LAND TENURE AND PROPERTY RIGHTS REGIONAL REPORT
VOLUME 2.8: CENTRAL ASIA

JULY 2007
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This product is part of ARD, Inc.’s international work in land tenure and property rights. It forms part of a 3-volume set on the subject.

VOLUME 1. LAND TENURE AND PROPERTY RIGHTS FRAMEWORK

VOLUME 2. LAND TENURE AND PROPERTY RIGHTS REGIONAL REPORT

2.1 East and Central Africa
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[Angola, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia, and Zimbabwe]

2.3 West Africa
[Benin, Cape Verde, Ghana, Guinea, Liberia, Mali, Nigeria, Senegal, and Sierra Leone]

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2.9 Eastern Europe
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[Bolivia, Brazil, Colombia, Ecuador, Guyana, Paraguay, and Peru]

VOLUME 3. LAND TENURE AND PROPERTY RIGHTS ASSESSMENT TOOLS


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COVER: All land remains state-owned in Tajikistan, and despite farm reorganization, decision making regarding land use remains highly centralized, leading to inefficiency. Photo Credit: ARD, Inc.
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1.0 INTRODUCTION

The demand to address property rights concerns is increasing from both United States Agency for International Development (USAID) field missions and host country governments. The increase in demand is due, in part, to a growing awareness among development practitioners of the role played by property rights (and natural resources access and use) in economic growth, governance, and conflict and resource management.

USAID and its partners have learned a great deal over the last three decades about the relationship between property rights and economic growth, productivity, and, to a lesser extent, natural resource management and conflict. There are several important lessons learned from the last decade of research and policy work on property rights with a particular emphasis on land tenure.

- Secure property rights are a critical component of economic development and social stability. Inappropriate property rights policies and institutional structures that are not synchronized with economic, political, and environmental realities can undermine growth, erode natural resource bases, and catalyze violent conflict. Insecure and non-negotiable property rights are some of the critical factors limiting economic growth and democratic governance throughout the developing world. Conversely, strong property rights systems, which are viewed as legitimate, transparent, and negotiable, can lead to increased investment and productivity, political stability, and better resource management.

- In development programming, property rights are most frequently dealt with in the context of land reforms and land tenure reform. Programming decisions made in a variety of sectors that take land tenure into consideration can have profound impacts on land use and management, agricultural systems, and associated natural resources management.

- Too often, land tenure and property rights reforms are measured in terms of outputs rather than impacts (e.g., measuring the number of land titles which have been issued as opposed to focusing on market performance and investment increases, reduced conflicts, or improved sustainable management practices). This focus on outputs prevents USAID from fully understanding the efficacy and potential cross-sectoral benefits of its property rights reforms and programs.

Issues and constraints regarding property rights vary from region to region, and they will continue to evolve over time. The most volatile of USAID-presence countries, and those that are often in the greatest need of property rights reforms, are fragile states. Since property rights are so closely linked to development agendas across the globe, there is a need to understand how these rights shift as economies move through the stages of economic growth and democratization (and, in some cases, from war to peace) and how these shifts require different property rights interventions.

In light of these common concerns and issues, a Community of Practice on Land has been created by USAID in Washington to serve as a hub of information sharing. In addition, the Land Resources Management Team has been formed within the USAID/Economic Growth, Agriculture, and Trade (EGAT) Bureau to coordinate issues of land tenure and property rights programming with other USAID bureaus and operating units.

In October 2004, USAID awarded ARD, Inc., of Burlington, Vermont a two-year task order, Awareness Framework: Property Rights and Natural Resources Management, under the Broadening Access and Strengthening Input Systems (BASIS) indefinite quantity contract. The task was to develop a land tenure and
property rights framework, a common vocabulary, and a set of tools that could be used to help guide USAID through future property rights programming.

ARD formed a virtual team of land tenure and property rights professionals from three organizations: ARD, the Rural Development Institute (RDI), and the University of Wisconsin Land Tenure Center (LTC). Each member brought to the team strong experiences in the major areas of property rights and development programming. The team consisted of Safia Aggarwal (ARD), David Bledsoe (RDI), Jennifer Brown (RDI), Renee Giovarelli (ARD), Peter Hetz (ARD), Kathrine Kelm (ARD), Susana Lastarria-Cornhiel (University of Wisconsin LTC), Mark Marquardt (ARD), Robert Morin (ARD), Ryan Roberge (ARD), and Michael Roth (ARD, formerly of LTC).

This virtual team met regularly over the course of one and half years to develop the Land Tenure and Property Rights Framework and tools:

- **Volume 1: Land Tenure and Property Rights Framework.** A conceptual tool for examining land tenure and property rights categories, constraints and interventions in USAID development programming. This volume includes a glossary of commonly used land tenure and property rights terms.

- **Volume 2: Land Tenure and Property Rights Regional Report.** This report includes the Country-specific Land Tenure and Property Rights Themes and Donor Interventions, and a database on land tenure and property rights for each presence country. The data is drawn from bilateral and multilateral literature sources. Also included in this report are Land Tenure and Property Rights Rankings and Ranking Maps for specific USAID presence countries. Rankings are an expert assessment of major land tenure and property rights issues and constraints in USAID programming countries around the world, and an illustration of those matters within “regional neighborhoods” (USAID programming regions).

Regional reports:

2.1 **East and Central Africa**
   [East Africa: Congo DR, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Somalia, Sudan, Tanzania, and Uganda; Central Africa: Burundi and Rwanda]

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   [Angola, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia, and Zimbabwe]

2.3 **West Africa**
   [Benin, Cape Verde, Ghana, Guinea, Liberia, Mali, Nigeria, Senegal, and Sierra Leone]

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   [East Asia: East Timor, Indonesia, Mongolia, and the Philippines; Southeast Asia: Cambodia, Laos, Myanmar, and Vietnam]

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2.7 **The Balkans and the Caucasus**
   [The Balkans: Albania, Bosnia and Herzegovina, Croatia, Kosovo, Republic of Macedonia, and Serbia and Montenegro; The Caucasus: Armenia, Azerbaijan, and Georgia]

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   [Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan, and Uzbekistan]
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[The Caribbean: Dominican Republic, Haiti, and Jamaica; Central America: El Salvador, Guatemala, Honduras, Nicaragua, and Panama; North America: Mexico]

2.11 South America
[Bolivia, Brazil, Colombia, Ecuador, Guyana, Paraguay, and Peru]

- **Volume 3: Land Tenure and Property Rights Assessment Tools.** A collection of instruments that can be used by USAID missions to expand upon land tenure and property rights themes in their respective countries and determine how these contribute to or impede development programming. These materials include both an LTPR pre-assessment tool and an LTPR assessment tool. Both of these aim to standardize the format and content addressed in USAID property rights assessments and facilitate development of potential programming in this area.

This team was also afforded the opportunity to meet with both USAID’s Community of Practice on Land and the Land Resources Management Team on various occasions. These meetings were used to critique and improve the different editions of the LTPR Framework and associated tools. In addition, various renditions of this framework and tools were used to steer land tenure and property rights assessments in four of USAID programming countries—Ethiopia, Kosovo, Angola, and Kyrgyzstan.

The task order was managed and supervised by Dr. Gregory Myers. For more information or technical assistance, please contact Dr. Gregory Myers, Senior Land Tenure and Property Rights Specialist EGAT/Natural Resources Management/Land Resources Management Team, USAID, gmyers@usaid.gov. Within ARD contact Peter E. Hetz, phetz@ardinc.com or Michael Roth, mrroth@ardinc.com, Senior Associates for Land, Environment, and Natural Resources.
The Country-Specific Land Tenure and Property Rights (LTPR) Themes and Donor Interventions Report was developed to provide a profile of LTPR themes and related donor interventions in USAID presence countries. For each country addressed, the report provides a snapshot of current LTPR concerns and the donor interventions that seek to address them. The report serves to alert readers to current LTPR themes in each USAID presence country based on a common set of donor literature. Subsequent research and assessments conducted in each country will further inform this initial snapshot and provide the basis for intervention, if warranted.

