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**LAND ADMINISTRATION REVIEW  
RUSSIAN FEDERATION**

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\* Chapters IV and V, and annexes I, II and III are contained in document  
HBP/2003/7/Add.1-HBP/WP.7/2003/7/Add.1.

## I. INTRODUCTION

1. At the second session of the Working Party on Land Administration in November 2001, the delegation of the Russian Federation expressed its interest in a land administration review (HBP/WP.7/2001/10, annex II). Following a formal request by the Government of the Russian Federation to the ECE secretariat and the Bureau of the Working Party, a team of international experts was established. It was composed of Mr. Reinhold WESSELY (Austria), Mr. Hayk SAHAKYAN (Armenia), Mr. Lennart HANSEN (Denmark), Mr. Martti HAUTALA (Finland), Mr. Andre FAAS (Netherlands), Mr. Gert Gundersen (Norway), Mr. Fredrik ZETTERQUIST (Sweden), Mr. David SHARP (United Kingdom) and Mr. Guennadi VINOGRADOV (ECE secretariat). The programme of their mission was prepared by the Russian land administration authorities in consultation with the ECE secretariat. The mission took place from 10 to 16 November 2002 (see annex I).

## II. OBJECTIVES OF LAND POLICY AND LEGAL FRAMEWORK

2. Historically, land has always had a special meaning to the Russian people. Long before the 1917 revolution, land was seen as a community asset and, thus, had more “communal” uses than in Western Europe or North America, where land was seen as an object for market activities following the rules of demand and supply with a price attached to it. The Soviet Union’s Land Law was based on a theory that did not recognize private landownership nor its market economy potential. Land was treated as a publicly owned natural resource. The only economic value that was recognized was its soil’s productivity. That assumption resulted in the development of one of the most accurate and comprehensive soil cadastres that the world has ever known. However, issues of legal ownership were not addressed by the Soviet cadastre. Many of the problems with today’s institutional structures for the registration of ownership rights in land and other real property, as well as the difference between land administration in general and the management of State-owned land, are a direct result of this attitude.

3. Political and economic reforms in the Russian Federation have affected the relationship between people and land. Government policy aimed to introduce private ownership by transferring land from the government into the hands of individuals and legal entities. The idea that the country had to move from complete State ownership of land to multiple forms of ownership brought up heated political debate involving almost all segments of society. The difficult situation was made worse by the absence of clear legislation governing such transfers and by the insecurity of land tenure. The 1993 Constitution secured private landownership rights and land reform started with a debate on whether land could be transferred into private ownership. By 1998 most of the land that could be formally transferred into private ownership had become privately owned. However, much uncertainty on how to deal with this situation remained.

4. In 1998-2001 the legislation governing land issues improved. Legislators passed a set of federal laws that established the basis for land tenure. Among these laws are: *the Law on the Registration of Real Estate Rights and Transactions (1998)*, *the Law on the State Land Cadastre (2000)*, *the Law on Land Management (2001)*, *the Law on State and Municipal Land (2001)*, *the*

*Land Code (2001)*, the *Law on the Enactment of the Land Code (2001)* and the *Law on the Transfer of Agricultural Land (2002)*. These laws and the executive government regulations that followed have established a liberal conceptual framework for the future development of land tenure.

5. The new *Land Code* clearly recognizes the role of land in society. The regulation of land use and protection is based on the assumption that land is both a natural resource and an object of ownership and other rights. According to the legislation, protecting land is a priority because it is a vital component of the environment and a means of production in agriculture and forestry. The legislation also specifies the use of land as real property, which can be freely possessed, disposed of or used by its owners unless it harms the environment and the interests of other parties. The *Land Code* builds upon the principles of respecting the rightful interests of society as well as those of individuals.

6. Landownership rights, generally introduced by the *Constitution* and the *Civil Code*, are explained in more detail in the *Land Code*. The Code also provides for the involvement of citizens in the decision-making process on land. Some of its other significant provisions are:

- That the land and what is attached to it form a unit;
- That land is an object for commercial transactions (against payment);
- That it classifies land into seven categories (which represent the order of priority for land-use policies, valuation and other measures);
- That it demarcates State property so that (a) State land can be distributed to the various government entities, and further privatized at the municipal level, and (b) federal real property (as any other property) can be identified and registered in the cadastre and real property rights registration system.

7. The *Land Code* has put an end to the separation of land from the buildings on it. One of its basic principles is that all objects permanently attached to land go with the land parcels that they are on. The definition of land cadastre in the *Land Code* includes land and buildings as data components of the unified registration system. The *Land Code* as well as the *Law on the Enactment of the Land Code* contain incentives for owners of private businesses or homes to acquire the land parcels that they occupy. Individuals who are currently using land parcels on the basis of a perpetual use right which can be inherited can freely acquire their land parcels in private ownership. The law also states that private legal entities have the right to acquire the land parcels that they occupy for a nominal price or change their type of tenure to a lease arrangement. For legal entities, the deadline for doing this is 2004.

