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**Madagascar: Reforming Land Administration and
Management for Equitable Growth and Social Cohesion**

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**AFRICA REGION
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Background

1. *A well functioning land administration and management system is crucial for Madagascar's economic and social future.* Land is implicated in Madagascar's ongoing economic development and social transformation in many important ways – as key a factor in its quest for economic growth, urbanization, transparent decision-making on land-related foreign investments, environment protection, vibrant and sustainable rural communities, political stability, and social cohesion. Striking a balance among different, and sometimes even competing, roles played by land in the economic and social development process is a daunting challenge facing the Government. It is not an exaggeration to argue that soundness of land administration and management system will play a crucial role in determining the shape and trajectory of Madagascar's economic and social future.

2. *Malagasy land administration and management system in the past 100 years can be best described by its features of stagnation and ineffectiveness.* From colonial period to independence, and then from independence to 2005, there were no important changes introduced into Malagasy land administration system. Landowners face an old Torrens¹ system which is complicated, outdated, expensive, and ineffective (Van den Brink, 2006). To secure a land title, a landowner needs to go through at least 24 steps and waits on average for more than six years (Teyssier, et al. 2009). The system is operated mainly manually and information is not updated regularly and hence easily gets outdated, or even lost in many cases. In addition, the landowner needs to pay on average US\$507 for a land title (Teyssier, et al. 2009), which is unaffordable for most people given that per capita income was only US\$290 in 2005 (The World Bank, 2007). Over the past century, the land administration system has only managed to issue about 350,000 land titles, accounted for about 7% of the total number of land plots in Madagascar. Needless to say, there is a serious mismatch between the old Torrens system and the demands for better land services resulted from Malagasy social and economic development.

3. *The mismatch between the land administration system and the demands of economic and social development has produced many unfavorable consequences.* **First**, the majority of landowners have been excluded from accessing land administration services. Not surprisingly, the whole society has a persistent feeling of uncertainty regarding land rights. Internationally, there are adequate and convincing empirical

¹ Torrens system is a land title system where a register of land holdings maintained by the state guarantees an indefeasible title to those included in the register. The system was formulated to combat the problems of uncertainty, complexity and cost associated with old-system title, which depended on proof of an unbroken chain of title back to a good root of title. The Torrens title system was introduced in South Australia in 1858, formulated by then colonial Premier of South Australia Sir Robert Torrens. Since then, it has become pervasive around the Commonwealth of Nations and very common around the globe.

evidences which show that lack of tenure security negatively influences production behaviors of firms and individual households (Feder, 1988; Lin, 1992; Besley 1995; Jacoby, Li, and Rozelle, 2002; and Deininger, 2003). There is no reason to believe that Madagascar is an exception. The limited access to land administration services, together with its inefficient and non-transparent operations, has also resulted in endemic corruption. **Second**, transaction costs of economic activities have been significantly increased. One example is landowners' attempts of using extra-legal "small papers" to protect their rights and conduct transactions. These "small papers" are documents issued by various government agencies with the aim of providing minimum protection to land rights and enforcing transactions, although it is well-known that these "small papers" have little legal weight since they do not formalize rights. **Third**, governments at different levels do not have accurate and necessary land information to conduct development planning and effectively enforce land taxation. In addition, there is even no reliable statistics showing either the past or the current structure of land ownership in Madagascar, i.e., there is no reliable information at the national level about how much land is privately owned (with and without titles) and how much is publically owned (government at different levels and public enterprises). **And finally**, land disputes have increased and courts are backlogged with land-related cases.