The report is based primarily on a desk study of donor documents. Given the limited LTPR content in many of the documents reviewed, some entries in the report are limited and others are sparse. This is an indication that many of the donor programs and/or their reports are not presently focused on LTPR concerns.

It is envisioned that the Country-Specific LTPR Themes and Donor Interventions Report will be updated in its entirety on a periodic basis. Updates should mirror major reporting/country programming cycles within USAID. Thus, it is hoped that the contents of these reports will be supplemented with information provided by USAID missions and through LTPR assessments.
CENTRAL ASIA

- KAZAKHSTAN
- KYRGYZSTAN
- RUSSIA
- TAJIKISTAN
- TURKMENISTAN
- UZBEKISTAN
KAZAKHSTAN

I. Background Summary

While collective and state farms no longer exist, former members of those farms now hold such land in the form of conditional land shares; however, little has actually changed in terms of the organization of the farms. Kazakhstan has adopted laws that recognize and respect private land ownership, support transfer of land through the land market, and provide for land mortgage to secure financing. However, Kazakhstan has seriously limited the ability of the land share holders to utilize their land rights. Under law they will lose their land rights unless they start farms or invest their rights in large agricultural enterprises. The former option is not realistic, and the latter option is a bad deal for land share holders. Thus, millions of poor Kazakhs stand to lose their newly created land rights. (Rolfes)

Tenure Types

Land can be owned in Kazakhstan. The process for privatizing former collective farms has been slow, and those holding land share rights in these farms will have a hard time transforming these share rights into land ownership rights. Agricultural land is held as "conditional land shares," which do not correspond to a particular parcel of land. Most Kazakhs own house plots that include areas for personal agricultural production. Kazakhstan's legislative and regulatory framework for land relations is generally supportive of private land rights and land markets. Land of all kinds may be privately owned, though foreign ownership of agricultural land is prohibited. (Rolfes)

Legal Framework

Problems in Kazakhstan's legislative and regulatory framework include overly expansive rights of private parties to purchase government land (this could lead to corruption), eminent domain rules that give the state too much power to take private land, the priority right of lessees to renew their leases, and excessive regulation of irrigated land use. The 2003 Land Code requires share holders to either start their own farms or invest in agricultural production companies. (Rolfes)

Land Administration and Institutions

The Land Resources Management Agency is charged with land management and land reform. (Rolfes)

II. Land Tenure and Property Rights Constraints

Violent Conflict/Post-conflict Instability

Insufficient information

Unsustainable Natural Resources Management/Biodiversity Loss

Land degradation is widespread. (CSP at 9)

Insecure Tenure and Property Rights

In 2003, Kazakhstan's President forced through a new land code that requires these share holders to either start their own farms or invest their rights in large agricultural production companies. If one of these steps does not happen by 2005, then the share holders are at great risk of losing their land rights. For a variety of practical reasons, it is not possible for most share holders to take one of these steps. Moreover, investing land rights in an
agricultural company is generally a bad deal for the share holder because they lose their rights forever in exchange for company stock of dubious value. Therefore, millions of poor Kazakhs will lose their rights to land, and the land will be transferred to massive agricultural enterprises controlled by government officials and their cronies. (Rolfes)

**Inequitable Access to Land and Natural Resources**

As with many other countries in the former Soviet Union, Kazakhstan allocated much of its agricultural land to workers and pensioners affiliated with now-defunct collective and state farms. These people received "conditional land shares" representing equal undivided common interests in the commercial agricultural land used by the farm. Large agricultural enterprises still use the vast majority of this land through leases with the land share holders. The land share was a useful tool to carry out privatization, but experience has clearly shown that it does not provide land share holders with full control because the shares do not correspond to a specific land parcel. Apart from the issue of conditional land shares, most Kazakh citizens have rights to small plots of land for household production and some commercial sale. (Rolfes) The Asian Development Bank notes that women have unequal access to land and credit. (CSP at 70)

**Poor Land Market Performance**

Private owners may sell, lease, give, and bequeath land between private parties, with much of the detail for concluding these transactions found in the Civil Code. The law also sanctions mortgage of land, and provides some of the better legal rules on land use regulation found in the region. (Rolfes)

**III. Donor Interventions**

**USAID**

**Summary**

Kazakhstan is a central part of USAID’s new Central Asia Region Land Reform Project, which was awarded in 2003.

**Key Institutional Arrangements**

Insufficient information

**Conflict or Dispute Resolution**

USAID supports legal information centers and is expanding legal aid to farmers. (AR at 8 and CBJ) The new Central Asia Regional Land Reform Project includes setting up centers to support the land reform process. Land-related work also includes assistance creating regulations for a land registration system. USAID is also supporting improved natural resource and water management. (CBJ)

**Legal and Regulatory Framework**

Insufficient information

**Redistribution**

Insufficient information

**Land Administration**

As part of a project to improve the country’s laws and regulations, USAID is providing assistance in developing regulations for land registration systems and enhancing land mortgage. (CBJ)
**Land Use Management and Conservation**

USAID supports a regional project for transboundary and national water management. Such work includes improving transparency and public participation in the management of energy and water resources and supporting environmentally responsible management of natural resources. (AR at 6 and CBJ)

**Other Donors Summary**

Donors are working on land market improvements and sustainable land and natural resource management projects.

**Key Institutional Arrangements**

Insufficient information

**Conflict or Dispute Resolution**

Insufficient information

**Legal and Regulatory Framework**

Insufficient information

**Redistribution**

Insufficient information

**Land Administration**

The World Bank supports enhanced agricultural credit opportunities through an improved mortgage market as part of its Agricultural Post-Privatization Assistance Project. (wwwWB)

**Land Use Management and Conservation**


**IV. Information and Data Sources**


USAID. Kazakhstan Congressional Budget Justification FY 2003 (CBJ).


Since 1991, the Kyrgyz Republic has followed a program of economic reform designed to transform the centrally planned economy to one based on market principles. Approximately 60 percent of the population lives in rural areas, and about one-third of the country’s population of 4.8 million depend on agriculture for its livelihood. The physical characteristics of the country present an additional challenge to economic restructuring in general, and agricultural development in particular. Bounded by two mountain ranges, over 90 percent of the territory of the Kyrgyz Republic is more than 1,000 meters above sea level. Roughly one-third of the land area is considered unusable, 45 percent of the land area is classified as pasture, and just less than 10 percent is used to cultivate annual crops.

The Kyrgyz Republic is continuing efforts begun in 1991 to transform large, state-managed farm enterprises into smaller enterprises owned and operated by individual families or groups of families. A cornerstone of this effort has been the Land and Agrarian Reform Program, which is designed to: (1) transfer land and non-land assets of the state and collective farms into the hands of individuals; (2) ensure secure, private land rights; and (3) create the legal and administrative infrastructure necessary to support a freely functioning land market. With assistance from the Ministry of Agriculture and local governments, whole farms broke up into private farm enterprises resulting in land that is privately owned and marketable. Yet in spite of the great success in transformation of the land system itself, full achievement of the macro-level goals that the land policy is intended to serve—that is, rapid agricultural growth and democratization of rural institutions—remains only partially fulfilled. The agency responsible for registration is also responsible for land management. Often, as in most former Soviet countries, the land management rules are overly-broad and allow for interference into private ownership by the Land Agency or local government. (Giovarelli)

Tenure Types

The Constitution was amended to allow for private ownership of agricultural land in 1998, and land can be purchased and sold. (Giovarelli)

Legal Framework

Key legislation includes: the Law on Peasant Farms (1991); the Law on Land Reform (1991); the Constitution (1993, amended in 1998); the Land Code (1999); the Law on State Registration of Rights to Immovable Property (1998); the Law on Mortgage (1999); and the Law on Administration of Agricultural Land (2000). While these laws are still in existence, they have all been amended over time. (Giovarelli)

