

# LAND ADMINISTRATION REFORM

**“Winning the War Against Poverty”**



## Policy Studies Integration Report

► **WITH REVISIONS** ◀

**October 2002**

**PHILIPPINES-AUSTRALIA**

**LAND ADMINISTRATION AND MANAGEMENT PROJECT**



*This report is a result of technical assistance managed by Land Equity International to the Government of Philippines. The TA was funded by AusAID and the views expressed in this work do not necessarily represent the views of the Commonwealth of Australia.*

## CONTENTS

	<b>Page</b>
Executive Summary	i
1. Introduction	1
2. Land administration and national development	3
3. The need for reform	6
4. An agenda for long-term reform	13
5. Reform benefits	21
6. Consultation and consensus building	25
7. Action plan	30

## ACRONYMS

AusAID	Australian Agency for International Development
BIR	Bureau of Internal Revenue
C & CB	Consultation and Consensus Building
CARP	Comprehensive Agrarian Reform Program
CENRO	Community Environment & Natural Resources Office (of DENR)
CLOA	Certificate of Land Ownership Award
DAR	Department of Agrarian Reform
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DOF	Department of Finance
DOJ	Department of Justice
HUDCC	Housing and Urban Development Coordination Council
LAA	Land Administration Authority (proposed)
LAMP	Land Administration & Management Project/Program
LGU	Local Government Unit
LMB	Land Management Bureau (in DENR)
LMS	Land Management Service (now part of DENR regional offices)
LRA	Land Registration Authority (in DOJ)
NAMRIA	National Mapping and Resource Information Authority
NCIP	National Commission on Indigenous Peoples
NEDA	National Economic and Development Authority
OP	Office of the President
PA-LAMP	Philippines-Australia Land Administration & Management Project
PMO	Project Management Office (for the LAMP)

## EXECUTIVE SUMMARY

### **Background**

Four policy studies funded by AusAID through the PA-LAMP were completed in July 2002. These have reviewed land laws, institutional arrangements, land valuation, and taxes and fees associated with land administration in the Philippines.

The studies have been undertaken by national and international advisers working closely with staff of the lead agencies for the four studies: the Department of Justice (land administration laws); the Department of Budget and Management (institutional arrangements); and the Department of Finance (land valuation, and taxes and fees associated with land ownership and transfers).

In preparing the study reports the lead agencies and their advisers have undertaken detailed reviews of the present land administration system, including extensive consultation with stakeholders. In addition to numerous meetings with public sector agencies, non government organizations and individuals, a total of thirteen workshops involving some six hundred participants were held in the period February - June 2002. The studies' findings and recommendations have been substantially based on the views and suggestions of stakeholders.

This Integration Report proposes a blueprint for long-term reform of the land administration system derived from the four PA-LAMP studies. It synthesizes the individual study reports in order to present proposed strategic directions for reform and key recommendations in a form suitable for decision-makers.

A further two studies, funded by the World Bank, are currently being undertaken in relation to some specific land classification and related issues. They are not addressed in this Integration Report but are not expected to have any significant implications for the overall reform agenda it proposes.

### **Land administration and national development**

The potential contribution of an efficient land administration system to the national development objectives of the Philippines is summarized in the objective of the LAMP:

- to alleviate poverty and enhance economic growth;
- by improving the security of land tenure and efficiency of land markets;
- through development of an efficient system of land titling and administration;
- based on clear and consistent policies and laws;
- supported by an appropriate institutional structure.

An efficient land titling and registration system is an essential prerequisite for the operation of efficient and equitable land markets. It is the poorer sections of the

community that bear the main costs of a dysfunctional land administration system and the informal transactions associated with it. Thus an efficient land administration system can make a major contribution to the objectives of poverty alleviation, economic growth and good governance. However, far from contributing in a positive way, the present system undermines achievement of these objectives because of its major defects.

### **The need for reform**

The present land administration system has been studied over more than a decade. Prior studies, stakeholders and the four policy studies are in overwhelming agreement on both the main problems associated with the present system and the pressing need for an integrated reform program to deal with them.

The underlying causes of the present system's problems are many and diverse. Some problems, such as inefficiencies in land records management systems and inadequate spatial indexing of land titles, are being addressed through the LAMP prototype projects. Many others, however, cannot be adequately addressed without fundamental reform of the land administration system as a whole. The structure of the present system has major defects and it is administered badly.

The system's major structural defects are:

- conflict between laws regulating the system and its administration;
- two processes for titling land (administrative and judicial processes);
- multiple forms of ownership rights in land;
- multiple property taxes and related disincentives to formalization of land transactions;
- multiple land valuation methods; and
- significant duplication and overlap in the roles, functions and activities of the key land administration agencies.

Administration of the system is characterized by:

- lack of focus in both organization design and work practices on servicing the needs of user agencies and members of the public;
- excessive layers of management overhead;
- excessive numbers of staff assigned to 'support' activities;
- absence of effective incentives/penalties for good/bad performance;
- widespread perceptions of conflicts of interest and corruption;
- lack of integrated policy direction and effective inter-agency coordination.

Technical improvements to the workings of the land administration system can and should be made. However, without fundamental reform of both the structure of the present system and the way it is administered the benefits achievable from technical improvements will be strictly limited.

The absence of integrated leadership and management of the system is perhaps the biggest single cause of the demonstrated failure to date to reform the system's widely recognized defects.

### **An agenda for long-term reform**

Reform of the land administration system will require changes in both laws and institutional arrangements in the months and years ahead. Before details of these changes can be developed, in consultation with stakeholders, there must be prior agreement on a long-term reform agenda setting out the strategic directions to be followed, key measures to be taken and outcomes to be achieved.

Figure 1 (next page) summarizes the proposed long-term reform agenda to emerge from the four policy studies and other work to date. This draws on close study of the present system, widespread consultation with stakeholders and international experience of land administration reform.

This proposed reform agenda offers no 'quick fix' solutions because there are none. Only an integrated reform program implemented over a period of years can produce sustainable improvements. However, the strategic directions and key measures proposed for decision now are not 'radical' by international standards. They have been tried and tested successfully in many other countries including by neighbors of the Philippines. They will start delivering substantial benefits long before they are fully implemented. These include:

- direct benefits from the proposed institutional and legal changes, including fiscal benefits;
- induced benefits stemming from market responses to the changes; and
- ultimate benefits in the form of contributions to national development objectives.