8. The Russian Federation experienced radical, large-scale changes in land tenure patterns at the end of the 20<sup>th</sup> century: land privatization, the development of land markets and a whole new system of agricultural holdings. The policy pursued by the Government has led to a wide distribution of land. Over 50 million people and legal entities have acquired private ownership rights in land and by the end of the 1990s some 7.6% of the Russian Federation's territory was privately owned. This percentage represents 129 million hectares of land and is comparable to the area of continental Western Europe. Most of this land is agricultural and located in the regions with the most favourable climatic and soil conditions.

9. The *Land Code* has avoided the issue of agricultural land market development by stating that this will be dealt with through separate legislation. In the summer of 2002 the State Duma passed the *Law on the Transfer of Agricultural Land*, allowing private individuals or legal persons to legally buy or sell agricultural land from the beginning of 2003. However, many obstacles must be overcome before a practical and functional market of agricultural properties can emerge.

10. Land reform introduced a new concept of charging users for the land that they occupy. That was reflected in the 1991 *Law on Payments for Land*, which also introduced normative land values that were calculated for different parts of the country and used to establish a land tax base. Since the early 1990s regional authorities have had the right to adjust these values to inflation and in accordance with their own decisions. Consequently, the taxation of similar land parcels in different parts of the country has become unjustifiably disproportional. The *Law on Payments for Land* made a positive impact in that it introduced the idea that land is an economic resource that has to be paid for by those who use it. In the Russian Federation, land payments comprise land tax and lease revenues. The latter are collected from lessees of State and municipally owned land. By 2002 payments for land were split in roughly equal proportions between these two types of revenue. Until 2003 the land tax was collected at the local level and divided between all three levels of administration, with local municipal authorities getting 50%, regional authorities 35% and federal authorities 15%. Before 2002 the Federal Government received 30% of the land tax. The draft *law on the federal budget for 2003* envisions that the land tax will no longer be collected by the federal authorities and will be equally split between regional governments and local municipalities. Moreover, draft tax legislation envisions that in 2004 the land tax will become a local tax with decisions on tax rates made by the local authorities.

11. The objectives and priorities of the Government's policy on land and other real property are identified in the *Mid-term Programme of Social and Economic Development of the Russian Federation for 2002 – 2004*. The Programme was approved in July 2001 by a resolution of the Federal Government. The document was adopted to ensure interaction and the coordination of activities of federal bodies of the executive to implement the Main Guidelines of the Long-term Social and Economic Policy of the Government of the Russian Federation. The main long-term objective of the Government's social and economic policy is to ensure a consistent improvement in living standards, a reduction in social inequality, the preservation and development of the Russian Federation's cultural values, and the restoration of the country's economic and political role in the international community.

12. The *Mid-term Programme of Social and Economic Development of the Russian Federation* contains a chapter on land administration, which addresses housing policy and land use, as well as land and real estate market development. These issues are considered to be the main elements for social and economic reform. The Government will take measures to ensure a clearer legislative delineation of the various forms of housing leases. The necessary conditions will be created to attract long-term private investment in the housing sector, and to develop credit- and loan-based arrangements for individuals, developers and local self-government bodies. The intention is to start introducing a system of legal zoning of territories; take measures to provide developers with guaranteed long-term ownership rights to integrated real estate assets

(land parcel with the structure built on it); and simplify the procedures governing permission for urban construction and design documentation.

13. The main objective of State policy on land and other real estate has been to create a legal basis and the right conditions for the efficient use and development of real estate, regardless of ownership, so as to meet the requirements of society and individual citizens. The Government insists that the legislation of the Russian Federation should be amended to enable the transfer of land and real estate, and ensure a clear distribution of the corresponding property rights among the various level of government.

14. Developing a legal basis for land and other real estate ownership includes the following measures:

- The demarcation of State and municipally owned land to ensure rights in land for the Federation, for regional and for municipal authorities;
- The introduction of the legal concept of a unified real property unit by identifying land parcels as basic elements of real estate;
- The transfer of ownership of land held by governments of different levels to the owners of the privatized buildings and structures attached to the land and the formation of unified real property units;
- The development of legal tender procedures for the sale of government-owned land for development;
- The development of legal procedures ensuring the security of registration of rights in real property and a government guarantee of registered title.

15. Government policy aimed at facilitating the effective use of land and other real estate and the development of real estate markets is targeted towards:

- The development of the State land cadastre as a unified system of State registration of real property, using information technologies and ensuring public access to cadastral data;
- The territorial zoning of land in settlements and other areas to establish permitted uses and construction codes;
- Facilitating land-use planning on agricultural land used by different types of farms;
- The creation of an economic environment conducive to the merger of small plots into land parcels held in ownership or leased by farms of different types and future market transfers of this land;
- The effective control over the protection and use of land so as to preserve or restore its natural qualities.