Land Administration and Institutions

The World Bank has had a major land registration project in Kyrgyzstan. USAID first piloted the project. The project has established 50 registration offices and, by 2003, nearly 220,000 transactions have been registered. The number of mortgages continues to rise, and now there have been over 35,600 registered mortgages representing loans of 1.4 billion som and over US$8.2 million. A further €182,700 has been lent using real estate as collateral. Transactions in land in rural areas continue at a very low level. Only 1,043 agricultural land sales have been registered. Systematic registration of urban property has been completed.
II. Land Tenure and Property Rights Constraints

Violent Conflict/Post-conflict Instability

A majority of land disputes are with the State, making it critical to develop a mechanism for dispute resolution that involves another decision-making body. (LRERP at 50) The disputes in question are a cause of tenure insecurity. Free legal assistance and legal information are essential for farmers to exercise their legal rights. USAID, together with Swiss Helvatas, has been funding legal aid for land rights in all 7 oblasts (states). The Court of Elders is very involved with disputes between individual farmers and may be useful in negotiating other types of disputes. (Giovarelli) Tension has been rising between residents of the south, where there is little arable land, and residents of the north, where arable land is available. In April 2005, the new government distributed northern State land to southern residents, but little of this was done transparently. Southerners also began claiming already-privatized land as their own.

Unsustainable Natural Resources Management/Biodiversity Loss

There is little natural resource management occurring, and the capacity but not the funds exist for pasture management. Kyrgyzstan has an ancient legacy of nomadic livestock production and a recent legacy of the Soviet system with well-differentiated seasonal movements. Current arrangements attempt to balance local producers' immediate needs and long-term ecological public goods in pasture resources, as well as generate a revenue stream for conserving and upgrading pasture areas. The livestock sector is only beginning to emerge from the crisis that the Soviet collapse created for animal numbers. Instead of a few huge producers, Kyrgyzstan now has a large number of small producers, which makes complex area-wide management more challenging than Soviet arrangements and highly variable according to local specificities in geography, traditional patterns of use, and Soviet administrative arrangements. Pasture allocation and management decisions are dispersed in three different levels of government, which prevents integrated ecological management and complicates pasture access for producers. Information about seasonality, pasture quality and predicted growth rates is often not reflected in actual allocations, and management plans are often based on over-simplified rules-of-thumb. Pasture issues have become urgent as livestock numbers have increased. Currently, a new Law on Pastures is being developed with assistance from USAID and the World Bank.

Water user associations have been established in many areas, and in some cases are assuming the irrigation and water-management functions previously managed by local governments. (Giovarelli)

Insecure Tenure and Property Rights

There are land disputes with the State are a source of some tenure insecurity. (Giovarelli) Generally, arable land rights are secure, while rights to pasture land are not.

Inequitable Access to Land and Natural Resources

Since 1994, land reform and farm reorganization in the Kyrgyz Republic have moved forward at a rapid pace, driven mainly by presidential decrees that promoted the dissolution of collective and state farms into smaller farms and by the devolution of arable land from state
control to private control. The decrees gave all those living on the territory of the collective and state farms a right to a portion of the arable land (land shares) on those farms. In addition, shares of non-land assets, such as livestock, farm buildings, and farm machinery, were distributed among employees of the state and collective farms. Virtually all former members of state and collective farms have access to land. Rural residents who were not members of state and collective farms have more limited access to land, although local village leaders often provide land from the State Land Redistribution Fund. Access to pastureland has not been a problem because of the massive decrease in herd size since the breakup of the former Soviet Union. However, access to pastures near the village is becoming more difficult as herd sizes recover. (Giovarelli)

**Poor Land Market Performance**

The major legal issues affecting the purchase and sale land market are in the Law on Administration of Agricultural Land (December 18, 2000) and Regulation #427 On the Procedure of Purchase and Sale of Agricultural Land (approved by the GOK Resolution of 08.13.01). While many of the restrictions in these laws are acceptable and even considered desirable by most farmers, other restrictions are harmful to the newly emerging land market. Moreover, the legislation is unclear in several places leading to misinterpretations that are more restrictive than intended by the law. (Giovarelli)

### III. Donor Interventions

#### USAID

**Summary**

USAID has supported several land reform and land related projects since 1997, including a pilot registration project and land legislation work through the Commercial Law Project. USAID is also involved in natural resource management.

**Key Institutional Arrangements**

USAID supports improved governance and civil society strengthening, especially at the local government level. (CBJ)

**Conflict or Dispute Resolution**

USAID supports local centers that provide legal aid for land and property cases. (AR at 6)

**Legal and Regulatory Framework**

USAID supported a pilot registration project, which began in 1997, and supported development of the significant land reform legislation (Land Code, Law on Mortgage, Law on Registration, Law on Cooperatives, and Peasant Farm Law). (LRERP at 4, 13) USAID supported decentralization legislation that includes property tax for local governance revenue. (AR at 9) USAID has provided significant public education on land rights. (AR at 6)

**Redistribution**

USAID has supported research on use of the land redistribution fund (a fund of arable land—25% of the country’s total—still held by the State) and development of legislation for distribution of this land. In addition, USAID has supported ongoing research on the redistribution of land from state and collective farms to private farms and, based on this research, developed a major land reform education program.

**Land Administration**

USAID supported a pilot project on land registration and was directly responsible for
technical assistance on the Law on Registration of Land.

**Land Use Management and Conservation**

USAID supports a regional project for transboundary and national water management. (AR at 6 and CBJ) USAID supported the drafting of a water law. (AR at 6) Currently (2006), USAID’s Land Reform Project is implementing a pasture management project.

**Other Donors**

Summary

Donors are working on land registration and natural resource management.

**Key Institutional Arrangements**

The World Bank has developed a Village Investment Project that provides funding to locally-elected village organizations to develop priorities and undertake projects related to local infrastructure and governance.

**Conflict or Dispute Resolution**

The Swiss Aid Organization has funded legal aid for land and property rights.

**Legal and Regulatory Framework**

The legal and regulatory framework for the land reform was developed in a working group that consisted of Kyrgyz government officials and policymakers as well as other donors, including the World Bank.

**Redistribution**

Insufficient information

**Land Administration**

The World Bank supports a project to create a parcel based registration system. This project aims to strengthen management capacities to implement and monitor a registration project nationwide and includes training of registration office staff and public education about registration. (LRERP at 3 and wwwWB) The Swiss are funding a pilot cadastral project. (LRERP at 4) The Asian Development Bank provides support for institutional and policy aspects of land reform. (CSP at 4)

**Land Use Management and Conservation**

The ADB supports irrigation rehabilitation. (CSP at 4) The World Bank supports irrigation system rehabilitation and the development of water users associations. The World Bank also supports pasture management projects (CSP at 14 and wwwWB)

**IV. Information and Data Sources**


USAID. Kyrgyzstan Congressional Budget Justification FY 2005 (CBJ).