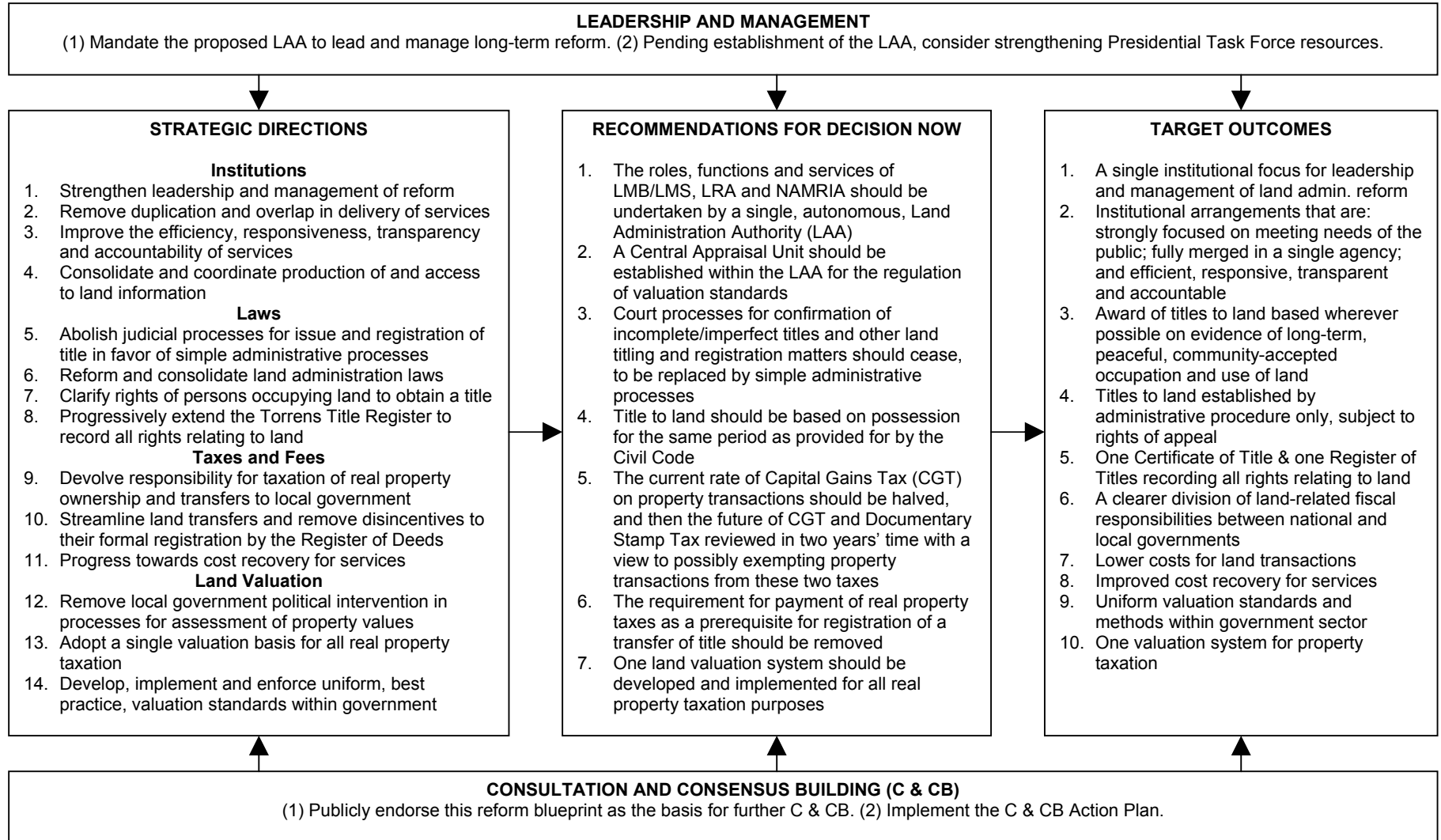
### **Budget benefits**

The proposed reform agenda will have impacts on both the expenditure and revenue sides of national and local government budgets. While these impacts cannot be forecast completely or with certainty the best estimates available suggest that they will be favorable in overall terms.

A fiscal model has been prepared to enable assessments of different reform options. It allows policy simulations for the years 1995 to 2001 inclusive to enable comparisons of what actually occurred with what would have occurred if policy changes had been implemented. The model's 'expected outcome case' simulates that if the recommendations of this Integration Report had been initiated in 1995 then over the seven-year period 1995 - 2001:

- national and local government budget expenditures would have been P2.6 billion less, in total, than they were over this period; and
- national and local government budget revenues would have been P35.3 billion more, in total, than they were.

**FIGURE 1: PROPOSED BLUEPRINT FOR LAND ADMINISTRATION REFORM**



## **Consultation and consensus building**

The time has come to progress beyond stakeholder consultation at a general level to consensus building for specific reform proposals. The next phase of consultation and consensus building, planned to occur between now and around end-March 2003, would take this report's proposed reform agenda - if agreed - as its starting point. Over the same period work would proceed on implementation planning for the main reform measures proposed, thus providing further inputs to the consultation and consensus building activities and being guided by their outcomes.

The major challenges for the next phase of consultation and consensus building are:

- to build an active coalition of reform supporters within civil society, by engaging a wide cross-section of civil society organizations in explaining the case for the proposed reform directions and mobilizing their support;
- to fully engage the support of decision-makers within the Executive Branch and the Congress.

The strategy outlined in this report addresses both needs. However, there are two important prerequisites for successful implementation of the next consultation and consensus building phase:

- agreement to, and public endorsement of, the strategic directions for reform of the land administration system;
- authoritative leadership of future consultation and consensus building.

Neither the next phase of consultation and consensus building nor implementation planning can proceed satisfactorily beyond this point without public 'ownership' by the Government of the reform directions and key measures it proposes.

## **Recommendations**

The following recommendations are presented to the Presidential Task Force for the Expedient Implementation of the Land Administration and Management Program for its consideration.

(a) The fourteen strategic directions listed at Figure 1 should be endorsed and adopted by the Government as its blueprint for reform of the land administration system of the Philippines.

(b) The seven recommendations for decision now as listed at Figure 1 should be agreed.

(c) These strategic directions and initial decisions should be announced publicly in the near future as part of an authoritative policy statement by the Government on its reform program for the land administration system, and consideration should be given to incorporating the strategic directions in a legislated reform program.

(d) Further consultation and consensus building activities should proceed in line with the action plan summarized by this report for the period to end-March 2003 on the basis that:

- the Government is firmly committed to implementation of its announced strategic directions and initial decisions;
- the Government seeks stakeholder input to the design and timetabling of the measures necessary to give effect to its initial decisions;
- the Government also seeks stakeholder views and suggestions in relation to all other recommendations of the four policy studies.

(f) The Task Force should consider the role it will play in leading the next phase of consultation and consensus building, and the resources it may require to support it in this leadership role.

(g) In parallel with consultation and consensus building activities in the period to end-March 2003, working parties of LAMP technical working group members should be convened in the near future to undertake initial implementation tasks as follows:

<b>TASK</b>	<b>WORKING PARTY MEMBERSHIP</b>	<b>REPORTING DEADLINE</b>
1. Preparation of a draft Executive Order or, if necessary, legislation to establish a Land Administration Authority (see also Recommendation (j))	OP (Chair), DBM, DOJ, DENR, NEDA, HUDCC, DAR, PMO, co-opting officers of LMB, LRA, NAMRIA as necessary	December 2002
2. Preparation of detailed strategy and plans for transfer of functions, staff and other resources to the LAA when established	OP (Chair), DBM, PMO, co-opting officers of LMB, LRA, NAMRIA as necessary	March 2003
3. Preparation of a draft Service Level Agreement for future delivery of land titling activities by the LAA	DBM (Chair), PMO, other agencies co-opted as necessary	June 2003
4. Preparation of amendments and codification of land administration laws	DOJ (Chair), DENR, LRA, UP Law Center, PMO	December 2003
5. Preparation of amendment to halve current rate of Capital Gains Tax on property transactions	DOF	December 2002

<b>TASK (continued)</b>	<b>WORKING PARTY MEMBERSHIP</b>	<b>REPORTING DEADLINE</b>
6. Preparation of legislative amendments to remove requirement for payment of real property taxes as a prerequisite for registration of a title transfer	DOJ (Chair), DOF, LRA, DENR, UP Law Center, PMO	March 2003
7. Preparation of a strategy, work plan and timetable for development of a single land valuation system.	DOF (Chair, pending establishment of LAA), LGU representation, Appraisal profession representation, PMO	June 2003

(h) The reports of the Working Parties established by (g) should be presented to the Task Force in the first instance, and the Chairperson of each Working Party should provide monthly progress reports to the Task Force.

(i) The LAMP Project Management Office should coordinate a program for detailed consideration by stakeholders of all other recommendations of the four policy studies through the consultation and consensus building action plan, and the PMO should present a report to the Task Force no later than end-March 2003 on proposed implementation action in respect of these other recommendations in the light of stakeholder views and suggestions.

(j) The following actions, requiring no legislation, should be implemented at the earliest opportunity and the designated lead agency should provide monthly progress reports to the Task Force in relation to each action:

<b>ACTION</b>	<b>LEAD AGENCY</b>
1. Explore the option of establishing the proposed LAA by Executive Order, including provision of definitive legal advice on this issue	DBM, in close consultation with DOJ
2. Confirm that payment of taxes is not a prerequisite for issuance of a first land title.	DOJ
3. Confirm that there is no legal requirement for a technical description to appear on a land title	DOJ
4. Issue an order defining 'fair market value' for BIR-administered property taxes as LGU Schedules of Market Values	DOF
5. Develop a policy on future user charging for DENR/LRA land administration services and subsequently implement it.	DBM, in close consultation with DENR and LRA

## 1. INTRODUCTION

### **Background**

Four policy studies funded by AusAID through the PA-LAMP were completed in July 2002. These have reviewed land laws, institutional arrangements, land valuation, and taxes and fees associated with land administration in the Philippines.

The studies have been undertaken by national and international advisers working closely with staff of the lead agencies for the four studies: the Department of Justice (land administration laws); the Department of Budget and Management (institutional arrangements); and the Department of Finance (land valuation, and taxes and fees associated with land ownership and transfers).

In preparing the study reports the lead agencies and their advisers have undertaken detailed reviews of the present land administration system, including extensive consultation with stakeholders. In addition to numerous meetings with public sector agencies, non government organizations and individuals, a total of thirteen workshops involving some six hundred participants were held in the period February - June 2002. The studies' findings and recommendations have been substantially based on the views and suggestions of stakeholders.

This Integration Report proposes a blueprint for long-term reform of the land administration system derived from the four policy studies. It synthesizes the individual study reports in order to present proposed strategic directions for reform and key recommendations in a form suitable for decision-makers.

A further two studies, funded by the World Bank, are currently being undertaken in relation to some specific land classification and related issues. They are not addressed in this Integration Report but are not expected to have any significant implications for the overall reform agenda it proposes.