16. The Government also believes that stimulating investment in the development of real estate will require:

- Simplifying procedures for developers to acquire land rights;
- Creating legal regulations aimed at forming land parcels as real property units;
- Encouraging competition among land surveying companies;
- Facilitating the development of mortgage financing with land parcels and other

real property as collateral.

17. The Government intends to reform the system of payment for land and other real estate and base it on an assessment of unified real property units. This will be done by:

- Developing rules and procedures for the cadastral valuation of land parcels and the mass valuation of real estate, including land and improvements attached to it, according to the best practices;
- Gradually moving from a land tax and property taxes to a real estate tax. This will ensure a constant and regular source of revenue for municipal budgets and facilitate the effective use and development of real estate;
- Establishing common principles for the calculation of lease rates for land and other real estate in government or municipal ownership as well as rules for setting land prices for sales or mortgages.

18. In October 2001 the Government approved the Federal Programme for the Development of an Automated System for the Maintenance of the State Land Cadastre and State Registration of Real Property Units for 2002 – 2007. The Programme identifies the key priorities of the Government's land policy:

- Creating an environment appropriate for the implementation of State policy in respect of land and other real property;
- Implementing the automated "unified" State land cadastre;
- Dividing property among the different government levels (federal, regional, municipal);
- Establishing an electronic data exchange between government agencies dealing with real property;
- Effectively managing federally owned real property.

19. A number of institutions are responsible for the preparation and implementation of different land policies. This sometimes results in conflicting policy objectives. The present system of land-use planning is still based on the concepts developed in the former Soviet Union. In addition, institutional responsibilities overlap and there is an increasing need for new concepts to support the development of a real property market.

### III. INSTITUTIONAL FRAMEWORK

20. In the Russian Federation, the institutional set-up for land administration reflects historical and political developments. Some institutions were set up in the late 1920s, but since the early 1990s their functions have been modified. A number of new institutions and functions have been created in the area of real property rights to foster the market economy. As the reform is only a few years old, it is no surprise that there are conflicting goals, overlapping responsibilities and fragmentation of services. The institutional structure of State land administration in the Russian Federation is characterized by ambiguous departmental responsibilities, deep conflicts of interests among various agencies and a wide distribution of decision-making authority. As a result, decision-making requires numerous inter-agency consultations, which delays decisions on major economic issues, and spreads confusion among

other partners and citizens that deal with the land administration authorities.

21. In the early 1990s the Federal Government established an agency for land administration: the State Committee for Land Resources and Land Management (*Goskomzem*). This Committee had all the main responsibilities for land administration and until 1998 implemented the country's major land reform: State monopoly over landownership was dissolved and private landownership instituted; the rights to land parcels transferred to citizens and legal persons were registered; agricultural enterprises were reorganized. In 1998, the Committee lost its function of registering land rights to the Ministry of Justice, and shortly afterwards it was abolished altogether and replaced by the Ministry for Land Policy, Housing and Municipal Economy. However, this Ministry existed for less than half a year. Yet, despite its short existence, it was burdened with responsibilities for architecture, construction and municipal services, as well as land administration.

22. At present, the following State institutions carry out basic land and real property administration tasks and functions:

#### Ministry of Economic Development and Trade

23. With regard to land policies, this Ministry is responsible for formulating and implementing State social and economic policy, and for determining ways to develop the economy and methods to regulate it efficiently, so as to ensure the Russian Federation's social and economic progress and sustainable development.

#### Federal Land Cadastre Service

24. The Federal Land Cadastre Service is the competent authority for State land administration and the implementation of land reform. It is responsible for:

- Maintaining the State land cadastre and (within its competence) recording the properties located on the land (except for technical inventory) in order to provide information support for State and municipal land administration, State land-use control and land conservation, State registration of land rights and transactions, land management, cadastral land valuation (including for taxation purposes), soil conservation, and other activities related to land;
- State land-use control;
- Organizing and regulating land surveying and land-use planning in rural areas;
- Land monitoring;
- Organizing forecasting and planning activities for efficient land use within its competence;
- Drafting (together with the other federal executive authorities) legislation on the State land cadastre and State recording of properties located on the land, land management, State cadastral land valuation, land monitoring, State land-use control and land conservation;
- In accordance with established procedure, providing federal executive authorities, federated entities, local governments, legal and physical persons with information on the State land cadastre, forecasts and planning of efficient land use;
- Participating in the preparation of land-taxpayer rolls.

Ministry of Property Management

25. This Ministry is responsible for the implementation of general State policy on real property and for land management. Specifically, its responsibilities include:

- The administration and disposal (within its competence) of real property owned by the Russian Federation (i.e. federal property), including land parcels but excluding forests and bodies of water;
- The coordination of activities of other federal executive authorities and executives of federal entities regarding property and land management in cases established by the legislation of the Russian Federation;
- The licensing of valuation activities and the regulation of licence terms and requirements, coordinating the development of property valuation standards.