RUSSIA

I. Background Summary

Russia has privatized land under the land share system. While Russia has distributed land to former collective and state farm members in the form of land shares, problems persist in terms of exercising ownership-like rights over that land. The procedure in Russian law for converting land shares into demarcated land parcels can be difficult to utilize, and offers little in the way of a firm guarantee that the resulting land parcel will be of reasonable quality and in a reasonable location. The legal rules regarding physical demarcation are somewhat unclear, and farms interpret the legislation differently. In some instances, to physically demarcate parcel boundaries on the ground, each member of the collective (the number of which might be 600 or more) is required to agree. In other cases, when a land plot is demarcated for allocation, it is located far away from the owner’s settlement, and the quality of land is inferior. This procedural problem has contributed to the paucity of land share owners who have chosen to convert their shares into land parcels. Moreover, on some agricultural enterprises land share certificates prepared as far back as 1994 have still not been distributed to the land share owners, but rather languish in the hands of the managers of agricultural enterprises. (Giovarelli)

Resolution of disputes occurs primarily through the court system. For the most part, the courts do endeavor to interpret and apply the law as written rather than favoring powerful interests. However, poor rural land owners have very little access to objective, impartial advice on how to solve problems relating to their rights to land. (Rolfes)

Tenure Types

Private ownership of land is permitted; however, much of the country’s formerly collective agricultural land remains in the control of restructured collectives, with land shareholders having little ability to exercise private land rights. Agricultural household plots are fully privatized. Restrictions exist on the transfer of privately held land. Some land remains in the hands of the state in local level land redistribution funds. (Giovarelli and Bledsoe at 8, 9, 12)

Legal Framework

The 2001 Land Code permits transactions in non-agricultural land. Regional legislation also governs such transactions. Transactions in small household garden plots are governed by the 1992 Law No. 4196-1 On the Rights of Citizens of the Russian Federation to Acquire as Private Property and to Sell Tracts of Land to Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction; and by Resolution No. 503 On Adoption of the Procedure in Buying-Selling of Land Plots by Russian Citizens. Mortgage is governed by the Law on Hypothecation (Pledge of Immovable Property of 1998). Registration is governed by the Law on Registration of Rights to Immovable Property and Transactions with It (1998). (Rolfes, and Giovarelli and Bledsoe at 12, 15)

Land Administration and Institutions

Russia has a well-conceived registration law, and the Ministry of Justice operates a comprehensive system of registration offices (known as registration chambers) across the country. In practice, though, the registration system is not working well. The high cost of pre-registration boundary surveys, in particular, either stops people from concluding land
transactions, or pushes these transactions into the shadow economy. Also, the registration bureaucracy is oppressive, with one observer likening negotiating the bureaucracy to being "kicked like a football" from office to office. The Ministry of Justice, through its network of registration chambers, is the primary implementer of land registration in Russia. The Federal Land Cadastre Service has responsibility in the areas of land appraisal and land survey. (Rolfes)

II. Land Tenure and Property Rights Constraints

Violent Conflict/Post-conflict Instability

Insufficient Information

Unsustainable Natural Resources Management/Biodiversity Loss

Russia has a huge amount of forest land, almost all owned by the government. (Rolfes) The process of allocating natural resources to users is non-transparent. (1999 CAS Annex 11)

Insecure Tenure and Property Rights

Land shares do not represent full ownership as the term is commonly understood, thus land share owners are not able to assert effective control over their land. The registration system suffers from problems of implementation. A variety of changes in the law would serve to strengthen private rights to land and articulate more appropriately the state's role as a regulator and participant in land relations. Remaining problems in Russia's legislative and regulatory framework include the priority right of regional (and in some cases local) governments to acquire agricultural land plots and land shares offered for sale, the priority right of lessees to renew their leases, the power of the state to terminate the ownership right to unused, commonly owned parcels of agricultural land, and various provisions of company law that enable management to furtively acquire the land of poor, rural people. (Rolfes)

Inequitable Access to Land and Natural Resources

Since Russia became an independent country in 1991, it has allocated the majority of its arable land to rural citizens. The collective and state farms were succeeded by large agricultural enterprises. Former workers, pensioners, and social sphere workers affiliated with the former collective and state farms received "land shares" representing equal undivided common ownership interests in the commercial agricultural land used by the farm. The vast majority of this land is still used by these agricultural large enterprises through leases with the land share owners. The land share was a useful tool to carry out privatization, but experience has clearly shown that it does not confer full ownership rights to the share owner because it does not correspond to a specific land parcel. In practice the large agricultural enterprises, the lessees, control the land. (Rolfes)

Poor Land Market Performance

Legalizing transactions in land has been debated at length in Russia. Under the 2001 Land Code, transactions in non-agricultural land were liberalized. Some regional legislation has permitted the sale of agricultural land, but prospective buyers are hesitant, fearing future legislation will completely ban such sales. Small household plots, including garden plots, are fully transferable under 1992 legislation, and the market in these plots is strong. Leasing is much more common than purchase transactions. (Giovarelli and Bledsoe at 12, 13, 14)

III. Donor Interventions
USAID  
**Summary**  
USAID contributed to the drafting of the Land Code and has worked on natural resource management, business promotion, and fiscal reform. (Rolfes and CBJ)

**Key Institutional Arrangements**  
USAID supports local governance improvements and the strengthening of civil society. (CBJ)

**Conflict or Dispute Resolution**  
USAID supports judicial and legal reform. (CBJ)

**Legal and Regulatory Framework**  
USAID supported the drafting of the Land Code which allows for the sale of non-agricultural land. (AR at 9) USAID has supported legal aid clinics. (AR at 6)

**Redistribution**  
Insufficient information

**Land Administration**  
Insufficient information

**Land Use Management and Conservation**  
USAID provides support at the local level for reforestation and other environmental protection issues. (AR at 5 and CBJ)

**Other Donors**  
**Summary**  
Donors are assisting with governance and fiscal reform with some work on natural resource management.

**Key Institutional Arrangements**  
Insufficient information

**Conflict or Dispute Resolution**  
Insufficient information

**Legal and Regulatory Framework**  
Insufficient information

**Redistribution**  
Insufficient information

**Land Administration**  
The World Bank is helping with tax administration. (CAS at 27 and CBJ)

**Land Use Management and Conservation**  
The World Bank supports environmental protection through the Global Environmental Facility and improved agricultural land management. It also supports sustainable forestry. (CAS at 7, 27 and CBJ)

**IV. Information and Data Sources**


Giovarelli, Renee and David Bledsoe. 2001. Land Reform in Eastern Europe: Western CIS,
Transcaucuses, Balkans, and EU Accession Countries. FAO (Giovarelli and Bledsoe).


USAID. Russia Congressional Budget Justification FY 2005 (CBJ).


TAJIKISTAN

I. Background Summary

Agriculture plays a key role in the economy of Tajikistan. Yet, agricultural land in Tajikistan, especially arable land, is very scarce. Including pastures, agricultural land totals only 4.57 million hectares, of which arable land totals 0.7 million hectares, or 0.11 hectares per capita. Despite the value of land to rural residents, the process of farm reorganization and private use and control of land has progressed very slowly, especially in the cotton producing areas of Tajikistan. Starting with the Law on Land Reform in 1992, the central government began to allow the creation of dehkan (private) farms in Tajikistan. These efforts were re-started in 1996 at around the time of the end of the civil war. Currently, all remaining kolkhozes/sovkozes are scheduled to be converted to dehkan farms by 2005 except for those which have been set aside for seed and livestock production. As of 30 March 2000, approximately two-thirds of the former collective and state farms had already been “transformed” into dehkan farms. Unfortunately, many of these farms were only cosmetically reorganized and most of the members do not have sub-certificates or even know they have a right to a portion of the land. The management structures have remained the same in many of the farms as well. In fact, the privatization process has had very little impact on much of the population. Even though a farm has been privatized, if a farmer wants to farm independently on his share of land, he must go through the privatization process again as an individual, requiring approval from the district hukumat. Because land is still state owned, the individual must receive state approval. (Giovarelli)

Tenure Types

The Constitution does not permit the private ownership of land, though long term heritable land rights are provided for in law. Outside of the state controlled kolkhozes and sovkhozes, private individuals and groups access land in three ways. First, most residents hold garden plots that they work individually. Second, land is leased out in big plots to land enterprises or leased in small plots to employees of the kolkhoz. Third, land is held as dekhan farms. The process of obtaining these farms is exclusive and cumbersome and the resulting farms have mainly been superficial reorganizations of earlier kolkhozes. (PA at 58-60 and Giovarelli)

Legal Framework

Key legislation includes the Law on Peasant Farms (adopted by the Supreme Soviet in 1990), Law No. 6 of 1991 On the Denationalization and Privatization of State Property, Presidential Decree on Renting Land (1992), Law on Land Reform (1992), and the Land Code (1995), which consolidated much of the previous legislation. (Giovarelli and PA at 58)