Section 2 highlights the important role that land administration should be playing in national development. Section 3 summarizes the major defects of the present land administration system and the problems these defects give rise to. It makes clear that the present land administration system is failing badly to achieve its potential as a positive contributor to national development.

Section 4 is the core of the Integration Report. It proposes key strategic directions for fundamental reform of the present system and specific measures, consistent with these directions, to be pursued in the years ahead.

These proposed directions and related measures offer no 'quick fix' solutions because there are none. Only an integrated reform program implemented over a period of years can produce sustainable improvements. However, the solutions proposed are not 'radical' by international standards. They have been tried and

tested in many other countries including by neighbors of the Philippines. They will start delivering substantial benefits long before they are fully achieved.

Section 5 spells out the nature of these reform benefits including improved economic and budgetary outcomes, faster and more equitable procedures for land titling and land transfers, and better governance of the land administration system. Section 6 presents, in summary form, a strategy to build further consensus amongst stakeholders for the reform directions and measures proposed. Finally, Section 7 proposes an action plan for the next six months to commence implementation of the strategic directions and measures proposed by this report if the Government endorses them.

Stakeholders' contributions to the development of this report's proposals are gratefully acknowledged. As noted, stakeholders themselves have suggested many of the proposals. Not all stakeholders will support every proposal. However, there is widespread agreement that the present land administration system is deeply flawed and that its reform is long overdue.

## 2. LAND ADMINISTRATION AND NATIONAL DEVELOPMENT

### 2.1 National development objectives

The Nation's key development objectives, as distilled from recent policy statements, are:

- the reduction of poverty;
- increased incomes;
- global competitiveness;
- sustainable resource use;
- good governance and the rule of law.

The Macapagal-Arroyo Administration's Medium-Term Philippine Development Plan 2001-2004 places poverty alleviation at the core of national development objectives, emphasizing the interrelationships between this objective and those of income growth, global competitiveness and good governance:

The Administration is "firmly committed to continue the battle against poverty and seeks victory within this decade. .... Central to winning this fight is macroeconomic stability and sustained growth of income and employment across sectors, socioeconomic groupings, and regions. Reliance on free enterprise and markets is vital. .... It is important to have an economic philosophy of transparency and free enterprise, the catalyst that nurtures the entrepreneurial spirit to be globally competitive. .... Development efforts, however, must carry a social bias as a balance to progrowth policies. ...Overcoming poverty thus requires a comprehensive set of social and economic policies and programs with an equity orientation, underpinned by good governance and adherence to the rule of law."

The importance of good governance and the rule of law, both for their own virtues and as contributors to economic development and poverty alleviation, have been underscored by the President's most recent State of the Nation Address:

"Indeed, we are at war: at war with the terrorists, at war with the kidnapers, at war with the drug lords -- and we are determined to win decisive victories on all fronts. .... We cannot afford to lose. .... For what is at stake is our country as a viable proposition in the world economy. And we must be viable if we are to win the most fundamental war, the war against poverty."

Philippine Agenda 21 rounded-out these national objectives by highlighting the requirement for *sustainable* economic and social development. It envisioned:

" ... a better quality of life for all through the development of a just, moral, creative, spiritual, economically vibrant, caring, diverse yet

cohesive society characterized by appropriate productivity, participatory and democratic processes and living in harmony within the limits of the carrying capacity of nature and the integrity of creation.”

## **2.2 The role of land administration**

Land (including fixed improvements on land) is:

- a key factor of production, contributing the value of its services in all sectors of the economy;
- a valuable asset, which constitutes between half and three-quarters of national wealth in most countries;
- a source of economic and political power;
- a source of government revenue, especially at the local level;
- scarce and in fixed supply;
- often the cause of conflict, in part because of its scarcity, in part because of its symbolic value.

In the Philippines, the majority of the poor make a living out of agriculture and fishing activities while the urban poor are also dependant on land (for housing) to provide them access to the urban economy:

“A major factor to sustained growth and poverty alleviation strategies seems to be the presence of a well-functioning land market. An efficient land market maximizes the use of land while well-defined land or property rights can overcome credit market imperfections, provide effective insurance against shocks, help households improve their health status and provide decent shelter. However, the Philippine land market has not been efficiently functioning ..... Problems of boundary disputes, illegal occupation of state and forestlands, fake titles, inappropriate land valuation, and lack of commitment to environmental sustainability constrain the efficiency of land markets. These problems arise from poor and inadequate land administration and management.”<sup>1</sup>

The potential contribution of an efficient land administration system to national development objectives is succinctly summarized in the objective of the Land Administration and Management Project (LAMP):

- to alleviate poverty and enhance economic growth;
- by improving the security of land tenure and efficiency of land markets;
- through development of an efficient system of land titling and administration;
- based on clear and consistent policies and laws;
- supported by an appropriate institutional structure.

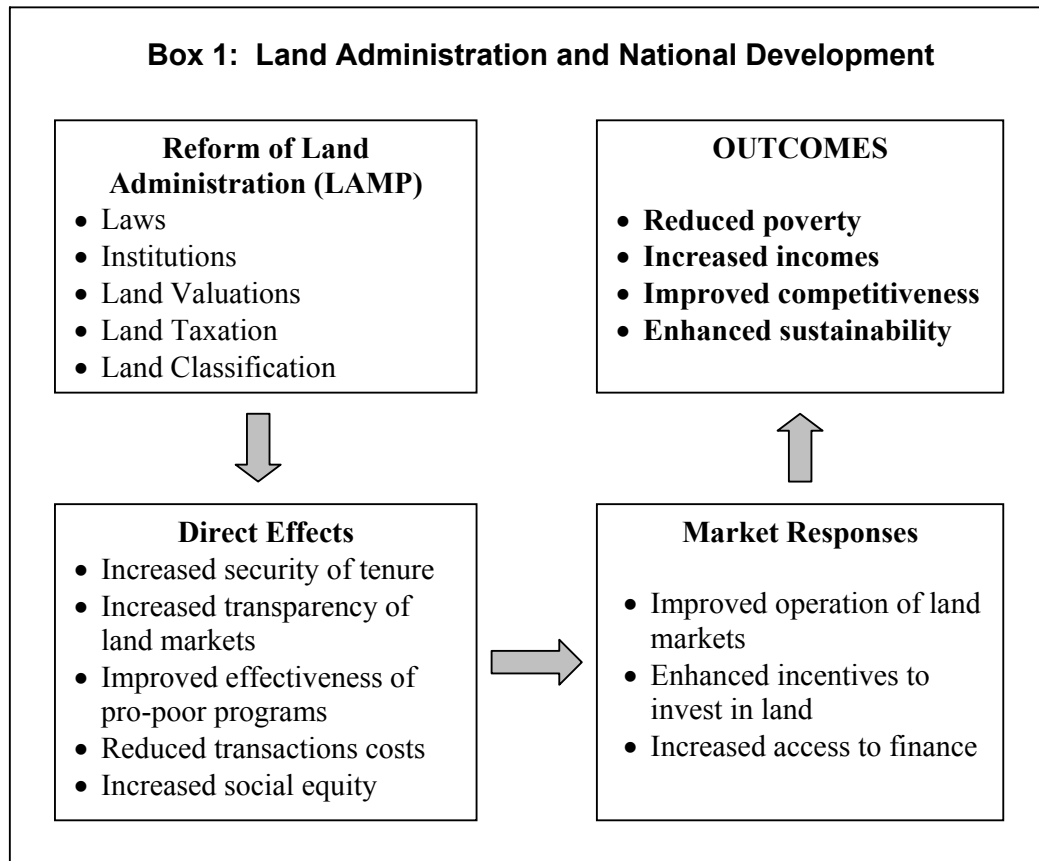
An efficient land titling and registration system is an essential prerequisite for the operation of efficient and equitable land markets. It is the poorer sections of the

---

<sup>1</sup> ‘Integrating land issues into poverty reduction strategies and the development agenda: Philippines’, Gilberto M. Llanto and Marife M. Ballesteros, Regional Workshop on Land Issues in South and East Asia, Phnom Penh, Cambodia, June 4-6 2002.

community that bear the main costs of a dysfunctional land administration system and the informal transactions associated with it. The mechanism by which the LAMP aims to support national development is summarized in Box 1.

Efficient land administration increases security of tenure, improves access to land markets and reduces the costs of transactions in land. This in turn induces land markets to work better, increases incentives to invest in and on land, and permits land to be used to mobilize capital via mortgage and other types of financial instrument.



Increased incentives for long-term investment in, and intensive use of, land create employment opportunities including more opportunities for the poor to earn livelihoods. The more intensive use of land reduces incentives for 'slash-and-burn' cultivation methods and illegal logging, thereby enhancing the sustainability of natural resource use.