Federal Service for Geodesy and Cartography (Roskartografia)

26. This Federal Service is responsible for drawing up and implementing a common technological policy, and regulating geodetic and mapping activities, which includes:

- Providing State authorities, local governments, legal persons and citizens with geodetic and cartographic products and data;
- Supervising geodetic and mapping activities concerning geographic names;
- Organizing and maintaining the State cartography and geodesy fund, territorial cartography and geodesy funds, digital, map and geodetic databanks;
- Managing different geodetic, cartographic and topographic products;
- Providing geodetic and cartographic support for the delimitation, demarcation and checking of State borders;
- Coordinating activities for the development of the scientific, production and experimental base, and new equipment and technology in geodesy and cartography.

State Construction Committee (Gostroy)

27. The State Construction Committee is responsible for:

- Developing the system of registration of real property rights and transactions (together with the Ministry of Justice, the Ministry of Property Management and the Federal Land Cadastre Service);
- Developing the State land cadastre and urban cadastre (together with the Federal Land Cadastre Service);
- Preparing procedures for the drafting, consultation, expertise and approval of town-planning documentation and project documentation;
- Organizing (within its competence) State control of land use in urban and rural areas;
- Developing the infrastructure for the housing property market;
- Protecting the statutory rights of homeowners to create owners' associations (condominiums) in order to manage apartment buildings;
- Coordinating the technical inventory of buildings and houses, updating the corresponding technical inventory, appraisal and title documentation and archiving this



documentation at the bureaux of technical inventory (BTI);

- Providing normative and methodological support to the State technical inventory of buildings and structures.

#### Ministry of Justice

28. The Ministry is responsible for the registration of real property rights and transactions. At present, this function is carried out by the real property rights registration chambers of the regional authorities.

#### Ministry of Agriculture

29. The Ministry participates in rural land reform through:

- The implementation of State policy and State administration in the improvement of agricultural land fertility, the rehabilitation of contaminated agricultural land and land amelioration;
- The organization of land conversion programmes;
- Assistance to executive authorities of federal entities in rational land use, improvement and protection of land (including fertility improvements and soil preservation);
- The implementation (together with the Federal Land Cadastre Service) of State control of land use and conditions.

#### Ministry for Natural Resources

30. The Ministry is responsible for environmental protection and the State control of land use and land conservation, as follows:

- Coordinating the activities of federal executive authorities concerning State cadastres for nature management and nature conservation;
- Drawing up and implementing measures for rational nature management and nature conservation, and the economic appraisal of natural resources;
- Developing and operating a system for monitoring environmental conditions and the use of natural resources;
- Organizing and implementing State control of land use and conservation (together with the Federal Land Cadastre Service);
- Developing the State's information resources related to natural resources, their use and protection; preparing the national reports on environmental conditions and the use of natural resources;
- Ensuring the rational use of forests.

31. Private sector professionals provide support to the State organizations in land administration activities.

#### Surveyors

32. Private and public sector companies and institutions perform surveying in the Russian

Federation. Private surveyors are now also active. They have mostly occupied the niche that provides professional services to individuals and companies in the creation of new property units and surveys of individual land parcels to support land transactions. However, their activities and prospects are hampered by:

- The lack of adequate technical equipment to compete on an equal footing with public institutions as well as poor access to resources;
- Sometimes insufficient qualifications;
- The lack of licensing and self-regulating procedures and organizations;
- The unclear liability for the performance of their work. While geodetic activities of surveyors are licensed by the Federal Service for Geodesy and Mapping, the legal side of their work, which is critical for the delineation of land parcel, is not licensed. Private surveyors have formed a professional association but due to the lack of appropriate legislation it does not have the authority of a professional self-regulating organization and is not able to control the quality of the services provided by its members.

Public sector surveying companies are mostly involved in large government contracts that cover large areas of land.

#### Notaries

33. Legislation governs the professional activities of notaries. Their functions are largely limited to providing legal assistance in drafting contracts and to notarizing signatures. There is a professional association of notaries.

#### Appraisers

34. The profession of real property appraisers is also governed by special federal legislation and regulations developed by the Ministry of Property Management, which also licenses their activities. The rules and procedures developed by this Ministry tend to be based on internationally accepted rules of appraisal. There are a number of associations that defend the interests of this profession.

#### Real estate brokerage

35. Real estate brokers have emerged and they are active in those urban markets where a significant number of transactions justify their presence.

## **CONCLUSIONS AND RECOMMENDATIONS**

#### Conclusions

36. The Mid-term Programme of Social and Economic Development of the Russian Federation for 2002 – 2004 contains all the elements necessary for an effective land policy. Together with the Land Code, it establishes the basis for a modern land administration system. However, implementation remains a problem:

- Political interests and institutional ambitions prevail over overall economic

considerations and goals;

- Land policy implementation is not comprehensive and is incoherent;
- Control of land policy and its implementation is ineffective;
- Overlapping institutional responsibilities prevent a comprehensive and coherent land policy from being implemented;
- The transfer of State land to different administrative levels of government and the transfer of agricultural land are stipulated by law, but the relevant institutions are not ready to implement such measures;
- Land-use planning in terms of overall concepts, institutional functions and implementation procedures is not effectively organized;
- Land administration is more developed from the standpoint of State control than of legal security for private owners.