Land Administration and Institutions

Registration fees are high, and the process is difficult and time-consuming. (PA at 60) The State Land Committee (SLC) is charged with land registration and administration in the Land Code. The SLC receives technical support from the State Land Institute. Some land administration responsibilities are also handled at the raion level. This system, established in the 1995 Land Code, requires institutional capacity building and training. Modernization of the registration system is being conducted with the support of the World Bank as part of the government’s program to convert state-controlled land into dehkan farms. (FPS at 13) At the time of writing (2006), a high-level government working group is reviewing the Land Code.
and approximately 80 proposed amendments. These center around improved security of land tenure, development of a land market (transfer of land rights and mortgages), and registration of rights. Internal government conflicts over responsibility for registration of land rights appear to have been resolved in favor of the SLC and not the Ministry of Justice. The formal legal system is completely inaccessible to rural Tajiks. Almost all power is centralized with the local leader (hukumat), and he makes decisions and resolves disputes. Traditional non-official leaders exist in Tajik communities, but they are still weak in many areas. (Giovarelli)

II. Land Tenure and Property Rights Constraints

**Violent Conflict/Post-conflict Instability**

Tajikistan suffered from a civil war that ended in 1996, leaving many people displaced and homes and infrastructure destroyed. (Giovarelli)

**Unsustainable Natural Resources Management/Biodiversity Loss**

Tajik land is decreasing in quality from overfertilization and overuse. Irrigation systems have broken down and water management is a constant struggle. (Giovarelli) Salinity, soil erosion, and landslides are significant environmental problems. (CAS at 9) Irrigation infrastructure in poor shape, 70 percent of water is lost before it reaches farm level. (CAS at 9)

**Insecure Tenure and Property Rights**

All land management is dictated from the center and is still a throwback to the command economy, including quotas for production, broad requirements for "rational use" and improved soil quality, and the threat of confiscation for not meeting these goals. (Giovarelli and PA at 63)

Furthermore, individuals who are members of cotton farms rarely have the real right to use a specific parcel of land in the way he or she chooses, although the legal right exists. Officials and farm chairman (especially in cotton growing districts) have no motivation to convert the collective farming system to individual farming, as this would restrict their rent-seeking behavior. Therefore, they require large bribes before approving a request for allocation of a land plot from the collective farm. Cotton farmers who wish to farm independent of the former collective farm must accept responsibility for a portion of the debt of the farm. While figures vary, this debt is on average approximately US$680 per hectare (interview with ADB debt project). Cotton farmers are often pressured into contracts with cotton future companies and cotton ginneries that are unfavorable to them and continue to pull them further into debt. The local government is an informal party in these arrangements, making it more difficult for farmers to act independently. Where land has been allocated to individuals, the allocation process has often been inequitable and not transparent in terms of location, quality, and size of the land plot assigned. The process of obtaining land to start a dehkan farm is lengthy, complicated and expensive, requiring the approval of the farm chairman, the district hukumat, and the local Land Committee. (Giovarelli)

**Inequitable Access to Land and Natural Resources**

The process of land distribution is not open or transparent. Because the process of obtaining land for dehkan farms involves the collective farm chairman, the district government, and the land committee, it is lengthy and involves both legal and illegal transaction costs. Most independent dehkan farmers are well-connected, and many left the collective farm
immediately following the 1992 Law on Land Reform. The National Land Committee and the local offices lack the personnel and finances to provide efficient, inexpensive services to those wishing to establish private dehkan farms. The State Land Committee has been given the authority to implement the land reform but not sufficient resources. In addition to their responsibilities for implementation, they are also responsible for legislation related to the land reform effort. Local government is very powerful, and much of what happens is dependent on the leader of local government. Rural citizens have very little access to information and are ill-informed about their land rights. Most people are a part of a mahalla, a neighborhood organization based on proximity. Mahalla leaders can be very powerful and can provide assistance to their members.

Most rural individuals do hold and farm household plots. (Giovarelli)

**Poor Land Market Performance**

The Constitution does not allow private ownership of land; there is no land sales market, and little lease market. Limited credit makes it difficult for farmers to farm independent of the former state and collective farms. (Giovarelli)

### III. Donor Interventions

**USAID**

**Summary**

Tajikistan is part of a new USAID Central Asia Region Land Reform Project, which was awarded in 2003.

**Key Institutional Arrangements**

USAID supports governance and civil society. (CBJ)

**Conflict or Dispute Resolution**

USAID supports general conflict resolution with a component of productive natural resource allocation. (AR at 9)

**Legal and Regulatory Framework**

Tajikistan is part of USAID’s Central Asia Land Tenure Reform Project which provides assistance to regional governments to develop land laws and policies and strengthen property rights.

**Redistribution**

Insufficient information

**Land Administration**

Insufficient information

**Land Use Management and Conservation**

USAID supports a regional project for transboundary and national water management and is working to assist water user associations. (AR at 6 and CBJ)
Other Donors

Summary

The World Bank has worked on farm privatization in Tajikistan. Donors are also working on natural resources management and institutional strengthening.

The UN FAO and SIDA are supporting the Land Reform Program Working Group (until June 2006). SIDA is supporting the SLC in the development of a cadastral system. The ADB is providing technical support for farm analysis and awareness raising for debt resolution.

CIDA is replicating a Farmer Ownership Model that promotes access to farm inputs, credit, and markets (mainly cotton). The EC is providing budget support in the land reform area subject to Government of Tajikistan performance.

Key Institutional Arrangements

Insufficient information

Conflict or Dispute Resolution

Insufficient information

Legal and Regulatory Framework

The ADB is supporting the drafting of environmental legislation and institutional strengthening. (CSP at 5) The World Food Program and other donors support land lease programs. (PA at 60)

Redistribution

Insufficient information

Land Administration

The World Bank Farm Privatization Support Project has a pilot survey, mapping and titling component. The project seeks to establish procedures to smooth the transfer of farm land from the state to private individuals or groups. The project also includes a component to modernize the registration process, systems, and institutions. (FPS, PA at 53, and wwwWB)

The project is considered controversial by many as the dekhan farms are often only cosmetically transformed kolkozes. (CBJ)

Land Use Management and Conservation

The ADB supports the drafting of environmental legislation and institutional strengthening. (CSP at 5) The United Nation Office for Project Services is supporting irrigation rehabilitation. (AR at 5) The ADB supports irrigation projects. (CSP at Table A.1.5)

IV. Information and Data Sources


USAID. Tajikistan Congressional Budget Justification FY 2005 (CBJ).


TURKMENISTAN

I. Background Summary

The Government of Turkmenistan has chosen a unique approach to land reform and farm restructuring unlike the procedures and mechanisms adopted by other former Soviet republics. The collective land holdings are divided into plots that are leased to families while retaining the overall collective structure and state ownership of all agricultural land. The leased plots eventually may be privatized if the leaseholders show a satisfactory record of performance for at least two years. "Privatization" does not include the right to sell or otherwise transfer the land. Turkmenistan's unique approach to land reform and farm restructuring has produced a significant shift to individual or household-based farming, with more than three-quarters of the arable land leased to individual households or small groups. Most leaseholders consider this land to be rightfully theirs, and they expect to keep it in the future, either as private owners, or through extension of their leasehold. However, individual production is administratively circumscribed by a pervasive system of state orders and central planning. The lease contracts rigidly specify the crop that each leaseholder is required to produce (typically cotton or wheat) and set a specific quantity target for delivery to the state at prices much below the level of prices on international markets. Water rights are a major issue on a regional level and Turkmen water use is the most wasteful of the Central Asian region.