Land Tenure Reform Since 2005

4. *Both the Government and the civil society have increasingly realized the urgency and importance of reforming the land administration and management system. A consultation platform for land policy reform was established in 2003. The Government then in 2004 set up a working group to develop an overall framework for a new land policy. The working group was comprised by representatives from a wide range of stakeholders, including officials from land-related central government agencies, local elected officials, deputies and senators, leaders of each region, and representatives of farmers' organizations. The working group recommended a national land tenure reform program (PNF) with some significant breakthroughs, including decentralizing the responsibility of land administration and management to local governments (communes).*

5. *Since mid 2005, the Government has embarked on implementation of the ambitious national land tenure reform program, beginning with the passage and adoption of two new important laws, i.e., 2005 Framework Law and 2006 Law on Untitled Private Property.² The PNF has a clear objective, that is, to establish a land administration and management system which is transparent, inclusive, equitable, and efficient. The PNF has four strategic pillars: a) legal and regulatory reform; b) modernization of land registries and survey/mapping offices; c) decentralization of land management to commune level (that is, establishing permanent land office, *guichet foncier*, at the commune level to deliver land certificates); and d) training and capacity building. The PNF was planned to be implemented in a three-phase approach. The first one is the preparation phase, ended in late 2005 with the adoption of a new Land Policy and land law. The second phase, which is the piloting phase, started in early 2006 and*

² By recognizing the private property rights of untitled land, the new laws remove the presumption of state ownership.

was concluded in late 2009. During the second phase, a new ministry for land affairs, i.e., the Ministry of Land Tenure Reform and Land Management, was established in early 2008. The second phase also started activities on decentralization, modernization of land offices, and capacity building. The third phase is the extension phase which is expected to start from 2010. According to the Government's original plan, which many believe was mainly driven by political considerations and hence lacked feasibility, by the end of the PNF implementation (around 2012), about 900 commune level land offices will be established nationwide having issued 1.6 million certificates and modernized all 33 regional land offices.

6. *Initial implementation of the PNF is funded by 12 donors.* Original donor commitments are estimated at US\$42 million. Millennium Challenge Cooperation (MCC) contributed about US\$37.8 million and hence used to be the dominant player. (However, MCC officially terminated its Compact in August 2009 due to the ongoing political crisis. Please see next section on the impact of the current political crisis on the land tenure reform program.) As to other donors, funding for the PNF is primarily from on-going programs. According to the Government's rough estimate, which was made prior to the current political crisis, about US\$190 million is needed for the PNF's full implementation and hence the financing gap is around US\$148 million.

7. *The progress of PNF implementation is generally satisfactory.* Since the first communal local land office was inaugurated in February 2006, 301 land offices (out of a target of 900) in 16 of Madagascar's 22 regions had been established by December 2009. These land offices have received about 107,000 applications for land certificates; of which, they have managed to issue about 49,000 certificates (i.e., a 45% completion rate). At the same time, more than half of the 33 regional land offices have already started the work on sorting, restoring, and computerizing existing land records. Compared with the old Torrens system, the land offices at commune level are much more efficient. Although only 18% of Malagasy communes currently have local land offices, they have already issued 60% of all land tenure documents delivered in the country from 2006 to March 2009. Put it in another way, numbers of land certificates issued by these newly established land offices in three years have already surpassed the numbers of land titles issued by the old Torrens system in the past 10 years for the whole country (see Figure 1 for a summary of PNF implementation). The new system costs significantly less than the old Torrens system in terms of both money as well as time. Average cost of a certificate is around US\$11³ in 2008 and it takes less than 200 days for a landowner to obtain the certificate, compared with US\$507 and six years under the old Torrens system.

8. *Small landowners responded positively to the new system as their access to and the quality of land administration services have been greatly improved.* Most certificates are issued in rural areas (an issue the policy note will return to later, Paragraphs 30 and 31), with each certificate covers 0.8 hectare on average. Small landowners treat the certificates as "land titles for the poor." Data from the Land Observatory show that about 20% of total recipients are women. From 2006 to 2009, of all 107,000 applications for

³ The average cost is based on PNF's estimates. The average cost was US\$24 in 2007.

certificates, 2,165 (i.e., 2%) applications were contested and, of which, 1,437 contests were resolved successfully (i.e., a 66% resolution rate). According to a survey by the Land Observatory on customer satisfaction conducted in 2008, 66% of respondents listed the greater proximity of land services as an important improvement. It appears that the decentralized land administration system also promotes greater transparency in local land services. 85% of respondents said they were satisfied with how local land offices received them; 60% reported that they were well informed about the procedures; and 94% believed that local land rights recognition procedures are reliable. Demand for land certificates, therefore, is strong. For example, during a field trip in Ambatomiady Rural Commune of Vakinankaratra Region in October 2008, a group of donors noted that demand for land certificates was so high that the local land office had to stop accepting new applications before finishing processing already received applications. All these demonstrate a remarkable improvement in public services of land administration.