37. Land use is a core element for economic activities and it has to have objectives, laws and regulations, an institutional framework and a clear distribution of responsibilities. The objectives of land use are to strike a balance between: (i) efficient land development; (ii) the social, economic and cultural needs of the population; and (iii) the protection of the environment and natural resources. To that end, a carefully structured decision-making process, based on objectives and reliable information and data, is required.

38. A special issue is effective land use through financial tools (mortgages) with land as collateral. Banking sector reform should improve the conditions for mortgage lending, introducing all means and tools for such lending and issuing mortgage bonds as an instrument for the long-term refinancing of banks. The *Mortgage Law* in place provides the legal basis, but is not widely applied, due to the reluctance of courts to order foreclosure (as there is a constitutional right to shelter). This obstacle could be overcome if the municipalities provided emergency shelter to those who have lost their home because of foreclosure.

39. The customs and traditions of the national minority groups that are native to northern areas are not familiar with the concept of private land. They do not see land as just another tradable commodity. Land represents an integral part of their way of life, which can easily be affected if outsiders are allowed to take land away from them. In the south of the country the situation is also complicated by a lack of productive land in densely populated mountainous areas. Even before the 1917 revolution native people enjoyed community-type land tenure to avoid potential land disputes. Private property may now be introduced at the expense of ethnic diversity, especially there where the land is rich in mineral resources. The stakes are high. Oil and mineral companies want to own the land that they already occupy. With the new Land Code coming into effect, there is very little to stop them. Therefore, the Government needs to concentrate on recording and defending the traditional community land-use rights of native people in the land cadastre and the register of real property rights.

40. Given the multiple functions of land in society, land use has to be planned very carefully, taking into account the balance between economic, societal and ecological needs. Many European countries have developed a hierarchical system of spatial planning, land use and zoning regulations. Zoning is a detailed plan that defines how a certain land category can be

used. Given the size of the Russian Federation, its variety of land types and climate zones, its concentration of natural resources in some regions and of people in others, its national security considerations and overall administrative problems, it is very important to introduce such a hierarchical system. Spatial planning in this context means setting overall goals for the development and protection of land focusing on national, regional and local sustainable development objectives.

41. In addition to these macro-zoning issues, there is an even more urgent need to clarify and simplify zoning procedures, control and implementation, and to change zoning plans within urban municipalities. It is at this level that the sustainability of the slowly emerging urban real estate market will be tested in practice.

42. An analysis of the existing government structure suggests that it lacks a distinct agency with full authority to make decisions on land administration matters. The land administration functions in the Russian Federation are divided among several government agencies. At least four federal executive authorities administer land reform. This considerably impedes the formulation of a common land policy and makes it less effective. This wide distribution of responsibilities in land administration and the fragmentation of functions result in numerous conflicts of interest both among individuals and among organizations, overlapping functions and slow decision-making. There is a need to reorganize the administrative structure (ministries and agencies) and the distribution of responsibility appropriately in line with existing legislation and modern business practices. The current situation negatively influences the developments in matters that are basic for society.

43. A central part of the ongoing discussion on how to establish a viable real estate sector in the Russian Federation is the issue of centralization versus decentralization. The present situation certainly requires a strong and coordinated federal presence within the sector. Nevertheless, the major practical actions which directly affect the real estate markets are being taken at the local level. It is therefore suggested that federal responsibilities should concentrate on:

- Creating satisfactory framework conditions;
- Providing overall checks and controls on the implementation of these federal framework conditions;
- Functioning as an appeals institutions for local decisions;
- Providing general information and guidelines on institutional structures, procedures, and best practices at the local level.

44. The most controversial elements of State land and property administration are the mixture of public-law and private-law functions within one State authority, and the interaction between technical systems of real property recording and the State system of registration of real property rights and transactions.

45. Since the formulation of land policy and disposal of land are the responsibility of federal executive authorities, land policy is frequently considered only from a position of possible privatization of land owned by the Russian Federation, federal entities and municipalities. However, land management is more general; land privatization is only one component and

cannot be handled separately from other land-use aspects.

46. An obvious conflict of interest arises when decisions on land and other real property are taken by the agency that also has the authority to represent the interests of the owner of the (federal) property. This situation is a legacy of Soviet land law, according to which land was exclusively in State ownership. The participation in the process of State cadastral recording and registration of property rights and transactions leads to the desire to bend rules and procedures critical for the proper establishment and description of private property rights. That, in turn, may jeopardize the rights and interests of other private and public owners, and provide grounds for possible land disputes. The ability of one owner to influence the content of cadastres and registers reduces the confidence of other parties in the reliability of the market infrastructure and the real property market in general.