In summary, while many other factors also contribute to national development, efficient land administration can make a major contribution. Far from contributing in a positive way, the major defects of the present land administration system in the Philippines undermine achievement of the Nation's development objectives.

### 3. THE NEED FOR REFORM

#### 3.1 Current problems

The land administration system of the Philippines has been the subject of detailed study over more than a decade. Prior studies, stakeholders and the four PA-LAMP policy studies are in overwhelming agreement on both the main problems associated with the present system and the pressing need for an integrated reform program to deal with them.

Box 2 summarizes the main features of the present system for land titling, registration, valuation and taxation.

#### **Box 2: Key features of the present land administration system**

- Multiple land administration agencies
- Multiple land administration laws
- Multiple land titling processes
- Multiple forms of certificate of title
- Multiple steps for land transfers
- Multiple standards for land valuation
- Multiple agencies undertaking valuations
- Multiple taxes on land ownership and transfers
- Multiple opportunities for graft and corruption

Problems to which these features give rise include:

- incomplete and inappropriate classification of land;
- incomplete titling of privately claimed alienable and disposable land;
- antiquated, overlapping and inconsistent land laws;
- obsolete/ineffective land information systems, difficult to access;
- limited spatial referencing or indexing for title records;
- inefficient land records management systems;
- absence of a complete, updated set of cadastral maps;
- limited access to the Title register and high costs in using it;
- inappropriate methods and assessments for land valuation;
- under-performance in the collection of property taxes;
- duplication and overlap in land administration activities;
- lack of mechanisms to resolve land administration issues;
- erosion of public confidence in the land administration system.

More graphic illustrations of the problems associated with the present land administration system are available from the four policy studies and prototype projects. Box 3 presents a sample.

### **Box 3: Symptoms of a dysfunctional system**

- Emerenciana is 66 years old and has lived on the same land since her birth. In the 1970s she filed an application for a Free Patent. She went to the District Land Office and submitted her application and tax records. When she submitted her application she received a list of requirements and complied with all of them. Nothing then happened. She went to follow-up progress on her application about every two years. The last time she went, in 2001, she was told by the CENRO that her file could no longer be found. A list of pending cases provided by the CENRO to the Prototype 1 LAMP team did not list her.
- Feliciano purchased Land on 27 April 1996 under an Absolute Deed of Sale. On 22 July 1997 he lodged a petition for registration at the Tagaytay Regional Trial Court. On 23 February 1999 another person lodged an application for a Free Patent over the same land. On 22 May 1999, while the Court case was still pending, the Free Patent was issued. Feliciano must now seek to have the Free Patent set aside by the Court.
- A recent survey of Regional Trial Courts indicates that 15 per cent of all cases handled by the Courts are related to land registration issues. This is a substantial volume of work for a Court system that is already over-burdened with other matters.
- For every P100 million spent by the principal land administration agencies on service delivery operations they spend around P30 million on 'general administration' and 'support'. Efficient service delivery organizations would typically spend P12 million or less per P100 million.
- Within individual land administration agencies, checking and endorsement of work by multiple and increasingly senior layers of management commonly adds at least one-third to the total time required to complete the work.
- A case study of six persons' experiences in registering a transfer of land title revealed that 'facilitation fees' (i.e. bribes) were sought in every case and paid in at least four cases. The minimum time required to register the title transfer was two weeks (with payment of a bribe). The maximum time required was over two years. The average time taken to complete the same transaction in Thailand is 2.5 hours.

**Box 3 (continued)**

- Margarito Teves, President of the Land Bank of the Philippines, was arrested for around 36 hours for refusing to pay P75 million for some 53 hectares of rice lands in Nueva Ecija, or about P1.4 million per ha., the amount awarded by the DAR Adjudication Board. DAR's valuers had appraised the land at P56, 210 per ha., almost 25 times lower. Two regional DAR officials are being probed for potentially having colluded with the landowner, a former Justice of the Court of Appeals.
- A case study of 100 property sales made in the first-half 2002 indicated that sale prices were nearly two and a half times higher than the zonal values assessed by the Bureau of Internal Revenue for taxation purposes. Related data indicated that for most classes of property in most parts of the country, current market values were on average at least double the Schedule of Market Values assessed by local governments for taxation purposes, with a number of local governments using valuation bases last reviewed in 1994 or earlier.

**3.2 Underlying causes – structural defects**

The underlying causes of these problems are many and diverse. Some, such as inefficiencies in land records management systems and inadequate spatial indexing of land titles, are being addressed through the LAMP prototype projects. Many others, however, cannot be adequately addressed without fundamental reform of the land administration system as a whole.

The present land administration system is riddled with problems because:

- the structure of the system has major defects;
- the system is administered badly.

The present system's major *structural* defects are:

- conflict between laws regulating the system and its administration;
- two processes for titling land (administrative and judicial processes);
- multiple forms of ownership rights in land;
- multiple property taxes and related disincentives to formalization of land transactions; and
- multiple land valuation methods.

These structural defects in turn give rise to significant duplication and overlap in the roles, functions and activities of the key land administration agencies (especially between the Land Management Bureau/Service of DENR, DAR, the

Land Registration Authority within DOJ, the Bureau of Internal Revenue, local governments and the Courts).

*Conflicting laws and regulations:*

The lack of clarity in, and conflict between, land administration laws arises because of the multiplicity of laws affecting individual sectors of land administration and the failure to effectively repeal and replace earlier laws when new laws have been introduced. An inventory of the laws relevant to public land disposition and land registration undertaken by the land laws policy study identifies more than 60 laws and regulations touching on these aspects of land administration.

There are also inconsistencies in the laws and regulations governing the way in which the system is administered. For example, the 1987 Administrative Code provides that DENR shall “ ..... serve as the *sole* agency responsible for the ..... surveying of lands“ (emphasis added) yet also empowers DAR to undertake surveys and set survey standards in relation to surveys of CARP lands. These inconsistencies provide fertile ground for inter-agency overlaps and disputes.

*Dual processes for titling land:*

The Philippines is unusual, especially in comparison to neighboring countries, in requiring the intervention of the Courts in a range of land administration matters that are dealt with elsewhere by administrative processes. This gives rise to unnecessary costs, extensive delays and - in some cases - competing claims over land being determined by administrative and judicial processes concurrently but in isolation from each other (see Box 3 above). It also burdens a Court system already overloaded with other matters.

<b>Country</b>	<b>Legal framework</b>	<b>Title registration process</b>
Thailand	Land Code	Administrative
Malaysia	Land Code	Administrative
Indonesia	Land Code	Administrative
Cambodia	Land Code	Administrative
Laos	Land Code	Administrative
<b>Philippines</b>	Numerous overlapping and inconsistent Acts and Decrees	Judicial and Administrative

*Multiple forms of ownership rights in land:*

There is confusion over the status and relative merits of various rights in land, for example CLOAs, Patents, Original Certificates of Title, Transfer Certificates of Title, Certificates of Ancestral Land Title and several more. A Patent, for example, is widely regarded as a lesser title than a Certificate of Title issued on a judicial decree. The Courts have not respected to the same degree the legal standing of registered Patents compared to other titles and some banks will not lend as much money on them. The problem is not so much the law itself but peoples' perceptions, the latter being shaped by the different names given to the various instruments and the different processes through which the title is created.

*Multiple property taxes and tax disincentives:*

Responsibility for taxes on real property is shared between the national and local governments, with local governments collecting taxes on the value of land and both levels taxing land transfers. Currently, related tax revenues are well below their potential and the land market is not contributing as much as it should to sustainable and equitable national development. There is a need to revise the tax structure so that landowners can play more dynamic and productive roles in the economy and governments can raise more revenue.

The key problems inherent in the current structure of land taxation structure are:

- the high cost of real property transactions;<sup>2</sup>
- the requirement that transfer taxes and delinquent real property taxes be paid prior to registration of land transfers;
- the suboptimal collection of real property taxes by local governments.

High tax rates and their linkage to the registration of land transfers:

- discourage formal transactions, including registration of land transfers, by raising their cost;
- provide incentives and opportunities for inappropriate practices;
- encourage sellers and buyers to seek non-formal ways of transacting;
- put pressure on the land valuation system to reduce property assessments.

Poor collection of real property taxes is attributable in part to the politicization of valuation, the de-politicization of tax rate determination, and the dominance of the Internal Revenue Allotment in the revenues of local governments. The latter, especially, provides a disincentive for local governments to make concerted tax efforts because its formula is automatic and its volume so large that any increase in local revenues would be minor in comparison.