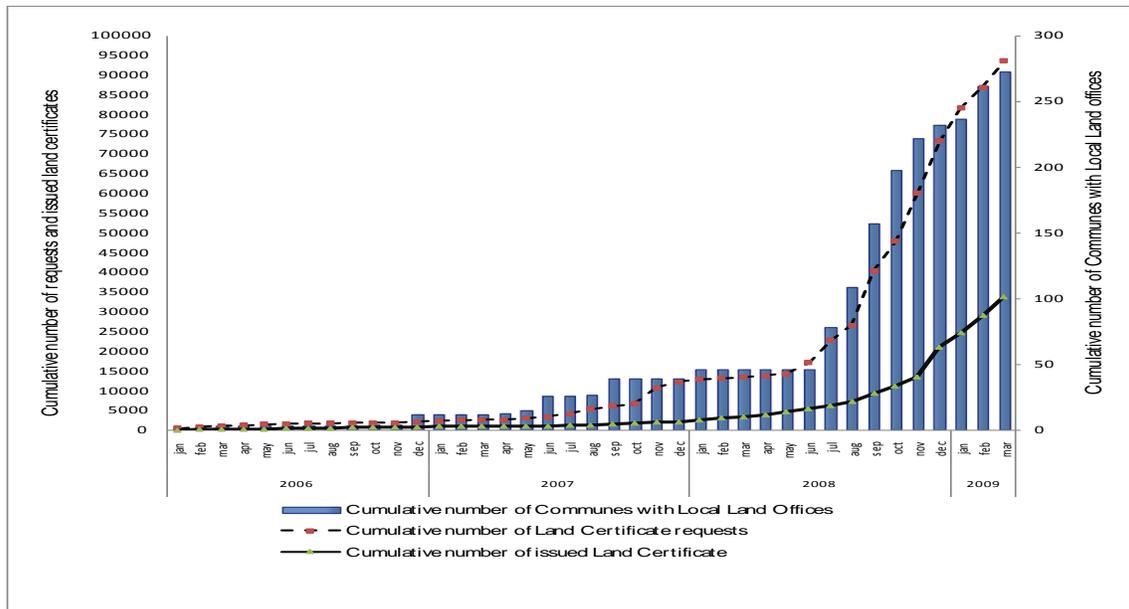


Figure 1: Summary of PNF Implementation: Number of Land Offices, Number of Land Certificate Requests, and Number of Certificates Issued (Source: Teyssier, Andrianirina Ratsialonana, Razafindrambo, Razafindrakoto, 2009)

9. There are some concerns about the relationship between land certificates issued by newly established land offices and land titles issued by the old Torrens system, and whether there is a need to “upgrade” a certificate to a title. The fact is that the legal value of the certificate is identical to that of a title as stipulated in the Law 2006-031. The only difference is that, if a certificate was mistakenly issued to a plot which has already been titled, the land title will prevail. However, this situation has rarely occurred due to three facts: a) less than 7% of Malagasy land has been titled and many of these titles are in urban area; b) information of some titles has been outdated (or even lost in some cases) which make them difficult to be defended legally; and c) the PNF has introduced a special mechanism (i.e., Local Land Occupation Plan, PLOF) to avoid

issuing certificates on titled plots. All land transactions possible with a title are possible with a certificate. In short, the land certificate should not be viewed as an intermediate step towards a title. On the contrary, the land certificate is an official document issued by the commune and recognized by the state which provides landowners full land rights protection.