47. Another conflict of interest arises in connection with the regulation of land and other property assessment in general and the assessment of State-owned property. Licensed appraisers, whose very presence in the profession depends on the agency that regulates them and manages federal property, carry out property assessments. International experience shows that control over assessment and the mass valuation of land and real property for taxation is usually in the hands of a national agency responsible for State land and other property administration. The reason is that such agencies have the necessary information for mass land and real property valuation. In international practice, there are also examples of these functions being given to the tax or finance authorities.

48. An analysis of the structure of State land administration reveals the inequality among various ownership categories in the Russian Federation. The task of State land administration is to ensure stability in society through equality of different types of ownership and the presentation of correct information about properties and holders of rights not only to owners but also to investors, creditors, realtors and others in the real property market. Until the organizational structure for the management of agencies complies with the principle of equality of ownership categories, international investors will consider the Russian Federation as a country with a high business risk. Taking into account the political and economic importance of solving this problem, it is essential that the agency representing the interests of the nation's largest property owner should not be responsible for political decisions concerning the whole land/real property issue. It can be done if these two functions are separated in two federal executive authorities independent from each other.

49. A major provision of the *Land Code* is the notion about the unity of land and what is attached to it. The enactment of this principle means a breakaway from the traditional Soviet model of technical inventories of buildings and structures not taking land into account and the transition to the worldwide market concept of the term "real property" embodying a land parcel and all its improvements. On the one hand, the Land Code enacts the concept of an undivided property unit and gives the appropriate definition to the concept of land cadastre. In this connection, the Federal Land Cadastre Service is responsible for the Federal Target Programme "for the Development of an Automated System for the Maintenance of the State Land Cadastre and State Registration of Real Property Units for 2002-2007". On the other hand, the State

Committee for Construction also participates in developing the system of registration of property rights and transactions to support land market and town development activities. The harmonization of the State administrative structure with the present legislation will require real property recording functions to be placed in one federal executive authority.

50. Implementing the provisions of the Land Code that envision the creation of a system of records that includes descriptions of land parcels as well as other immovable objects attached to them will require the bureaux of technical inventory to be removed from the process of registration and their role to be limited to inventory and surveying services provided to interested customers. Mandatory surveys of immovable property that are currently required for transactions have to be abolished or limited to cases where the transacting parties agree that they are necessary.

51. The problem of duplication of functions between land cadastre and registration of real property rights can be addressed in two ways. Legal and organizational changes can be made to combine the two systems. A more modern approach would be to establish a common database for property recording and registration of rights with each authority responsible for a relevant information layer. In this case, for consumers' convenience, the "one-stop shop" principle can be put in practice.

52. The concept of real property has a more extended sense than land surface and includes land parcels, land with mineral resources, isolated bodies of water and all objects connected to land. This should be taken into account when designing the organizational structure for the highest land administration authority. In view of the State administration functions, it can mean that the competence of this agency must include the regulation of valuation activity for both taxation and transactions, as well as the regulation of geodetic and mapping activities. International experience proves that in most countries all these functions are combined in one authority. Depending on the political decisions, the competence of such an agency can also include issues connected with State registration of property rights and transactions. Consultation with representatives of the non-governmental sector who use land administration services is essential for the development of a new institutional model. The land administration system should become client-oriented and be designed to meet the demands of its customers.

53. Before the adoption of the new *Law on the Transfer of Agricultural Land*, the question of who could own agricultural land was hotly debated. This Law has not introduced any restrictions. Potentially this can create a problem if arable land becomes an object of speculation. It might also be advisable to demand that land with better soil quality should be used according to accepted agricultural standards. The workers of the former collective farms are usually trained in specialized types of work. None of them had any experience as independent farmers with full business responsibility. It is impossible for a newly independent farmer with only little arable land to raise the necessary capital to start up agricultural production. All infrastructures in the rural areas are in poor condition and the opportunities for farmers to sell their products are very limited. Supply and marketing cooperatives are practically non-existent and farmers are not organized enough to form them.

54. It is now clear that the distribution of shares in land to all people living in rural areas created a legal and administrative headache. From the legal point of view, the holders of these shares are the owners of the agricultural land. Yet, from the economic point of view, the main goal, namely establishing efficient farms, has not been widely achieved. In addition, there are complications with the identity of the owners. Nobody knows if a transfer of ownership ever took place in case of the death of the original owner or if the original owner sold his share. In most cases official up-to-date information is not available. Rights registration chambers registered only a limited number of such changes. Few lease and rental agreements are registered. Only the identity of the original owners is fully documented at the land committee offices.

55. To accomplish the goal of farm restructuring the rural population must have a clear understanding of the benefits of landownership. At the moment the benefits are very limited because each individual shareholder is dependent on the other shareholders. Therefore, it is important to get on with the physical identification of agricultural land that corresponds to the shares. The exact location and extent of this land must be documented in the land cadastre. Then the ownership of that land should be documented by an entry in the unified register of real estate rights and transactions. Furthermore, it should be clear how to buy and sell shares or land.