*Multiple land valuation methods:*

There are multiple systems and laws/regulations used by government agencies for land valuation employing different methodologies. The systems are used for different purposes including real property taxation, compensation for land acquired for public investment, and for land valuation under the CARP. Valuations are often doubtful, incorrect, and influenced by local politics. When contested in Court they have caused long delays to government programs. There are no national standards of valuation in the private sector either. A DENR study commissioned by the LMB in March 2000 found that:

“ .... The present practices of land valuation and rental determination have resulted in land values and rental fees that are far below existing

---

<sup>2</sup> This is due primarily to the two national taxes, Capital Gains Tax and Documentary Stamp Tax, which together add 7.5 per cent to the cost of transactions, compared to a total of only one percent for the local Transfer Tax and Register of Deeds fees combined.

market rates. Thus the government does not realize reasonable income for properties sold or leased to private parties. Instead, scarce land resources are disposed of at very low prices, resulting in their inefficient allocation and utilization, and creating price abnormalities in the market.”

In the same way, national and local government revenues from real property taxation are far below their potential yield if existing taxation rates were applied to current market values.

*Duplication and overlap between agencies:*

Reflecting the above structural features and for other reasons there is substantial duplication and overlap in the functions and activities of the key land administration agencies, notably in the areas of:

- the primary classification of public land as alienable and disposable land (DENR/NAMRIA and the NCIP respectively);
- undertaking of land surveys for titling purposes (DENR/LMB, DAR and potentially NCIP);
- approval of subdivision surveys (DENR/LMB and DOJ/LRA);
- award of ownership rights in land (DENR, DAR, the Courts supported by LRA, NCIP);
- maintenance of separate versions of cadastral maps and records (DENR/LMB and DOJ/LRA);
- compilation of land maps and information (multiple agencies);
- land valuation and related mapping for tax purposes (DOF/BIR, local government units).

Attempts to remove these duplications and overlaps by amending the Administrative Code or taking ‘scrap and build’ institutional restructuring initiatives will have little impact unless undertaken as part of a broader reform plan for the land administration system as a whole.

For example, so long as dual (administrative and judicial) processes for titling land are retained there will be a requirement for two sets of (overlapping) procedures to administer them. There would be some efficiency gains from co-locating or merging the LMB/LRA administrators of these procedures within a single organization. However, the direct efficiency gains from that action alone are likely to be small relative to those potentially available from abolishing one of the two processes.

The inefficiencies to which the above structural defects give rise include:

- uncertainty in land tenure, discouraging economic activity;
- undue complexity in land titling, deterring formal titling of land and opening opportunities for corruption;
- unnecessary risks of conflicting titling decisions;
- high disputation and litigation over land matters;
- unnecessary costs to the Budget arising from:

- avoidable Budget outlays on duplicated management overhead and administrative support, duplicated land information and records management, and delays in service delivery;
- losses to tax revenues arising from the impediments to formalization of land markets.

The costs to the national Budget of inefficiencies are significant but probably small by comparison to their overall costs to the community at large. The principal victims of the dysfunctional land administration system are the poor, both rural and urban, who bear the greatest relative cost.

### **3.3 Underlying causes – operational defects**

The policy studies and associated stakeholder consultations combine to suggest six key defects of the way in which – within the existing legal framework – the land administration agencies currently operate. None of these appear to be unique to the land administration system:

- lack of focus in both organization design and work practices on servicing the needs of user agencies and members of the public;
- excessive layers of management overhead;
- excessive numbers of staff assigned to ‘support’ activities;
- absence of effective incentives/penalties for good/bad performance;
- widespread perceptions of conflicts of interest and corruption;
- lack of integrated policy direction and effective inter-agency coordination.

The roles, functions and activities of the key land administration agencies need major restructuring to address these defects. Such restructuring would improve prospects for rationalization of titling and registration processes, land information and public access to land administration services. More importantly, rationalization of the key land administration agencies offers the best prospect of providing a single institutional focus for the leadership and management of reform of the system.

Technical improvements to the workings of the land administration system can and should be made. However, without fundamental reform of both the structure of the present system and the way it is administered the benefits achievable from such technical improvements will be strictly limited. The absence of integrated leadership and management of the system is perhaps the biggest single cause of the demonstrated failure to date to reform the system’s widely acknowledged defects.



## 4. AN AGENDA FOR LONG-TERM REFORM

### 4.1 Overview

Reform of the land administration system will require changes in both laws and institutional arrangements in the months and years ahead. These changes cannot usefully be designed in any detail or implemented unless there is prior agreement on a long-term reform agenda setting out the strategic directions to be followed, key measures to be taken and outcomes to be achieved.

Past attempts to reform the land administration system of the Philippines have failed for four key reasons:

- uncoordinated attempts to improve different parts of the system in isolation from each other;
- related to this, the absence to date of an integrated agenda for long-term reform of the system as a whole including agreed strategic directions and target outcomes;
- insufficient breadth and depth of consensus on both the need for reform and the measures necessary to meet that need;
- lack of a single institutional focus to provide the ongoing leadership and management necessary to implement and sustain reform.

The LAMP has as a whole and this Integration Report in particular have aimed to avoid these past weaknesses:

- the four policy studies underpinning this report have considered all major components of the land administration system;<sup>3</sup>
- the findings and recommendations of the individual policy study have been reviewed and in some cases 'fine-tuned' to ensure that all elements of the proposed reform agenda are mutually consistent and supportive of one another;
- the studies' recommendations have been developed by consulting widely with stakeholders (Section 6 proposes a further program of consultation and consensus building with decision-makers and civil society during reform implementation);
- the need for focused leadership and management of reform has also been addressed.

Box 4 summarizes the strategic directions for reform proposed by the LAMP. These address the need to extend both the formal titling of land and the formal registration of subsequent transactions in land ("get people in and keep them in the system"). Reform measures to implement them in the areas of institutional arrangements, land laws, fees and property taxation, and land valuation then follow together with the main outcomes these measures aim to achieve.

---

<sup>3</sup> As noted in Section 1, certain land classification and related issues are the subject of two studies funded by the World Bank that have yet to be completed.

#### **Box 4: Strategic directions**

1. Strengthen leadership and management of reform.
2. Remove duplication and overlap in delivery of land administration services.
3. Improve the efficiency, responsiveness, transparency and accountability of land administration services.
4. Consolidate and coordinate the production of, and access to land information
5. Abolish judicial processes for issue and registration of titles in favor of simple administrative processes.
6. Reform and consolidate land administration laws and regulations.
7. Clarify the rights of persons occupying land to obtain titles.
8. Progressively extend the Torrens Title register to become a comprehensive record of all land in the Philippines recording all rights relating to land.
9. Devolve responsibility for taxation of real property ownership and transfers to local government.
10. Streamline land transfers and remove disincentives to their formal registration by the Register of Deeds.
11. Progress towards cost recovery for land administration services.
12. Remove local government political intervention in processes for the assessment of property values.
13. Adopt a single valuation basis for all real property taxation.
14. Develop, implement and enforce uniform, best-practice, valuation standards within government.

#### **4.2 Institutional arrangements**

Institutional arrangements for the future delivery of land administration services should be capable of:

- servicing either the present (dual) titling processes or a single process;
- improving services to users of the system through lower costs, faster services and/or improved access to services;
- permitting a clear separation of land administration functions from other, unrelated, functions and activities;
- merging like functions/resources where these are currently overlapping/duplicated across agencies;
- removing inter-agency barriers to the land information flows and integrated data bases needed to support efficient land administration;
- providing a clear institutional focus for leadership and management of long-term reform of the land administration system.

The present institutional arrangements have demonstrably failed to meet these criteria. The options considered for the future performance of functions currently delivered by LMB/regional land services, NAMRIA and LRA/ROD have been: <sup>4</sup>

- current institutional arrangements, but modified to co-locate some services requiring direct access by the public ('One Stop Shops');
- merging of functions within an existing Department;
- establishment of an autonomous Land Administration Authority to undertake all of the relevant functions.

The third option - establishment of an autonomous Land Administration Authority - is clearly the superior option when evaluated against the above criteria. It is consistent with calls by stakeholders for establishment of a single land administration agency. It is a model that has operated successfully in other countries using the Torrens System of land titling hence there is ample experience on which to draw in implementing it. The proposed reform agenda for institutional arrangements has the establishment of this Authority as its centerpiece. It also aims, through a proposed trial multi-year titling program, to achieve a better mix of disciplines and incentives for the efficient delivery of services.