Impact of the Current Political Crisis on the Land Tenure Reform

10. *The current political crisis has generated significant negative impact on the land tenure reform in Madagascar.* Many donors responded to the political crisis by either permanently terminating or temporarily suspending their financial support to the PNF. For example, MCC officially terminated its Compact in Madagascar in August 2009 and European Union suspended its €10 million finance support. The serious funding problem directly puts the sustainability of the PNF into question and its negative impacts can be summarized as the following: a) most capacity building activities, which are crucial for the newly established land offices at the commune level, have stopped; b) many experienced experts and project staff start to be laid off; c) the computerization process of land administration has been left behind; d) the land certification process has slowed down; and e), not surprisingly, the original expansion plan of the PNF becomes questionable. An alarming phenomenon is that there are some signs showing that people's confidence on the sustainability of the local land office system start to shaken, which in turn could weaken their perception of judicial value of the land certificates. These negative impacts could prove to be lethal to the once successful and promising land tenure reform program.

11. *Both the central and local governments have started to adjust their strategies to deal with the significant funding problem.* For example, according to the central government's plan, the first priority of PNF implementation in 2010 is to strengthen the newly established 300 land offices, focusing on stabilizing staff team, providing capacity building activities, and improving monitoring and evaluation system. Expansion of the PNF implementation, i.e., establishing 100 to 150 new land offices, becomes the second priority. Given the importance of land issues, it appears that local governments' demand for establishing land offices remains quite strong. According to the information from the PNF Secretariat, many local governments are actively exploring different ways, including providing special grants, to finance the operational cost of land offices. Both the central and local governments' reactions to the funding problem, based on information we collected so far, may indicate that the government's commitment to the land tenure reform remains strong. However, it is very clear that more updated and accurate information is needed to ensure a comprehensive and precise assessment the impact of the current political crisis on the land tenure reform.

Challenges Remaining and Recommendations for Moving Forward

12. *PNF implementation has achieved good progress and the fundamental axes of the land tenure reform are believed to remain sound. However, there is still a long way to go for Madagascar before the goal of establishing a transparent, inclusive, equitable, and*

efficient land administration system can be achieved. Continued land policy reforms, therefore, are still needed. Based on the history of Malagasy land system and the current situation of PNF implementation, the following remaining major challenges have been identified. **First**, there is a need to create better consensus on direction of future land policy changes. **Second**, there is an urgent need to clarify and streamline institutional arrangement for land administration and management system at national, regional, and local levels. **Third**, legal review and regulation updates should be addressed as a matter of urgency, particularly in some priority areas. **Fourth**, capacity building and training, which is crucial for successful scaling-up the PNF and sustainability of land system, should be improved and strengthened. **Fifth**, the issue of investors' access to land should be urgently addressed. And **finally**, negligence to urban-related land issues in the past should be corrected.

13. *Successful addressing these challenges requires a strong political will, in-depth understanding about specifics of Malagasy context, broad and deep expertise, including relevant international experiences, and a well-planned implementation strategy.* Before examining the above identified challenges and recommending possible actions for moving forward, it should be useful to draw the Government's attention to some major international experiences in reforming land systems, based on the World Bank-financed land reform programs in other countries in the past two decades. We believe that lessons listed below (see Box 1) will benefit the government's efforts of continuing land policy reforms in Madagascar.

Box 1

Major Lessons from the World Bank-financed Land Programs in Past 20 Years

Lesson 1: There is no one-size-fits-all solution. Customized interventions are needed to fit a country's specific land tenure arrangements.

Lesson 2: A strong and high level of government commitment to the land program is needed to address issues such as inconsistency of laws and regulations, land grabbing, corruption, and civil conflicts.

Lesson 3: Land policy dialogue should be viewed as an integral element of a broader policy dialogue rather than a string of narrowly land-oriented technical interventions.

Lesson 4: Land titling/certification should also fit within broader strategies of urban and rural development. Otherwise, imperfections in other factor markets may undermine or even eliminate benefits from possession of title.

Lesson 5: Value of traditional land rights arrangements should be carefully examined and respected. In some areas, compared with freehold titles, traditional tenure arrangements may be more cost-effective in increasing tenure security and even provide a (limited) basis for land transaction.

Lesson 6: Active and adequate participation from stakeholders is critical. Experience shows that active participation of all stakeholders during policy formulation, demarcation of boundaries, and systematic adjudication is critical to the success of the program.

Lesson 7: Single land agency model should be promoted, i.e., at least the mapping side of land and the legal side of land (rights registration) should be unified.