56. With extremely low income levels in rural areas, the cost of land surveys that are necessary for ownership transfer remains a bottleneck in the development of agricultural land markets. The Government should develop a programme to support the development of agricultural land-use plans and agricultural land surveys. Appropriate surveying regulations need to be introduced in order to manage agricultural land and plan land use in rural areas.

57. Most rural properties have not yet been recorded on the cadastral map. Land privatization and farm restructuring cannot work until every piece of land is given a cadastral identifier and its owner is entered in the unified register of real estate rights and transactions. Forests, railroads, water bodies, town, village and agricultural land must be on the same map and in the same register. State and municipally owned land must be registered in exactly the same way as private land.

58. Before the transition, all forests within the boundaries of collective farms were used by those farms. Now these forests belong to the State but they are still used by the people living in rural areas. To develop effective, sustainable farms it is necessary to include these small forest areas in agricultural land management projects.

59. Many international projects are being carried out in land administration, mainly in one or a few regions, which is quite natural, given the country's large territory. Some projects are carried out jointly with several State authorities and in this case their coordination and joint management is paramount.

## **Recommendations**

60. *The implementation of land reform has to continue with the focus on improving existing laws and regulations (instead of creating a myriad of new laws). Attention should be given to streamlining institutional responsibilities (instead of new experiments and shuffling responsibilities around) and to cutting red tape in land and real property transactions.*
61. *The efficiency and quality of customer services have to improve, including the efficiency of cooperation among agencies.*
62. *Decisions on zoning plans and related development should be made by the municipality; the population has to be involved through public hearings. If needed, appeals to the regional government should be possible. A municipality should be responsible for issuing building permits on the basis of the approved zoning plans. It should not be possible to issue building permits that contradict existing zoning plans.*
63. *Within the Federal Government there should be a single agency in charge of all land (real property) administration policy and issues. This requires that:*
- (a) The Ministry of Property Management should be responsible for State-owned property, its distribution to regional and local government entities and its privatization. It should not be responsible for land policies or real property valuation;*
  - (b) The Federal Service for Geodesy and Cartography should be merged into the new agency for land administration policy;*
  - (c) The State Committee for Construction should transfer its cadastre responsibilities (activities of bureaux of technical inventory) to the new agency.*
64. *The unity of land and buildings (ownership rights to be based on the land parcel, known as the principle of "superficies solo cedit") has to be introduced.*
65. *Priority should be given to the government policy of establishing a unified real property cadastre, which should be the sole source of information on real property. The information to be transferred from the bureaux of technical inventory to the unified State cadastre should be limited to data of common interest, i.e. not all detailed information from the so-called technical passport which describes the object is required. Real property rights are being registered on a clearly defined real property. Therefore, it is recommended that for registration purposes it should be sufficient to provide only these documents; the presentation of any other document (from, for instance, architectural bureaux and municipal health departments) should be waived.*
66. *It is recommended that the "technical inventory" surveys carried out by the bureaux of technical inventory in connection with every transaction should be abolished, provided there are no major changes to the property in terms of building modifications, once a property has been recorded in the unified State cadastre.*
67. *Provided that the unified State cadastre is developed, all necessary technical information required for rights registration will be held by one agency. To improve customer services, the*



*principle of a one-stop shop should apply. The possibility of locating cadastre chambers and rights registration chambers on the same premises should be considered, since weak communication links are evident, especially in rural areas, and these hamper digital information exchange.*

68. *Electronic data exchange procedures between cadastre chambers and rights registration chambers have to be established to make registration more efficient and avoid discrepancies in data. Such a system would also enable the public, as well as government agencies, to get access to property data and would make it possible to post them on the Internet. Again, such a system would make transactions more transparent and would, thus, foster the development of a real property market.*

69. *In the cadastre chambers, data from old computer systems should be converted to any of the four certified systems (besides the fact that it is very costly to keep old systems running, officials have to search in different types of registers to be able to answer questions from customers).*

70. *The Government should allow local and regional rights registration chambers and cadastre chambers to retain an adequate share of the fees for their services. Thus, the rights registration chambers will be able to continue to finance their services through registration fees and financing of the cadastre chambers will be improved, too. It has to be clearly stated that only the data of the cadastre, with regard to land and real estate, are authentic and legal.*

71. *The possibility of including information from other "cadastrés" in the unified State cadastre at cadastre chambers should be considered. This is necessary to fully use the potential of a unified cadastre, i.e. as a fundamental source of aggregated information not only for real property rights registration but also for land-use planning, municipal management, valuation for taxation, credit market activities, environmental studies, land development, etc.*

72. *It is important that the cadastral index map of the unified cadastral registration system should cover the entire territory of the Russian Federation. It is natural that the cadastre chambers should be responsible for this. They already have well qualified and competent staff for this work. The cadastral index map should be based on the topographic maps and it should be possible to overlay cadastral data on the topographic maps and vice versa so that aggregated information can be distributed to customers upon request. The responsibility for demarcating and determining the administrative boundaries should also be with the cadastral chamber.*