<b>Strategic Directions</b>
<ul style="list-style-type: none"><li>• Strengthen leadership and management of reform.</li><li>• Remove duplication and overlap in delivery of land administration services.</li><li>• Improve the efficiency, responsiveness, transparency and accountability of services.</li><li>• Consolidate and coordinate production of/access to land info. .</li></ul>
<p style="text-align: center;"><b>Key Recommendations Of Institutional Arrangements Study</b></p> <ol style="list-style-type: none"><li>1. A single agency should be responsible for the core land administration functions of: land mapping and survey; land classification; land information; disposition of alienable and disposable public land; first-time issue of certificates of title; registration of certificates of title and title transactions; verification and approval of subdivision plans; all cadastral land records; and land valuation standards and methods.</li><li>2. This agency should take the form of an autonomous Land Administration Authority (LAA) with the following key features:<ul style="list-style-type: none"><li>• established by Act of Congress (or, possibly, by Executive Order) specifying the LAA's charter, powers and functions;</li><li>• headed by a Board, appointed by the President, including representation of users of land administration services;</li><li>• exercising statutory powers in relation to land administration functions and valuation standards;</li><li>• fully merging like functions within the LAA structure;</li><li>• having 'Shop Front' service centers at Provincial/City levels.</li></ul></li></ol>

<sup>4</sup> For reasons provided in the Institutional Arrangements Policy Study no substantive changes are contemplated for the foreseeable future in responsibilities for land-related functions currently performed by DAR and NCIP.

3. The LAA should have a clear mandate to lead and manage long-term reform of the land administration system.
4. Consideration should be given to attaching the LAA to *either* a major 'client' of the land administration system *or* to the Office of the President for the purpose of policy oversight.
5. When established, the LAA should undertake a trial multi-year program for the identification, disposition and titling of alienable and disposable land incorporating a range of features providing a better mix of disciplines and incentives for the delivery of services.
6. Negotiated output targets, inputs, performance auditing arrangements and other features of the trial program should be incorporated in a Service Level Agreement between the LAA Board and DBM.

#### **Outcomes**

- A single institutional focus for the leadership, management and coordination of reform of the land administration system.
- Institutional arrangements and operating procedures for land administration that are: strongly focused on serving the needs of the public; fully merged in a single agency; and efficient, responsive, transparent and publicly accountable.

### **4.3 Land administration laws**

As noted (Section 3), there is an abundance of laws governing the administration of land, especially relating to alienable and disposable land. The laws are administered by different agencies. Much of the law is outdated and supports processes and procedures that are not in keeping with international best practice. In particular, the laws and processes to provide secure title to persons in long term possession and occupation of land have not served the community well.

Operating an efficient and equitable land administration system under this framework has been difficult and has resulted in long delays in adjudication and registration of land rights, and in considerable jurisdictional overlap and duplication of functions. There has been a much greater emphasis on the use of the overloaded Court system for land registration matters than in many other countries.

The laws and regulations to support the future delivery of land administration services should:

- be clear, concise, consistent and coherent;
- facilitate and ensure the provision of secure land ownership;
- provide for simple, quick and inexpensive land administration processes.

**Strategic Directions**

- Abolish judicial processes for the issue and registration of land titles in favor of simple administrative processes.
- Reform and consolidate land administration laws.
- Clarify the rights of persons occupying land to obtain titles.
- Progressively extend the Torrens Title register to become a comprehensive record of all rights relating to land.

**Key Recommendations Of Land Administration Laws Study**

1. The following matters, currently required to be dealt with by the Courts, should be dealt with initially by simple administrative processes:
  - confirmation of incomplete or imperfect title;
  - reconstitution of lost or destroyed certificates of title;
  - removal of reservations on reconstituted titles;
  - replacement of lost or destroyed duplicate certificates of title;
  - amendment and alteration of certificates of title.
2. The current Free Patent process for confirmation of incomplete or imperfect title should be replaced by a simple process based on the issue of a certificate of title to landholders who can establish possession and occupation for a fixed period.
3. The confirmation of incomplete or imperfect title should be based on possession for the same period as provided in the Civil Code for prescription in good faith (i.e. 10 years).
4. In assessing the period of possession of land for the purpose of confirmation of title, possession and occupation prior to classification of the land as alienable and disposable should be taken into account.
5. Rights over titled land based on prescription should be recognized.
6. All registered rights of ownership should be evidenced by one document to be known as a Certificate of Title.
7. In carrying out the amendments to the law to give effect to these (and other) recommendations, the opportunity should be taken to rationalize and codify the laws on public land disposition and land registration.

**Outcomes**

- Award of titles to land based wherever possible on evidence of long-term, peaceful, community-accepted occupation and use of land.
- Titles to land established by administrative procedure only, subject to rights of appeal to the Courts.
- One Certificate of Title and one Register of Titles recording all rights relating to land.

#### 4.4 Taxes and fees <sup>5</sup>

As noted (Section 3), there is a need to revise the tax structure so that landholders can play a more dynamic and productive role in the economy, and government can raise more revenue.

The preferred long-term strategic direction is to maximize local government responsibility for the taxation of real property ownership and transfers. This would further the nation's stated goal of empowering local communities. It can also lower transaction costs in both time and money, and reduce opportunities and incentives for informality. Key recommendations (1) and (2) below represent interim steps along the road to implementation of this overall strategic direction.

<p><b>Strategic Directions</b></p> <ul style="list-style-type: none"> <li>• Devolve responsibility for taxation of real property ownership and transfers to local government.</li> <li>• Streamline land transfers and remove disincentives to their formal registration by the Register of Deeds.</li> <li>• Progress towards cost recovery for land administration services.</li> </ul>
<p><b>Key Recommendations Of Taxes And Fees Study</b></p> <ol style="list-style-type: none"> <li>1. Agree to halve the current rate of Capital Gains Tax on property transactions and then review the future of Capital Gains Tax and Documentary Stamp Tax in two years' time with a view to possibly exempting property transactions from these taxes.</li> <li>2. As part of the review included in (1), consider the possibilities for increasing local government flexibility to vary the rates of the Real Property Tax and Transfer Tax.</li> <li>3. Confirm that payment of back taxes is not a prerequisite for issuance of a first land title.</li> <li>4. Remove the requirement for payment of property taxes as a prerequisite for registration of a transfer of title.</li> <li>5. When revenue have risen sufficiently to make LGUs more self-reliant, retain all RPT revenue in the community in which it is raised, i.e. the municipality or city, rather than being shared with the province. This would mean modifying the Local Government Code to make RPT a municipal tax.</li> <li>6. When revenues have risen sufficiently to make LGUs more self-reliant, reformulate the IRA, linking it to some measure of LGUs' fiscal performance.</li> <li>7. Increase all land administration fees that currently do not recover operating costs (except those associated with first-time titling).</li> </ol>
<p><b>Outcomes</b></p> <ul style="list-style-type: none"> <li>• A clearer division of land-related fiscal responsibilities between national and local governments.</li> <li>• Lower costs, in both money and time, for land transactions.</li> <li>• Improved cost recovery for land administration services.</li> </ul>

<sup>5</sup> Land-related fees are low and most do not cover the costs of collection; the exceptions are the fees charged by the Register of Deeds. Fees are not a major issue at this stage of development of the land administration system.

#### 4.5 Land valuation

There is a compelling need to develop a reliable basis for the assessment of real property taxes and eliminate the current duplication of effort involved in applying different valuation methodologies at the national and local levels. The increasing politicization of the valuation processes for taxation purposes must also be addressed if fairness and equity are to be achieved in real property taxation. More generally, the multiplicity of land valuation methods used for different purposes should be rationalized through the development and enforcement of uniform standards within government.

The establishment of a central appraisal unit with adequate enforcement powers is essential to reform in these areas. Such a unit would also be expected to play a leading role in supporting the strengthening of the appraisal profession in the Philippines.

<p><b>Strategic Directions</b></p> <ul style="list-style-type: none"> <li>• Remove local government political intervention in processes for assessment of property values.</li> <li>• Adopt a single valuation basis for all real property taxation.</li> <li>• Develop, implement and enforce uniform, best practice, valuation standards within government.</li> </ul>
<p style="text-align: center;"><b>Key Recommendations Of Land Valuation Study</b></p> <ol style="list-style-type: none"> <li>1. Establish a Central Appraisal Unit within the proposed Land Administration Authority exercising statutory powers to develop valuation standards, regulate valuation practices within government, and encourage development of the appraisal profession.</li> <li>2. Develop and implement one market-based land valuation system to be used for property taxation purposes, and standard procedures for other government purposes, taking into consideration the pro-poor programs of the government such as CARP, mass titling, mass housing, etc.</li> <li>3. Pending implementation of Recommendation (2), require the BIR and LGUs to commit to regular review of real property valuations for taxation purposes.</li> <li>4. Amend the Local Government Code to allocate responsibility for appointment of Provincial and City Assessors to the proposed Central Appraisal Unit, and to repeal the positions of Municipal Assessors.</li> <li>5. Amend the Local Government Code to allocate responsibility for preparation and approval of the Schedule of Market Values to Assessors, subject to a compliance report by the Central Appraisal Unit.</li> </ol>
<p><b>Outcomes</b></p> <ul style="list-style-type: none"> <li>• Uniform valuation standards and methods within the government sector consistent with international standards.</li> <li>• One valuation system for property taxation purposes based on objective standards and methods.</li> <li>• Property tax revenues based on current property market values.</li> </ul>



#### **4.6 Next steps**

The above directions, measures and target outcomes represent an ambitious agenda that will take several years to fully implement. However, it is realistic and achievable. Its benefits, outlined in Section 5, are substantial and will start to flow much sooner.