Lesson 8: Involvement of the private sector in surveying and other technical tasks can substantially speed up the process of titling/certification. However, it is challenging to promote the private sector's active participation.

Source: Various projects' implementation completion reports (ICRs) of the World Bank.

Challenge 1: Creating better consensus on direction of future land policy changes

14. *Consensus building is crucial for important policy changes, particularly in an area such as land administration and management system which is regarded as a major piece of a society's institutional infrastructure.* There are many important aspects of future land policy changes which should be widely debated for securing ownership and building consensus. For example, how the institutional framework for a sustainable land administration system should look like? What's the relationship between the PNF secretariat and the newly established the Ministry of Land Reform and Land Management? Should the PNF extension focus on certain geographic area instead of spreading nationwide rapidly? How to identify priority areas, particularly in an environment where all communes are eager to move ahead quickly? How to satisfy the huge capacity building demand as a result of an increasingly decentralized land administration system? Instead of relying on sporadic registration, whether the systematic registration should be introduced so that services can be delivered to large group household and cost can be further reduced? What's the future of regional land offices (and the Torrens title system) as the decentralization process continues? What's the linkage between policy on urban land and the policy on urban housing? What type of communication mechanism the government at all levels and the civil society (including the private sector) should have to discuss land related issues? There is a long list of crucial land policy issues which carry profound implication for economic development and social stability in today's Madagascar. To a great extent, consensus building should be regarded as a prerequisite for successfully addressing other identified challenges.

15. ***We, therefore, recommend establishing a National Land Policy Forum with full stakeholder participation, and linking the consensus building process with the development of national poverty reduction strategies.*** No effective consensus building mechanism so far has been established in Madagascar, which significantly constrains the ability of the government to continue land policy reform as well as scale up the PNF. An effective consensus building mechanism should have both expert groups as well as broader consultation groups. Series of conferences and implementation workshops at national, provincial, commune, and community levels could be a good start of a consensus building process, followed by a more continuous and institutionalized capacity-building effort for improved implementation. It is very natural that interests will

diverge among different groups; however, the discussion itself should be inclusive, including cultural aspect of different interest groups. In addition, given that donors responded to the current political crisis by cutting their financial support to the land tenure reform, the Forum should also discuss and identify effective measures to ensure the sustainability of the PNF program itself.

Challenge 2: Continuing land-related institutional reform

16. *There is still a strong need for further clarifying and streamlining land-related institutions.* Establishing the Ministry of Land Reform and Land Management (now called as the Ministry of Land Management and Decentralization) only represents the beginning of the institutional reform. There are many important institutional issues that need to be addressed. **First**, the organizational structure of the new Ministry itself needs to be clarified and streamlined. **Second**, the relationship between PNF Secretariat and the Ministry needs to be reexamined, particularly given the PNF will enter a scaling-up stage. **Third**, based on international experiences, the government may also want to consider the feasibility of a) setting up a national land information system and b) introducing a single agency model, i.e., putting mapping side of land and legal side of land (rights registration) under one agency.

17. *The Ministry is still at its early stage in terms of institutional development.* The first and foremost challenge facing the new Ministry is to develop a corporate strategy to support its mission of transforming Malagasy land administration system into a transparent, inclusive, equitable, and efficient one. Decentralization is a key to land administration implementation in most developing countries. All land records are usually kept at local level in a local land office including cadastral maps, land registration documentation and land tax records. The local land office usually works closely with the elected local authority, which is responsible for land use, development and environmental management. *However, international experiences show that a key aspect of decentralization is that there must be central authority to establish policies, set and ensure standards and quality of services, provide or coordinate training, ensure no corruption and implement a personnel policy (particularly with regard to circulating senior staff).*

18. *We recommend the Ministry to develop and implement a strategic plan to strengthen its status as the central government agency responsible for oversight of the national land system.* The strategic plan should include early confirmation with stakeholders of organizational structural arrangements between central, regional, and local levels and progressive implementation of the decentralized structural model. These will include development (and update) of standard operating procedures, budget arrangement, fee structures, human resource development plans, and anti-corruption measures, etc. Monitoring and evaluation system is also important. The corporate strategy should also have a clear arrangement on PNF scaling-up, preferably starting with areas with high land value.