Tenure Types

The 1992 Constitution of Turkmenistan formally recognizes private ownership of land. However, the Land Code and subsequent legislation made it clear that "ownership" of land does not include the right to transfer land and such land may not be sold, gifted, or exchanged. Thus, in reality the new "ownership" rights are nearly the same as the earlier heritable lifetime rights. A 1993 Presidential Decree converted household plots from heritable lifetime rights to "private ownership." The decree also legalized leasing within large-scale farms. In 1993, Turkmen citizens could apply to receive up to 50 hectares in private ownership for commercial farming; however, this option is only available on "virgin" land that would-be farmers must clear and, once obtained, cannot be transferred. Foreign citizens cannot own land, but they can lease it. Despite all of this, large farm enterprises still dominate the farm sector. Such land is owned by the state and allocated in use to the farm enterprise. These farm enterprises (now peasant associations) then often lease land back to households that make up the farm work force. (ALBFR at 15, 18-19, 21-22)

Legal Framework


Land Administration and Institutions

Owners of house plots or private farms carved out of virgin areas are entitled to receive official documentation confirming title to such land. Before these titles are issued, the land
must be survey and officially registered. This process is handled by the State Land Committee. The district land management and surveying department keeps track of the individual titles. Peasant associations (the former farm enterprises) are also to receive title documents from the State Land Committee. The process of surveying and issuing such land titles to all types of land holders is currently underway. (ALBFR at 27)

II. Land Tenure and Property Rights Constraints

Violent Conflict/Post-conflict Instability
Insufficient information

Unsustainable Natural Resources Management/Biodiversity Loss
Irrigation is critical to cotton production but has caused environmental problems, especially soil salinity. (ALBFR at 4)

Insecure Tenure and Property Rights
Although land has been widely distributed and private ownership is allowed, the Government of Turkmenistan sets quotas and specifies required crop production. Land use rights can be revoked for not following the state orders on cropping and production. (ALBFR at vi and 15)

Inequitable Access to Land and Natural Resources
Leasehold is the common distribution mechanism, although private ownership is allowed if the leaseholder shows a record of satisfactory performance over 2 years. There is no issuance of "land shares" as in other countries in the region. (ALBFR at vi, xi) More than 75 percent of agricultural land has been leased to households or small groups. (ALBFR at xi)

Poor Land Market Performance
Although the Constitution formally recognizes private ownership of land, privately owned land cannot be sold or otherwise transferred except by inheritance. Land can be leased within state farm enterprises (now peasant associations) and much of such land is leased by the state farm’s workforce. (ALBFR at xv, 15 and 21)

III. Donor Interventions

USAID Summary
USAID has a limited program in Turkmenistan due to the country's political climate. USAID provides some water management support and also works on civil society and health. (CBJ)

Key Institutional Arrangements
Insufficient information

Conflict or Dispute Resolution
Insufficient information

Legal and Regulatory Framework
Insufficient information

Redistribution
Insufficient information

Land Administration
Insufficient information
Land Use Management and Conservation
USAID supports a regional project for transboundary and national water management. (AR at 6) USAID supports small scale irrigation projects and water user associations. (AR at 6-8 and CBJ)

Other Donors
Summary
The World Bank supported an assessment of lease-based farm restructuring in 2001. Since then, it has dropped all lending and projects in Turkmenistan due to its failure to comply with loan agreements. (wwwWB) The ADB’s sole project in country is a road rehabilitation project. (wwwADB)

Key Institutional Arrangements
Insufficient information

Conflict or Dispute Resolution
Insufficient information

Legal and Regulatory Framework
Insufficient information

Redistribution
Insufficient information

Land Administration
Insufficient information

Land Use Management and Conservation
Insufficient information

IV. Information and Data Sources

USAID. Turkmenistan Congressional Budget Justification FY 2005 (CBJ).


Uzbekistan

I. Background Summary

Uzbekistan is one of the least advanced Central Asian countries with regard to land reform. One of the main issues facing the agricultural sector is the lack of incentives to improve production and productivity. The legal control over land is in the form of long-term leases, but the state dictates the cropping pattern down to the collective farm level, and land has not been distributed equally among the members of the former state and collective farms. The Uzbek government is fairly insistent on its "step-by-step" approach to land reform and has been unwilling to allow a complete and equitable distribution of land into private ownership or long-term, ownership-like use rights. (RESP and CAS)

Tenure Types

Private land ownership is forbidden by the Constitution, and land is held in long term leases from the state. (RESP at 3)

Legal Framework

A reform process to address the issues was initiated in 1998. Four laws elaborate the agricultural reform strategy: the Land Code; the Law on Agricultural Cooperatives (shirkats); the Law on Private Farms; and the Law on Dekhkan Farms. However, the Constitution prohibits private ownership of land, and government and former state and collective farm bosses have almost complete control over all forms of farming. (RESP at 3)

Land Administration and Institutions

Documentation of land use rights for private and dekhkan farms is done by the Tuman Land Registration Offices. Uzgeodezcadastre, the national land cadastre, the Land Institute, and the State Land Committee are also involved in land rights and use documentation. (RESP at 9, CAS at 6)

II. Land Tenure and Property Rights Constraints

Violent Conflict/Post-conflict Instability

Insufficient information

Unsustainable Natural Resources Management/Biodiversity Loss

The lack of funds for proper operation and maintenance of irrigation and drainage infrastructure has led to serious deterioration of these systems (both off-farm and on-farm). Irrigation is critical to cotton production but has caused environmental problems in the Aral Sea basin. Weaknesses in canal operations and management at all levels within the irrigation system result in huge water losses, widespread and severe water and soil salinization, declining crop yields, and loss of once-productive agricultural lands. Irrigation systems were developed on a regional basis during Soviet area and now cause tensions between states. (CAS at 15)

Insecure Tenure and Property Rights

Although the government has pushed forward with land reform, even private farmers are subject to many of the same mandates, orders, and constraints as the collective farms, with the possibility of their land rights being taken for non-compliance. (CAS at 6)

Inequitable Access to Land and Natural Resources
The government has undertaken a program of institutional change in the sector, reorganizing the former sovkhozes and kolkhozes into new forms of collective farms (shirkats), with subdivisions farmed by extended families. It has also permitted the development of private farms (averaging 20 hectares in 2000) and, by expanding the former household plots of farm laborers, created a new class of smaller peasant (dekhan) farms (averaging 0.13 hectares in 2000), the latter being the main source of growth in the sector thus far. Land is allocated through long-term leases, and the government plans to increase the number of dekhan farms by distributing the land of bankrupt collective farms. (CAS at 6, 24) Agricultural enterprise restructuring legislation needs to be improved to ensure fair and transparent allocation of land. (RESP at 29)

**Poor Land Market Performance**

Land use rights cannot be transferred; however, movable property can be owned and there is a market for improvements to land, and, if such improvements are transferred, the land use right is also reissued.

### III. Donor Interventions

**USAID**

**Summary**

Uzbekistan is part of the new USAID Central Asia Regional Land Reform Project, which was awarded in 2003. USAID also supports legal and judicial reform and water management projects.

**Key Institutional Arrangements**

Insufficient information

**Conflict or Dispute Resolution**

The new USAID Central Asia Region Land Reform Project includes setting up legal aid clinics. (CARLRP)

**Legal and Regulatory Framework**

USAID supports the Uzbek Judges Association and judicial training in general but there is no specific mention of land issues. (AR at 7)

**Redistribution**

Insufficient information

**Land Administration**

Insufficient information

**Land Use Management and Conservation**

USAID supports a regional project for transboundary and national water management and the Natural Resources Management Project with focus on water. It has also supported the creation of water users associations. (AR at 5, CBJ, and CSP at 16) USAID helped establish the Environmental Public Advocacy Center, which provides education on environmental issues and helps establish environmental protection plans. (AR at 7)

**Other Donors**

**Summary**

Donors are working on land administration and water management projects.

**Key Institutional Arrangements**
Land Administration

Land allocation is done through leases and a World Bank project includes a component to create the legal basis for secure land use rights. (RESP at 16) The World Bank rejected the land registration component of a project as premature since land is not privately owned or tradable. (RESP at 9) An ADB project will include work on land tenure rights for agricultural sector improvement. (CSP at 67 and wwwWB) There is a land registration project supported by EU-Tacis. (CAS Annex 11)

Land Use Management and Conservation

A World Bank project supports water user groups and associations. (RESP at 4) An ADB project is undertaking feasibility studies for irrigation rehabilitation projects. (CSP at 7)

IV. Information and Data Sources


USAID. Uzbekistan Congressional Budget Justification FY 2005 (CBJ).


