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Land Markets

Promoting the Private Sector by Improving Access to Land

Land markets that allow access to land—and to buildings—through secure property rights, at transparent prices, and with efficient permitting processes and land tax systems are essential to a good business environment. Creating such markets, however, can be a long, complex, politically charged process, especially where most land is untitled and where there are conflicting claims. But experience points to practical interim or step solutions that can have a positive impact and generate the political capital to reform the overall land market system.

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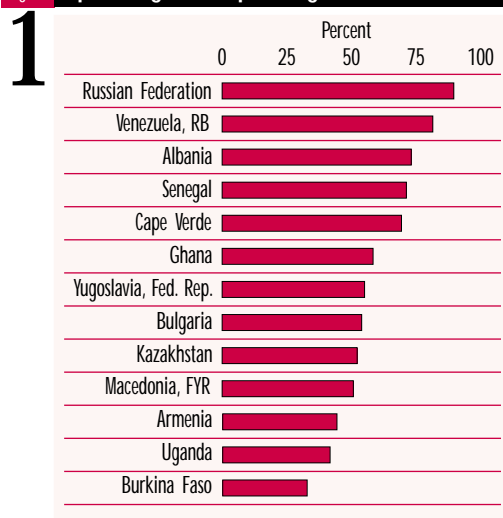
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Business surveys identify problems in gaining access to land as among the biggest complaints of investors in developing countries (figure 1). A detailed study in India shows that such problems, by constraining investment and competition, can cost developing countries more than 1 percentage point of GDP growth annually (McKinsey Global Institute 2001). Studies of titling programs in Peru, Thailand, and Vietnam show big increases in investment and productivity on titled land compared with land without title (World Bank 2004b).

While investors seeking land have varying needs and priorities, they generally face four key and related issues (table 1):

- **Access.** Is the land I need available? If so, from whom can I obtain the land, at what price, and on what terms? How long will it take?
- **Security.** If I can get access to suitable land, what will be my rights over the land? Will my

Figure 1
Survey respondents identifying procedures for accessing land as an obstacle to operating and expanding their business



Source: World Bank and International Finance Corporation, Foreign Investment Advisory Service, Administrative and Regulatory Cost Surveys, 2000–04.



property rights be secure? Will I be able to use them as security for bank loans?

- *Use.* Once I have acquired land, how may I use and develop it? How long will it take to obtain all the permits for construction and related activities—and how much will it cost?
- *Consistency of treatment.* Are my competitors being treated in the same way?

Most critical issues for investors

Of the many issues, the following are the most serious.

Access to state-owned land

In many countries the state prohibits direct private ownership of land and often remains the largest—and sometimes the only—provider of land well served by essential infrastructure. Even where private ownership is traditionally recognized, such as in Botswana, Jordan, or Turkey, only a small fraction of the land suitable for new industrial and commercial development is privately owned. And many countries impose special restrictions on foreign ownership.

Where the state dominates land supplies, both foreign and domestic investors are concerned about how to obtain land at a fair price, in a reasonable time, and through a transparent and corruption-free process. Gaining access to government-owned land in the Russian oblast of Nizhny Novgorod, for example, takes 273 days

and involves 11 key documents, 4 issuing authorities, and 7 approving authorities.

Access to tribal and communally owned land

In many countries in Africa, the Pacific, and the Middle East much of the land needed for developing mining, tourism, or agribusiness is tribally or communally owned and thus not easily available to investors. Where investors must negotiate for such land, it is often unclear which legal entity or group has ownership.

Where transparency is lacking, local politics tend to further complicate the transactions, making the negotiation process long, cumbersome, and frequently corrupt. But quick ad hoc fixes often fail. In Mozambique the government rushed to accommodate a large strategic foreign investor by setting an unrealistic 90-day deadline for completing all arrangements with the local communities. And in China the government has sometimes forced rural communities to relocate to free up land for foreign investment. Such strategies often backfire as relocated farmers move back to squat on the land and conflicts erupt between communities and investors.

Property rights

Access to land without sufficient security is of little use to investors, who need secured long-term property rights as collateral for obtaining bank financing. Moreover, investors who have

Table Land issues concerning investors and factors determining the outcomes

1 Issue	Factors determining outcomes
Access: Is land available, and at what price?	<ul style="list-style-type: none"> • State ownership of land • Tribal or communal ownership of land • Ownership or use restrictions • Zoning and planning requirements • Property tax
Security: What are my rights? Are my property rights secure?	<ul style="list-style-type: none"> • Titling system • Registration process • Collateral rules • Transfer of property rights • Courts
Use: How can I use and develop land?	<ul style="list-style-type: none"> • Location permits • Construction and building permits • Environmental impact assessment • Utility connections
Consistency of treatment: Are my competitors treated like me?	<ul style="list-style-type: none"> • Governance • Transparency • Accountability

no assurance that they will benefit from the added value brought by long-term investments on land will have no incentives to make such investments.

Land property rights remain poorly defined in many developing and transition economies. This situation often stems from lack of developed land cadastres—the systems that record physical characteristics and identify boundaries—and of registration systems that record legal ownership of land. Another source is failure to unify these systems, which results in conflicting records. These problems are sometimes exacerbated by the transfer of responsibility for registration systems from central to subnational authorities.

