological, social and economic specificities of the area.

Real estate tax

According to chapter 46 of the Tax Code,¹²⁵ real estate taxpayers¹²⁶ are individuals and legal entities that own immovable property (art. 325, “Taxpayers”).

The tax is assessed on the sum of the floors of a piece of real estate, adjusted by coefficients (art. 327, “Tax Base”). According to article 327 the size of a piece of real estate is the one included in the relevant documentation concerning that property. Alternatively, the measurements could be taken by the local tax authority in accordance with the procedures established by the authorized Government body and in consultation with the State Agency for Architecture and Construction of Tajikistan.

According to paragraph 1 of article 329 (“Tax Rate”), “the real estate tax rate shall be set in the range of 10 to 50 times that of the land tax rates”.

In reference to the data collected during the fact-finding mission in Tajikistan in February 2010, the legal entities calculate independently the amount of a real estate tax per calendar year following the procedure and the form established by the authorized Government body. The taxes must be paid annually before 1 April.

According to article 330 introducing the procedures for assessment and payment of a real estate tax, the amount should be calculated by the tax authorities on the basis of the real estate database information collected by the tax authorities. This amount should be assessed annually, as indicated in a notice issued by the tax authority, and paid by 1 October of that year.

The amount of real estate tax due is determined only for finished construction projects that are actually in use, even if they have not been placed on the State register and the corresponding documentation has not yet been prepared for them.

¹²⁵ Chapter 46 of the Tax Code of the Republic of Tajikistan regulates the real estate tax issues; articles thereof quoted in this study are from the Web source: http://www.tajikistan.jp/doc/Laws/laws_tax_code_ch2.htm.

¹²⁶ The term “real estate” is defined as “residential buildings, apartments, summer homes, garages, and other buildings, constructions, and structures”, according to article 326 (“Object of Taxation”) of the Tax Code of the Republic of Tajikistan.