The need at this point is for authoritative agreement by the Government to the strategic directions, key recommendations and outcomes to be achieved. Given such agreement, work can usefully proceed over the months and years ahead to develop designs for the individual reform measures, continue the process of consensus building, and progressively implement the reform agenda. Without such agreement, there would be no firm basis for proceeding on these fronts.

Section 7 presents an action plan for the next steps to be taken following Government consideration and agreement to the reform agenda.

## 5. REFORM BENEFITS

There are three categories of benefits anticipated from the recommended reforms of the present land administration system:

- direct benefits from the proposed institutional and legal changes, including fiscal benefits;
- induced benefits stemming from market responses to the changes; and
- ultimate benefits, i.e. contributions to national development objectives.

This section explains how these benefits will accrue and presents estimates of the impact of the recommended reforms on national and local government budgets.

### 5.1 Economic and social benefits

Box 5 summarizes the expected direct benefits from reform of the present system.

#### **Box 5: Expected direct benefits**

##### **Land Administration: General**

- Lower costs of land administration
- Better, more accessible land information
- Increased transparency of land administration
- Increased accountability of land administration

##### **Land Titling and Registration**

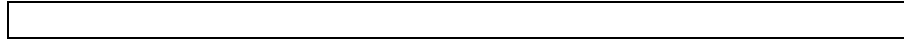
- Increase in registration of titles and transfers
- Lower costs of land titling and registration
- More rapid land titling and registration
- Less graft and corruption

##### **Land Markets and People**

- Increased security of tenure
- Lower costs of land transfers
- More rapid completion of land transfers
- Improved effectiveness of government pro-poor programs
- Less graft and corruption

##### **Land Valuation and Taxation**

- Uniform standards for land valuation
- Strengthened base for property taxation
- Less graft and corruption



Simplification and consolidation of the operations of the system will lead to lower costs to the government through merging of overlapping and duplicated functions. Land information will be easier to generate, disseminate and access, thereby improving transparency and accountability. The smaller number of steps involved in land titling, registration, transfers, valuation and taxation together with 'One stop shop' access to services will reduce costs to the public as well, including reduced opportunities for solicitation of 'facilitation fees' from users of the system.

Box 6 summarizes the expected market responses to land administration reform.

**Box 6: Expected Market Responses**

- Improved land use
- Improved access to land-based finance
- Greater investment in land
- More improvements on land
- More employment
- Increased tax revenue from land
- Increased number of land transactions

Increased formal titling and registration of land will have a direct positive impact on land values, investment and incomes, as it has in other countries.

Confidence of lending institutions in the security of tenure provided by the simplified land registration system will make mortgage lending more readily available in both urban and rural areas. Increased tenure security will also make landowners more willing to make long-term decisions about their use of land which, combined with readier financing, will lead to greater productive investment in land. The higher value of land in productive use will serve as a signal that land itself is a sound investment. The overall effect will be better and more productive land use.

Ultimately, these market responses will help to attain the national development objectives articulated in Section 2 and reproduced in Box 7.

**Box 7: Expected ultimate benefits**

- Reduced Poverty
- Increased Incomes
- Improved Global Competitiveness
- Enhanced Sustainability
- Better Governance

The principal victims of the present land administration system are the poor, both rural and urban, who bear the greatest relative cost of the current informality. They will therefore be the principal beneficiaries of the reforms proposed. They will also be important contributors to the induced effects summarized in Box 6, by increasing agricultural productivity, intensifying urban small business activity and upgrading the quality of their shelter, thereby improving their livelihoods and incomes.

Other members of society will contribute as well by responding to the broadened opportunities to use their land as the productive asset it inherently is. Global competitiveness will be improved because inefficient, non-transparent land markets will no longer deter investment. Sustainability will be enhanced because: a) landholders will have more incentive to maintain their properties because of their longer time horizon; b) intensification of land use will lead to reduced pressure on the “frontier”.

Governance is always improved by simplicity. In the present case, improved governance is a direct objective of the recommended administrative and legal reforms. Transparency and accountability will be built into the system

Some of the expected benefits can be quantified with some degree of confidence, based on studies in the Philippines and the experience of other countries undertaking the same reforms. Impact assessment studies of the CARP indicate that farmer beneficiaries with secure ownership of their lands have invested more in their farms than non-beneficiaries by an average of some P15,570 more per hectare. Socio-economic studies conducted as part of the Thailand Land Titling Project have demonstrated a strong relationship between land titles and land prices. De Soto has noted that in Peru investment in property increases nine fold when squatters obtain formalized title to their homes while, in Costa Rica, farmers who hold formal land titles have much higher incomes than those who do not.

## **5.2 Budget benefits**

The proposed reform agenda will have impacts on both the expenditure and revenue sides of national and local government budgets. While these impacts cannot be forecast completely or with certainty the best estimates available suggest that budget impacts will be favorable in overall terms.

A fiscal model has been prepared to enable assessments of different reform options. It allows policy simulations for the years 1995 to 2001 inclusive to enable comparisons of what actually occurred in this period with what would have occurred if policy changes had been implemented.<sup>6</sup>

---

<sup>6</sup> Full details of the structure of the model, the assumptions underlying the results summarized here, and how the model may be used to simulate other policy options are presented in the report ‘Financial model for assessment of policy reform options’ prepared by the PA-LAMP Fees and Finance Adviser (August 2002).

Box 8 (next page) summarizes key results generated by the model for the main reform measures recommended by this report.

The main reform measures modeled in Box 8 are: a reduction in the rate of Capital Gains Tax from 6% to 3% in Year 1; the creation of a new Land Administration Authority merging activities currently undertaken by LMB/LMS, LRA, NAMRIA and the Courts, phased in between Years 3 and 5; the creation of a new Central Appraisal Unit within the LAA; and redeployment of some 1,120 Municipal Assessors.

<b>BOX 8: SIMULATED NATIONAL AND LOCAL GOVERNMENT BUDGET IMPACT OF PROPOSED REFORMS 1995 TO 2001 (P BILLION)</b>								
<b>Year</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>Seven-year totals</b>
<b>Actual/Break-even case:</b>								
Govt. expenditures	10.1	11.0	13.6	15.3	17.4	21.0	22.4	110.7
Govt. revenues	23.9	27.7	34.2	33.9	33.8	36.7	39.3	229.6
Net fiscal surplus	13.8	16.8	20.6	18.6	16.4	15.7	16.9	118.8
<b>Expected outcome case:</b>								
Govt. expenditures	10.1	11.2	13.2	14.8	16.8	20.2	21.7	108.1
Govt. revenues	22.4	26.1	36.0	39.2	43.2	47.1	50.9	264.9
Net fiscal surplus	12.3	15.0	22.8	24.3	26.4	26.8	29.2	156.8

The 'Expected Outcome Case' of this reform scenario projects that, notwithstanding a halving in the rate of Capital Gains Tax, government revenues will increase as the combined result of introducing market-based valuations and increasing formal registrations of land ownership and transfers. The increases are considered realistic in the light of reform experience in other countries. In this (expected) case:

- national and local government budget expenditures would have been P2.6 billion less, in total, than they actually were over the period 1995-2001;
- national and local government budget revenues would have been P35.3 billion more, in total, than they actually were.

Under the 'worst outcome case' the reform proposals are assumed to generate the same expenditure savings but no increase in the revenue base. While this revenue outcome is considered most unlikely in practice, it represents the 'downside' fiscal risk to which budgets could be exposed by the proposed reform measures. The 'worst outcome case' arising from the reform measures would have been a net reduction in the fiscal surplus totaling P9 billion over the period 1995-2001 compared to that actually achieved. This represents a very modest level of fiscal risk for what will be a major structural reform.

## 6. CONSULTATION AND CONSENSUS BUILDING

### 6.1 Consultations to date

The LAMP has undertaken extensive consultation activities, social analysis and institutional assessments during both project design and implementation to date. The policy studies benefited considerably from stakeholder input through consultations and workshops in Metro Manila and Leyte. The consultations undertaken have enabled the project to consider reform proposals from the viewpoint of groups and organizations that will be affected by changes. The project has also developed a well-grounded view of relevant social issues through field-level exposure at its two prototype sites.