In a situation typical of much of Africa, less than 4 percent of the land in Mozambique has been surveyed, and even less registered. Even where property is registered, investors may still face big delays in recording land transactions. In Nigeria an entrepreneur seeking to buy property free of dispute and officially recorded must complete 21 procedures—a process that takes a staggering 274 days and requires official fees amounting to 27 percent of the property value. It need not be so. In Norway the same process takes only a day and requires payment only of a registration fee and 2.5 percent of the property value in stamp duty (World Bank 2004a, figure 5.3).

Land development procedures

Most investors are prepared to comply with host countries' laws and regulations governing what, how, and how fast they can build. Nevertheless, investors are frustrated by lack of regulatory clarity, overlapping institutions, and time-consuming and often discretionary approval procedures relating to such issues as zoning, construction standards, and environmental protection. In the Arab Republic of Egypt in the 1990s, for example, obtaining location and construction approvals could take 12–36 months in a process involving multiple authorities at central and local levels.

Dealing with the plethora of agencies and authorities responsible for approvals needed for site development often discourages serious investors while encouraging illegal construction and corruption. In Turkey corrupt and illegal construction practices led to massive losses of life when earthquakes struck cities and villages.

Solutions

The huge variation among countries in size, geography, and political and social systems rules out any universal approach to land reform that can be simply transplanted from one country to another. Moreover, comprehensive land reforms, requiring enormous resources, political capital, and legislative effort, typically take 10–15 years. Countries seeking to encourage private investment cannot afford to wait that long, and many are looking for practical interim solutions. Some have carried out pilot experiments at the subnational level. This approach has often proved to be a useful way to kick-start private investment while providing learning and demonstration effects for national initiatives.

Developing a market-oriented long-term lease system

In some countries where privatizing land has not been politically acceptable, governments have turned to long-term leases to meet investors' basic needs. China's government offers renewable and transferable long-term leases of 40–70 years. Such arrangements appear to give foreign investors the assurance they need to make strategic investments on the land. Long-term leases have also provided a partial solution to problems in accessing communal land in Botswana and Mozambique.

Streamlining access

In countries where the state plays an important role in allocating land, whether through sales or long-term leases, many governments have recognized the need to streamline the process to encourage efficiency and prevent corruption. To facilitate tourism investment in Egypt, the government created the Red Sea Tourism Zone, where the land was precleared for private investments by all government ministries concerned. That greatly simplified the procedures for accessing land and immediately boosted investment.

China's government, recognizing the need for more transparent mechanisms to distribute public land to the private sector, conducted the country's first public land auction in 1987, in the Shenzhen Special Economic Zone. Developers responded with bids far exceeding the government's expectations. In 2002 the government

amended the national land law to formally extend the Shenzhen experiment with public auctions throughout China.

Recent efforts in southern Africa, including in Botswana, Mozambique, and South Africa, have improved the process for accessing customary land. These efforts have shown that positive results can be achieved if the three main parties—local communities, strategic investors, and the state—recognize that they have different interests but work toward sharing costs and benefits in a transparent, consultative process.

Securing property rights

Many countries have recognized the importance of improving cadastre and property registration systems to increase the security of property rights. Working since the 1980s, Thailand has developed a world-class land titling system with two procedures and a two-day turnaround. In Peru efforts persisting over more than 10 years produced a modern titling system providing secured property rights that the rural and urban poor have been able to use as collateral for business loans.

Other countries have resorted to relatively simple ways to improve land registration. Some have shown that it is possible to simplify or combine procedures. In Bolivia and Brazil the registry checks for payment of taxes rather than putting the onus on the entrepreneur, while in Cambodia and El Salvador the registry automatically forwards the notice of registration to the municipality rather than adding another step to the process. In Costa Rica and Lithuania the registry and cadastre systems have been linked to improve consistency between the two. And in China and Mongolia broader access to previously restricted information in the property registry has helped entrepreneurs identify owners and reduced the need for due diligence.

Streamlining use

Some countries have tackled the problems in land development through comprehensive reform. In Slovenia the government overhauled the land use planning and construction legislation to make the national land development system simple, transparent, and efficient. Other governments, such as in China (Shenzhen), the Czech Republic, and India (Andhra Pradesh),

have chosen pilot approaches to simplify procedures in demarcated areas by introducing clear guidance on land development for investors and executing agencies. Many of these zones offer blanket approvals for zoning and environmental requirements along with readily available infrastructure. But the real solution to the problems lies in medium- to long-term reforms to the land use planning processes that can be applied nationwide—reforms that will require strong commitment from government to balance the imperative of economic growth with the need to safeguard environmental and other socioeconomic conditions.

Conclusion

Land has long been a central issue in the policy debate over environmental protection, natural resource management, and rural and urban development. What has been missing is a systematic exploration of the land issues from the perspective of private sector development. This Note suggests a taxonomy to capture the multi-layered and interrelated obstacles facing private investors seeking access to land.

But more important, the Note gives examples of proven interim or pilot steps in land reform to reduce obstacles to investment. These approaches have been a useful way to kick-start private investment while providing learning and demonstration effects for national land reform initiatives.

Note

Except where otherwise specified, the detailed country information in this Note comes from country advisory work and knowledge development case studies by the Foreign Investment Advisory Service.

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