19. *Current relationship between PNF Secretariat and the Ministry should not be a permanent arrangement, particularly given that PNF implementation will enter a stage of nationwide scaling up.* Until now, PNF Secretariat, a temporary entity, is responsible for managing land administration reform with external financial resources. The Ministry should mainstream PNF Secretariat and eventually take over the functions of guiding and supervising land administration reform. It is urgently needed to strengthen the Ministry's capacity of supporting commune level land offices, designing and introducing new methodologies, and monitoring and evaluating large scale operations. Mainstreaming PNF, however, should be built on a careful assessment of the pilot phase. The assessment should shed light on many important questions, such as should the extension focus on certain geographic area instead of spreading nationwide rapidly? How to identify these priority areas? Should the sporadic approach of certificate issuing continue or a systematic approach be adopted instead? What lessons can be learned from the piloting phase about the fee structure of registration services? Should the initial registration be subsidized, as many countries did, to ensure the poor will not be excluded? How to address the sustainability issues (e.g., capacity, budget) of local land offices? What are serious capacity gaps revealed by the piloting phase? How to fill these gaps?

20. ***We recommend the Ministry to consider mainstreaming PNF Secretariat based on a comprehensive review of the piloting phase.*** According to the original plan, the PNF implementation will be scaled up nationwide rapidly. However, without addressing remaining institutional issues and examining lessons learned from the piloting phase, it could be very risky to scale the program up to a wider geographic area with large investment.

21. *The government may also want to consider addressing two other institutional issues in medium term, i.e., a) establishing a national land information system, and b) putting the mapping side of land and the legal side of land (right registration) under one agency.* The need for a land information system is based on the premise that land information is critical for effective decision-making on social, economic and environmental issues at all levels of government. The objective of developing a land information system is to facilitate improved access to land information for government agencies and civil society, promote transparency, facilitate public participation in land management, and improve land administration services. Scope of land information system should be carefully defined to meet needs of social and economic development of Madagascar. International experiences suggest that the following areas could be covered by an effective land information system: an inventory of land assets managed by all levels of government (i.e., state land information); textual and spatial data supporting land registration and in future, the delivery of land registration services as part of the e-government program; cadastral mapping, and land use management data.

22. *International experience shows that successful land administration systems generally have all the land administration functions within one government organization.* There should be one government department responsible for the land administration *infrastructure* in a country. This does not mean that the department controls the use of the land across the country but it does control the land administration infrastructure. This

means that at the very least the administration of cadastral surveying and mapping, land registration and valuation (and even land tax), are all in one organization. However global trends indicate that the most successful systems also include all topographic mapping in the same organization. As stated by the UN-FIG Bathurst Declaration: “*Encourage* all those involved in land administration to recognise the relationships and interdependence between different aspects of land and property. In particular there is need for functional co-operation and co-ordination between surveying and mapping, the cadastre, the valuation, the physical planning and the land registration institutions.” (Ian Williamson, 2001)

Challenge 3: Legal review and regulation update, particularly in some priority areas

23. *Most land-related laws and regulations were developed half century ago and many of them need to be reviewed and updated.* Building on good progress achieved since 2005⁴, the priority should be given to those laws and regulations which have immediate and important impact on economic activities. ***Literature review and informal discussions suggest the government should take the following areas as the first priority.*** **First**, laws and regulations related to state land (titled or untitled) should be reviewed and updated. The focus of the review and update should be on how to regularize land property rights of the current occupants; unless the government has on-going projects or plans to undertake projects in near future on the land. **Second**, laws and regulations related to the land belonging to French during the colonial era should be reviewed and updated. All 22 regions of Madagascar have various sizes of land titled to French who lived in Madagascar during the colonial era. All of those people don't live there anymore but the land still belongs to them on the title. The fact is that the land has already been used by local farmers for at least two generations. In some cases, a whole village was built on such type of land. Consequently, the ambiguity surrounding this type of land results in many conflicts. To address this issue, the government may want to consider the option of immediately regularizing the rights of current occupants. **Third**, regulation framework on land use rights of farmers who rent in land from private landowners should be clear. This type of farmers, known as “*métayers*” in Madagascar, should have their land use rights clearly recognized and documented. The land use rights document will provide these farmers a higher degree of tenure security, and when conditions are ready, the rights document could also be used as collateral to access credit. **Finally**, laws related to investment activities involving large pieces of land should also be reviewed and updated. The policy note will return to this topic later (Paragraphs 24 and 25).