3.0 COUNTRY-SPECIFIC LTPR RANKINGS AND RANKING MAPS

The purpose of Section 3.0 is to highlight and illustrate key land tenure and property rights concerns and draw attention to how these affect development and development programming.

To this end, a ranking tool was developed to evaluate the severity of LTPR constraints in each USAID presence country. The LTPR ranking process then engaged a panel of LTPR specialists with both broad tenure and property rights expertise and specific geographic experience. They applied the tool to each USAID presence country, the results of which are informed judgments on the severity of land tenure constraints. Country-based LTPR rankings generated from this exercise were then used to illustrate country-specific LTPR constraints in a visual format—the LTPR ranking maps.

The following pages provide the LTPR ranking for each USAID-presence country in the Central Asia region, as well as the LTPR ranking maps. Given the challenges encountered during the ranking process and the imprecision inherent therein, the ranking scores should be viewed as a first attempt to capture and illustrate the severity of LTPR constraints within a country and, more widely, in a region. These rankings will change as countries move through a transformational development process, more information is collected, and/or LTPR themes are challenged by conflict and political change.

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1 A report on ranking LTPR constraints, the ranking tool, and the composition of the expert panels is available under separate cover.
KAZAKHSTAN

Final Rank

Kazakhstan has adopted laws that recognize and respect private land ownership, support the transfer of land through the land market, and provide for land mortgage to secure financing. The Civil Code provides for private owners to sell, lease, give, and bequeath land between private parties. It also sanctions mortgage of land and provides some of the better legal rules on land use regulation found in the region. USAID is supporting legal information centers, legal aid to farmers, and regulations for land registration and land mortgage. Nevertheless, the current legislative framework gives overly-expansive rights of private parties to purchase government land, eminent domain rules give the state too much power to take private land, and there is excessive regulation of irrigated land use.

As with many other countries in the former Soviet Union, Kazakhstan allocated much of its agricultural land to workers and pensioners affiliated with former collective and state farms. Members received conditional land shares representing equal undivided interest in commercial agricultural land used by the farm. Large agricultural enterprises still use the vast majority of this land through leases with their land shareholders. However, little has actually changed in terms of farm management or organization relative to the Soviet Union era. Because land shares have not been actualized to correspond to any piece of land, few people are able to exert any real rights of land ownership. What limited rights exist have been further compromised by recent legislation. In 2003, the government enacted a new Land Code that requires shareholders to either start their own farms or invest their rights in large agricultural production companies. If one of these actions is not taken by 2005, shareholders risk being divested of their shareholding rights. For many Kazakhs, withdrawing their land shares is unrealistic given the power of management and their lack of means to demarcate and secure the boundaries to their land. Additionally, investing land rights in an agricultural company is risky for the shareholder, because the land rights will be exchanged for company stock of dubious value, and they will be controlled by the former officials, “bosses,” and “managers” that privatization and farm restructuring had sought to curb. It is possible that some corporate enterprises could improve incomes and asset wealth if ownership is accompanied by improvements in governance and access to technology and markets. (Positive advancements in the land law and the possibility of such improvements are arguments against a higher rank for LTPR “Insecure Land Tenure and Property Rights.”) However, for millions of poor Kazakhs who lack the necessary political power, there is serious potential for landlessness if the current law is implemented. Even if it the law is not enacted, the threat of eminent domain and lost land rights looms large.

KYRGYZSTAN

Final Rank

The Kyrgyz Republic is continuing efforts, begun in 1991, to transform the structure of its
collectives and state farms into smaller units owned and operated by individual families or groups. Since 1994, land reform and farm reorganization have moved forward at a rapid pace, driven mainly by presidential decrees that gave all those living on a collective or state farm the right to a portion of arable land (land share); employees also received a portion of non-land assets (livestock, farm buildings, and machinery), in the form of a property share. Rural residents who were not members of state or collective farms have more limited access, although local village elders sometimes provide land from the state Land Redistribution Fund. Early in the reforms, roughly 25 percent of arable land was placed in the fund to handle future land contingencies. Most of the Land Redistribution Fund land is leased out, with revenues channeled to support local government. The process is not transparent, however, and there are alleged problems with corruption, inappropriate fee structures, and environmental degradation. While the law attempts to reserve a certain portion of the fund for the poor, all too often this group is overlooked. Women, for the most part, benefit equally from the land shares, but traditional stereotypes limit their ability to equally participate in land use decisions and transfers. In 1998, the Constitution was amended to allow for private ownership of agricultural land; rural land can be purchased and sold. While many of the provisions in these laws are acceptable, other restrictions are harmful to the newly emerging land market. Land management rules are overly-broad, allowing state interference by land agencies or local government.

With help from the World Bank, systematic registration is well advanced; the final systematic registration for urban areas was planned for 2004, and rural systematic registration was scheduled to begin soon thereafter. The numbers of mortgages and transactions in rural areas continue to rise but still remain at a low level. Land disputes are mainly due to individuals who wish to withdraw shares from an enterprise. However, because these disputes are with farm managers with close ties with local government, an individual’s legal recourse is often compromised when using government mediation.

The size of livestock herds plummeted following the demise of the former Soviet Union. However, access to pastures near the villages is now becoming more rare as herd sizes recover and overgrazing is becoming a serious problem. Furthermore, pasture allocation and management decisions are dispersed among three different levels of government, preventing integrated ecological management and pasture access. With regard to both management of the Land Redistribution Fund and pasture allocation, LTPR issues are closely intertwined with issues of incomplete or uneven governance. The encroachment of peri-urban lands around Bishkek in 2005 was, in part, a reflection of genuine land and agrarian reform not yet delivered, but was also due to the people’s frustration with a government whose actions were asynchronous with democracy and the new economic order.
Since Russia became an independent country in 1991, it has allocated the majority of its arable land to rural citizens. Collective and state farms were succeeded by large agricultural enterprises, and former workers and pensioners were allocated land shares that represented equal undivided common interests. The vast majority of this land is still operated by large enterprises through leases with the land share owners. Some land remains in the hands of state-level land redistribution funds. Small household plots, including gardens, are fully transferable under 1992 legislation, and the market in these plots (mainly leases) is strong. However, there are also restrictions on privately held land including the priority right of regional and local governments to acquire agricultural land plots and land shares offered for sale, the power of the state to terminate the ownership right to unused commonly-owned parcels, and various provisions of company law that enable management to furtively acquire the land of poor, rural people. Under the 2001 Land Code, transactions in non-agricultural land were liberalized. Some regional legislation has permitted the sale of agricultural land, but prospective buyers are hesitant, fearing future legislation banning sales.

Russia has a well-conceived registration law, and the Ministry of Justice operates a comprehensive system of registration chambers across the country. The Federal Land Cadastre Service has the responsibility for land appraisal and land survey. However, the registration system is not working well. The bureaucracy that surrounds it has been described as punishing. The high cost of pre-registration boundary surveys either stops people from concluding transactions or pushes them into the shadow economy. The legal rules regarding physical demarcation are unclear, and farms interpret the legislation differently from one to another. In some instances, for example, all members of a collective are required to come to an agreement in order to physically demarcate boundaries. Sometimes, the allocated parcel is located far away from the owner’s settlement, often on low-quality land. Hence, few land share owners opt to withdraw their shares from the enterprise. On some agricultural enterprises, land share certificates still have not been distributed to land share owners, but rather languish in the enterprise. The courts are generally fair in using and interpreting the law, but few rural land share holders have access to impartial advice. The high score for landlessness reflects both the difficulty in converting land shares into plot allocations, and growing landlessness in peri-urban areas. Russia has a huge amount of forestland, all of it owned by government. While the extent of these LTPR issues is uncertain, the fact that USAID and the World Bank are supporting reforestation and environmental protection programs indicates concern.