73. *The organizational structure of the rights registration chambers should be raised to the federal level and be similar to that of the cadastre chambers. This will simplify harmonization and information exchange procedures between the two.*

74. *It should be specified what documents should be included in the records. This would help to avoid duplication, since different authorities keep the same types of documents in their archives. A list of objects to be mapped should be established in accordance with the needs of customers and updated regularly. User needs should be reviewed by questionnaires and other*

*feedback systems. Western experience has shown the importance of a cadastral layer on topographic maps. Its importance increases as privatization progresses.*

75. *The Law on the Registration of Real Estate Rights and Transactions has to be modified to include a State guarantee of registered rights to protect the parties to real property transactions and to foster the real property market's development.*

76. *Special attention should be paid to the demarcation and mapping of administrative units and parcels (in many countries the cadastral organization is responsible for the demarcation of administrative units). Cadastral index maps (registration maps) should be a perfect fit for topographic maps.*

77. *The geodesy licensing system could be replaced by a quality assurance system regulated through professional associations. A legal framework for the operation of such associations needs to be put in place.*

78. *After the successful completion of the valuation of all land, the next step should be to reform the real property taxation system. Real property taxes should be distributed to a maximum degree to the regional authorities and the municipalities, thus giving them revenue that they can use for local development.*

79. *To implement pilot projects more efficiently it is recommended that:*

(a) *A comprehensive federal registration programme, pulling together all experiences of operating successful projects, as well as their goals and arrangements, expected and required contributions, should be developed;*

(b) *A coordination committee, representing all interested parties (public and private bodies) should be set up. The representatives of donors and lending organizations would advise the committee on solutions suitable for the Russian Federation's land administration environment.*

80. *To establish sustainable farming units, forest areas within the agricultural land-use category should be privatized together with the agricultural land. As in many European countries, the forest should support the private farmers with important extra income and work particular during the cold season.*

81. *The possibilities for buying agricultural land should be restricted to people with an agricultural education or experience in farming. Regulations governing the minimum size of land parcels need to be developed and adopted to avoid possible fragmentation of agricultural land.*

82. *Financing schemes for private farmers should be worked out, probably in the form of State loans or State-guaranteed bank loans. Mortgage mechanisms should be introduced. A law on land mortgages should be adopted. It is also very important to facilitate extension services for private farmers.*

83. *State programmes need to be developed to support the establishment of a farm producer cooperative system that would secure the interests of farmers in the market. Such action by the Government would also benefit the development of rural life and decrease poverty.*

84. *A federal code on urban physical development should be prepared and adopted. It should draw together existing and proposed laws, regulations and guidelines relating to urban planning and development. It should set out legal obligations, recommended structures and procedures.*

85. *It should become obligatory by law for urban municipalities to dispose of or privatize real property through open tenders, regardless of whether it is being sold, leased or rented; a possible procedure for such open tenders could be:*

- *Urban municipalities report all real property for sale, lease or rent to the regional authority;*
- *The regional authority publishes every quarter, in at least two generally available media publications, a list of real property to be put out for tender in each urban municipality. The list should very briefly describe each property, the form of transaction planned (sale, lease, rental), the deadlines for tendering, and information on where in the municipality further information can be obtained and tenders submitted;*
- *The municipality collects, processes and decides on the submitted tenders; the final decision should be taken by a political committee in an open meeting;*
- *The municipality publishes each quarter its formal decisions on the tendering process for each property – who won the tender, the total transaction price and any other important information on the transaction – in at least one generally available media publication in the municipality.*
- *If it is decided that federal and/or regional authorities should receive some financial compensation when properties transferred from these entities are sold, leased or rented by the municipalities, the quarterly published lists of property transactions from the municipalities should automatically be transferred to the relevant federal / regional authorities as a basis for such payment.*

86. *The federal authorities should develop guidelines on flexible, efficient and transparent procedures for land-use planning and zoning in urban areas. Such guidelines should include recommendations on procedures for making changes to the already approved plans.*

87. *Guidelines on municipal procedures for handling urban development proposals should be prepared. Such guidelines should promote the “one-door” principle, where one unit in the municipality has overall responsibility for coordination and final decisions on new projects. The necessary documentation to be produced by the developer should be clearly specified and should vary in complexity with the size of the project. The guidelines should recommend a maximum time between the submission of a development proposal and the municipal decision on it.*

88. *All laws influencing the establishment and operation of homeowners’ associations should be examined with a view to removing elements that hinder their establishment and operation, and to introducing new elements to support these objectives.*

89. *The federal authorities, together with regional and municipal authorities, should develop a programme aimed at informing and advising owners of privatized flats to organize, register and operate homeowners' associations and condominiums.*

90. *The municipal authorities should be encouraged to develop a local private management and service sector aimed at privatized housing, and to gradually privatize existing municipal services and maintenance entities.*