24. *In addition to the above priority areas which should be addressed immediately, the Government may want to address some other legal and regulatory issues in near and medium term.* For example, laws and regulations related to some specific types of land (e.g., tourism reserve land, protected areas, agribusiness reserve land, land for city expansion etc.) should also be reviewed and updated. As decentralization and computerization move forward, the government may want to consider regulations related to use of computer or electronic documents in land transactions.

⁴ For example, the Framework Law (2005), the Law on Untitled Private Property (2006), the Law on Public Domain (2008), the Law on Private Domain (2008).

Challenge 4: Capacity building and training

25. *Scaling-up the PNF implementation represents a huge demand for capacity building since it will create several hundred local land offices and computerize land services.* The key to sustainability of land administration infrastructures is human resource development, and particularly education and training. International experiences show that one of the weaknesses in the design and implementation of land administration reform is often the lack of commitment to human resource development. International experiences again show that, as a “rule of thumb” at least 10% of the overall budget for a program should be committed to human resource development, and in some special cases, the proportion could be as high as 30%. (Ian Williamson, 2001)

26. *We recommend the Ministry to consider investing in developing the capacity of local academic institutions to provide quality programs in a range of land administration disciplinary areas, through both formal courses of study and short courses.* Through these programs, the Ministry and other government agencies, local government and the private sector will have access to a range of local graduates, post-graduates and other qualified personnel. *We also recommend the government to consider developing relationships with recognized international universities, through exchange fellowships, development of curricula and other arrangements, to establish and strengthen land administration programs offered by Malagasy academic institutions.*

Challenge 5: Investors’ access to land

27. *Issues related to investors’ access to land should be addressed urgently.* The current political crisis demonstrates the issues are complicated, controversial, and extremely emotional. The Government has attempted to make certain improvements in the way investors can access land. The impact from these improvements, however, has been limited. In this regard, it is important to emphasize that the constraints to investment in land apply both to domestic and foreign investors alike. They affect all sectors, from manufacturing to agriculture, and from mining to tourism, at every stage of investment, from the initial set-up and financing, to maturity and eventual exit (Van den Brink, 2006). The current system, based on proposal from Economic Development Board of Madagascar (EDBM), should be reviewed and improved. Existing Investment Law requires EDBM to conduct a comprehensive review on business plans from investors and then seek opinions of the land administration agency before making final decisions. The high profile controversies such as the recent Daewoo scenario call for an urgent review of the existing mechanisms.

28. *Addressing investors’ access to land requires a strong political will as well as a transparent, effective, and participatory mechanism.* Given the degree of complexity and sensitivity surrounding this issue, it is believed that a specific and well designed research is needed before essential policy recommendations can be made. Having such an in-depth and specific research is beyond the scope of the policy note. ***However, the***

Government could consider the following actions in near future. **First**, the Government may want to consider revising the existing Investment Law, reviewing EDBM performance, developing and adopting detailed implementation regulations. **Second**, the Government may want to launch quick reviews on some prominent existing cases (e.g., some investors expressed strong interests in tourism sites in Nosy Be and Fort Dauphin). From conducting these quick reviews, some generic issues could be identified and corresponding recommendations could be developed.

29. *The World Bank, together with other development partners, has developed a set of key principles to help both governments and investors better address issues related to agricultural investment.* Among others, the following land-related principles could be particularly useful for the Malagasy Government to develop policies and regulations on investors' access to land: a) existing rights to land and associated natural resources are recognized and respected; b) processes for accessing land and other resources and then making associated investments are transparent, monitored, and ensure accountability by all stakeholders, within a proper business, legal, and regulatory environment; c) all those materially affected are consulted and agreements from consultations are recorded and enforced; and d) investments generate desirable social and distributional impacts and do not increase vulnerability.