TAJIKISTAN

Final Rank 3 5 6 5 4

Tajikistan suffered from a civil war that ended in 1996, leaving many people displaced and homes and infrastructure destroyed. Because large numbers of men were killed by the war, much of the agricultural labor is now performed by women who, by most assessments, are
disadvantaged in terms of land rights, resource access, and dispute mediation.

The Constitution permits private ownership of land. Although long-term inheritable rights are provided for by law, there is no land sales market and little evidence of leasing. The formal legal system is inaccessible to rural Tajiks. Almost all power is centralized with the local hukumat who makes decisions and resolves disputes, often in the interest of the state. Most rural households hold and farm household plots, but most land is still effectively managed by collectives. Starting in 1992, the government began the process of creating dehkan (private) farms. As of March 2000, roughly two-thirds of the former collective and state farms had been converted, with the remainder (except those set aside for seed and livestock breeding) scheduled for restructuring by 2005. However, many of these farms have been reorganized in name only; most members do not have certificates or know that they have a right to a portion of the land. All land management is dictated from the center, including production quotas, broad requirements for “rational land use,” and the threat of confiscation if state goals are not met. For allocation of a land plot, large bribes are often demanded, and the landholder must accept a portion of the farm’s debt (upwards of $680 per hectare according to some estimates). Cotton farmers are pressured into contracts with cotton companies and cotton ginneries (who are sometimes in collusion with the government) under onerous terms that act to perpetuate debt and dependency. The process of obtaining a dekhan farm is lengthy, complicated, and expensive, and requires the approval of the farm chairman, district hukumat, and local land committee, with one or more often resisting change.

The State Land Committee is charged with land registration and administration; the system requires institutional capacity building and training. Registration fees are high, and the process is difficult and time-consuming. Both the State Land Committee and local offices lack the personnel and resources to deliver advice and legal assistance to those wishing to establish independent farms. Hence, few rural citizens have good access to information or are informed of their rights.

Tajik land is decreasing in quality from overfertilization and overuse. Irrigation systems have broken down. Salinity, soil erosion, and landslides are significant environmental hazards. Despite this, it is difficult to assign a higher priority to LTPR interventions aimed at increasing conservation investment or improving water allocation through water user associations when so many other factors (local governance, municipal finance, local revenue generation, and state maintenance of large-scale public infrastructure) are equally constraining to LTPR’s effectiveness.

**TURKMENISTAN**

| Final Rank | 3 | 5 | 6 | 4 | 5 |

The 1992 Turkmenistan Constitution recognizes private ownership of land based on
heritable lifetime rights. A 1993 presidential decree converted the possession of household plots from this status to that of private ownership, and it legalized leasing within large-scale farms. Turkmen citizens can apply for up to 50 hectares in private ownership for commercial farming; however, this right only applies to virgin land which the farmer must clear, and the land, once cleared, cannot be transferred. These cleared parcels may be titled, but they first must be surveyed and registered by the State Land Committee. The district land management and surveying department maintains records of individual titles. Despite this provision, large-scale enterprises still dominate the agrarian structure of the country.

The government chose a unique approach to land reform and farm restructuring compared with other countries in the former Soviet Union. The collective landholdings are owned by the state and allocated to the farm enterprise. These enterprises (now peasant associations) then lease the land to the households that make up the work force. Peasant associations are also to receive title documents; the process of surveying and titling is currently underway. This approach has resulted in significant household farming with three-quarters of the arable land leased to individual families or small groups. The leased plots may eventually be privatized if the leaseholder shows a satisfactory record of performance for a minimum of 2 years. Privatization does not include the right to sell, and the land may not be sold, gifted, or exchanged. However, most leaseholders consider the land to be rightfully theirs, and they expect to keep it in the future.

Despite these advances, land rights are highly circumscribed by a system of state orders on land use and production. The lease contracts specify which crop the producer is required to produce (typically, cotton or wheat) and set a quota for delivery to the state at low producer prices. In effect, there are no real rights to land, and internal conflict is not tolerated. Water rights in the context of the irrigation sector are a serious issue, and Turkmen water use is the most wasteful of any Central Asian region. The need for greater stakeholder participation and control in local resources management (e.g., water user associations to manage and control water resources) is a high priority, but the likelihood of this strategy having much success is doubtful until the government embraces it. The fact that the ADB and USAID have maintained only limited programs in Turkmenistan (the latter for small-scale irrigation projects and water user associations) and the World Bank has dropped all lending there is a good indication that difficulties lie ahead for LTPR interventions, despite great need. Tight state controls mitigate the threat of conflict. However, as the experience of Kyrgyzstan and Uzbekistan have amply shown that internal dissent that bubbles beneath the surface of tight government control can quickly boil over into conflict; hence, this possibility for conflict warrants close attention.

**UZBEKISTAN**

<table>
<thead>
<tr>
<th>Final Rank</th>
<th>Violent Conflict/Post-Conflict Instability</th>
<th>Unsustainable Natural Resources Management/ Biodiversity Loss</th>
<th>Insecure Tenure and Property Rights</th>
<th>Inequitable Access to Land and Natural Resources</th>
<th>Poor Land Market Performance</th>
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<tbody>
<tr>
<td>4</td>
<td>5</td>
<td>6</td>
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Uzbekistan is one of the least-advanced Central Asian countries within the area of land reform. Since the collapse of the former Soviet Union, the Uzbek government has stayed with a gradual approach to farm restructuring and has been unwilling to allow a complete and equitable distribution of land into private ownership or long-term use rights. A reform process was initiated in 1998 that culminated in a Land Code, a Law on Agricultural Cooperatives, a Law on Private Farms, and a Law on Dekhan Farms. The government has undertaken a modest program of institutional change in the sector, reorganizing the former collective and state farms into new forms of collective farms (shirkats), with subdivisions farmed by extended families. It has also permitted the development of private farms (averaging 20 hectares in 2000) and, by expanding the former household plots of farm laborers, created a new class of smaller peasant (dekhan) farms (averaging 0.13 hectares each in 2000). To date, the latter have demonstrated the most robust growth. Furthermore, the government plans to increase the number of dekhan farms by redistributing the land of bankrupt collective farms. Despite this progress, land has not been equally distributed among the members of the former state and collective farms, and the Constitution prohibits private ownership of land.

The government and former state and collective farm bosses still have almost complete control over all types of farming. Land rights conferred in the form of long-term leases allocated by the state are highly circumscribed as the state dictates crop patterns down to the collective farm level, with the ever-present threat of withdrawing lease rights for non-compliance. Land use rights cannot be transferred. Immovable property can be owned, however, and there is a market for improvements in land; if such improvements are transferred, the land use right is also re-issued. Lack of funds for property operation and irrigation and drainage infrastructure maintenance has led to serious deterioration of these systems. As with all Central Asian republics, weaknesses in canal operations and management at all levels within the irrigation system result in water losses, widespread and severe water and soil salinization, and the loss of once-productive farmland. However, these problems are as much a function of tight state budgets and the collapse of government as of LTPR. State controls are tight and, as documented by the Andijan incident in 2005, there is little or no tolerance for disagreement or dissent towards the state. As the experience of Kyrgyzstan has amply shown, internal dissention bubbling beneath the surface of tight government control can quickly boil over into conflict; hence, the possibility of conflict/instability warrants close attention.
GLOBAL LTPR CONSTRAINTS MAPS FOR:

- Violent Conflict/Post-conflict Instability
- Unsustainable Natural Resources Management/Biodiversity Loss
- Insecure Tenure and Property Rights
- Inequitable Access to Land and Natural Resources
- Poor Land Market Performance
Violent Conflict/Post-Conflict Instability

Note: The rankings displayed here are suggestive, based on an experimental ranking exercise, and should not be interpreted with precision.
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- 6
- 5 Serious concern merits intervention
- 4
- 3 Moderately severe concern merits monitoring
- 2
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- 0 Unable to rank
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Map Projection: GCS WGS 1984
Data Source: ESRI
Map Produced by ARD, Inc.
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