Challenge 6: Urban land issues

30. *The land policy reform has been mainly focused on rural areas, and the land issues in urban areas have been largely neglected so far (Paragraph 8).* A smooth and successful urbanization process requires a well-tailored urban land policy framework which is absent in Madagascar. For example, housing is a big issue in Madagascar's urban area, but a clear and effective urban land policy framework is a prerequisite for developing a good urban housing policy. Similarly, effective land taxation, which is a good tool to induce more efficient use pattern for valuable urban land, requires the existence of a sound land information system.

31. **We recommend the government to consider developing an urban land policy framework with the aim of promoting a well-functioning market for urban land. There are many aspects the policy framework should focus on.** **First**, increasing security of land tenure in urban areas should be a priority. Data show that a very high proportion (80%-90%) of urban land is occupied by residents without land titles or certificates, which undoubtedly weakens the foundation of a healthy and well-functioning land market. **Second**, related to the tenure security issue, the policy framework should encourage scaling-up PNF implementation in urban and peri-urban area, where economic returns and social benefits will be high. The urban land policy framework should be an integral part of overall PNF scaling-up strategy. **Third**, promoting more efficient use urban land (both private as well as state land) should also be a focus of the framework. This aspect should be linked with the work of establishing national land information system (Paragraph 18) which will lay a good foundation for better urban planning and more efficient and equitable enforcement of land taxation.

Conclusions

32. *Madagascar's quest for overall economic growth, urbanization, sustainable rural development, environment protection, and social cohesion calls for a transparent, inclusive, equitable, efficient, and service-oriented land administration and management system.* This policy note presents six policy recommendations aiming to help the Government to continue and deepen land tenure reform. All these six policy recommendations are made based on a review of the history of the Malagasy land institution, an assessment on the implementation of the national land tenure reform program since 2005, and an examination on the major remaining land-related challenges. International experiences have also been introduced whenever they are relevant. It is believed that now is a good time for the Government of Madagascar to tackle these challenges and consider these policy recommendations.

33. *The major policy recommendations could be summarized as following.* **First**, it is recommended to establish a National Land Policy Forum with full stakeholder participation for creating better consensus on direction of future land policy changes, including effective measure of ensuring the sustainability of the PNF given the current serious funding problems. In addition, the consensus building process should be linked with the development of national poverty reduction strategies. **Second**, it is recommended that the Government should further clarify and streamline land-related institutions through developing and implementing a strategic plan to strengthen the status of Ministry of Land Reform and Land Management as the central government agency responsible for oversight of the national land system and mainstreaming PNF for scaling-up land tenure reform. The Government should also consider establishing a national land information system and the feasibility of putting the mapping side of land and the legal side of land (rights registration) under one agency. **Third**, as a matter of urgency, the policy note recommends the Government conduct a legal review and regulations update, focusing on priority areas such as state land management, land belonging to French during the colonial era but has been occupied and used by farmers for generations, and land use rights of those farmers (“*métayers*”) who rent in land from private landowners. **Fourth**, it is recommended the Ministry of Land Reform and Land Management to strengthen capacity building and training through developing local academic institutions to provide quality land-related curriculum programs. Cooperation and exchanges with recognized international universities in this area should also be actively considered. **Fifth**, as to the issue of investors' access to land, a comprehensive and in-depth research is needed before fundamental policy recommendations can be made. In the near future, the Government may want to consider revising the Investment Law, assessing EDBM's performance, and developing and adopting detailed implementation regulations. At the same time, the Government may also consider undertaking quick reviews on some prominent cases in the tourism sector for better identifying generic issues and developing corresponding recommendations. In the long-run, a transparent and participatory mechanism should be introduced to strike a balance between pursuing economic development and protecting interests of individuals and communities involved in land deals. **Finally**, the policy note recommends the Government to develop an urban land

policy framework with the aim of increasing tenure security, prioritizing geographic area of PNF scaling up, and promoting a more efficient use pattern of urban land.

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