While invaluable for the purpose of preparing the reform agenda presented by this report, consultation to date has focused on problem identification and suggestions for reform at a relatively broad level. A number of those consulted have suggested that future consultation should progress beyond discussion at a general level to the consideration of specific proposals for reform by government.

This view is endorsed. Given the extended period over which problems and issues of land administration have already been canvassed with stakeholders, there is a significant risk that 'consultation fatigue' will set in unless consultation and consensus building activities now move forward to the consideration of specific reform proposals.

### 6.2 Objectives and strategies for the next phase

The next phase of consultation and consensus building aims to focus on validation of, and consensus building in relation to, the specific reform agenda identified by this Integration Report. This next phase is currently planned to commence immediately following decisions on the recommendations of this report and conclude around end-March 2003. *It is proposed that work on further design and implementation planning for specific reform measures proceed in parallel with this next consultation phase, providing inputs to the various consultation activities undertaken between now and end-March 2003 and being guided by their outcomes* (see Section 7: Action Plan).

The next phase of consultation and consensus building must address two key needs:

- the need to build a strong coalition of supporters for the specific reform directions and measures proposed;

- the need to start transferring 'ownership' of the reform agenda from the LAMP and its technical advisers to decision-makers within government and government agencies (albeit with continuing technical assistance as required).

In moving from problem identification to consideration of specific reform measures the next phase of consultation and consensus building will face more difficult and complex issues. In particular, it will need to address the fact that no amount of consensus building can produce unanimous support for substantive reform.

The main potential beneficiaries of land administration reform – the poorer sections of the community - are widely dispersed and poorly informed about potential reform benefits. In contrast, potential losers from reform - notably those who benefit from complexity, lack of transparency and/or corrupt practices - tend to be better organized, better networked and better resourced to oppose change. As proposed directions for reform become clearer, opponents of reform will become increasingly aware of the threat it poses to their interests and increasingly active in seeking to defend those interests.

A major challenge for the next phase of consultation and consensus building is to build an active coalition of reform supporters within civil society who are prepared to push the case for reform and serve as a counter-weight to those seeking to preserve the 'status quo'. This in turn requires a significant extension of efforts to date to engage a wide cross-section of civil society organizations in explaining the case for proposed reform directions and mobilizing their support for the reform agenda.

To build this coalition of supporters amongst 'external' stakeholders, there is a parallel need to convince them that the reform agenda under consideration is one that has the full backing of decision-makers within government. This in turn requires that the reform agenda become an integral part of the long-term LAMP rather than be seen as the product of a potentially short-lived, foreign-funded and advised, project. The next phase of consultation and consensus building must therefore also seek to fully engage the support of decision-makers within the Executive Branch and the Congress. The Task Force itself has a key role to play in this regard (see Section 6.3).

Box 9 presents a summary of the validation and consensus building plan for the proposed reform agenda. Common to all of the strategies it outlines are:

- clear identification of the costs associated with the present land administration system and the consequent need for change;
- clear communication of the proposed strategic directions for change and key reform measures together with their rationale;
- genuine opportunities for stakeholders to influence both the detailed design of reform measures and the timetable for their implementation.

It is also envisaged that external stakeholders, notably civil society organizations, would be asked to contribute to the design of mechanisms for their future involvement in monitoring and evaluating the quality of land administration

services - especially the quality of services available to the poorer sections of the community.

<b>Box 9: Summarized validation and consensus building plan for the reform agenda (September 02-March 03) <sup>7</sup></b>		
<b>Stakeholders</b>	<b>Consensus building objectives</b>	<b>Strategies</b>
1. <u>All Stakeholders</u>	<ul style="list-style-type: none"> <li>• Wider understanding of the costs associated with the present land administration system and the benefits of reform</li> <li>• Knowledge/understanding of the key reform directions to be pursued by the Government</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation/dissemination of targeted, reader-friendly statements outlining and explaining agreed strategic reform directions and their benefits</li> <li>• Policy statements by the political leadership</li> </ul>
2. <u>Decision-makers within the Executive Branch and Congress</u>	<ul style="list-style-type: none"> <li>• 'Ownership' and committed advocacy of the reform program</li> <li>• Continued involvement and active support of the policy study lead agencies in/for reform implementation</li> <li>• Identification of potential sponsors/supporters of reform legislation within the Congress</li> </ul>	<ul style="list-style-type: none"> <li>• Secure Task Force support and agreement for reform directions and key reform measures</li> <li>• Full support and assistance as required for Task Force presentations to decision-makers including relevant members/committees of the Congress</li> <li>• Regular briefings of central departments/agencies on implementation planning and progress</li> </ul>
3. <u>Civil Society</u>	<ul style="list-style-type: none"> <li>• Improved understanding of the present land administration system and the need for its reform</li> <li>• Improved understanding of the ways in which reform will improve the lives of the urban and rural poor and help alleviate poverty</li> </ul>	<ul style="list-style-type: none"> <li>• Participation of civil society organizations (CSOs) in detailed reform design through the Basic Sector Councils of the National Anti-Poverty Commission</li> <li>• Support for CSO participation in capacity-building and consultation workshops</li> </ul>
4. <u>Local government</u>	<ul style="list-style-type: none"> <li>• Local government support for land valuation and taxation reforms</li> <li>• Local government participation in the detailed design and implementation of land valuation and taxation reform initiatives</li> </ul>	<ul style="list-style-type: none"> <li>• Presentations/briefings for, and policy dialogue with, the Leagues of Provinces, Cities and Municipalities.</li> <li>• Develop/access a representative cross-section of local governments via workshop(s)</li> </ul>
5. <u>The private sector</u>	<ul style="list-style-type: none"> <li>• Support from private sector business leaders for the land administration reform program</li> <li>• Active participation by land-related professional groups in the detailed design and implementation of institutional, legal and valuation reforms</li> </ul>	<ul style="list-style-type: none"> <li>• Identify opportunities for targeted briefing presentations to peak business groups</li> <li>• Maintain and deepen links with professional groups formed during policy studies</li> </ul>
6. <u>Land administration agencies &amp; Judiciary</u>	<ul style="list-style-type: none"> <li>• Willing and active participation in detailed design and implementation of reform measures</li> </ul>	<ul style="list-style-type: none"> <li>• Executive endorsement of key reform measures</li> <li>• Full consultation in implementation planning</li> </ul>

<sup>7</sup> Further details are provided in the PA-LAMP Consensus Building Plan for Policy Development and the Stakeholder Assessment undertaken for the Institutional Arrangements Policy Study (July 2002).

### 6.3 Prerequisites for successful implementation

There are two important prerequisites for successful implementation of the next phase of consultation and consensus building:

- agreement to, and public endorsement of, the strategic directions for reform of the land administration system;
- authoritative leadership of strategy implementation.

#### *Public endorsement of strategic directions:*

The initial consultation phase has focused upon problem identification and suggestions for reform at a relatively broad level. To be productive, the next phase of consultation must focus on the specific reform proposals arising from the policy studies. Stakeholders will want to know the status of these reform proposals. In communicating this to stakeholders a balance needs to be struck between the setting of clear directions and the need to avoid pre-empting the outcome of further consultations.

It would be premature to indicate that the Government is firmly committed to all recommendations arising from the policy studies and a fixed timetable for their implementation, not least because this would call into question whether further consultation with stakeholders would serve any useful purpose from their perspective.

It would be equally unwise, however, to indicate that the reform proposals emerging from the policy studies have no official status or endorsement by the Government pending further consultation. Supporters of reform might well see that as an excuse for inaction. It would diminish the incentive for stakeholders to take the prospect of reform seriously and to focus on the specifics of proposed reform measures. It would also suggest to affected agencies within government that no inputs need be made to implementation work (e.g. the preparation of draft legislation, preparation of detailed transition plans to establish a single land administration agency) pending the outcome of further consultations.

To set the framework for further consultation and consensus building it is proposed that, following consideration of this report, the Government announce publicly:

- its commitment to the proposed strategic directions;
- its commitment in-principle to the following key measures:
  - establishment of a single Land Administration Authority (including a central appraisal unit for valuations)
  - abolition of judicial processes for issue and registration of land titles
  - removal of disincentives to formal registration of title transfers
  - reducing the tax burden on property transactions<sup>8</sup>

---

<sup>8</sup> Any announcements regarding specific taxation measures, as distinct from general policy directions, should be concurrent with the effectivity of the tax change in question.

- development of a single valuation basis for all real property taxation;
- its commitment to further widespread consultation on the methods and timing of giving effect to these directions and core measures, and on the many other recommendations of the policy studies.

This public announcement could take the form of a high-profile policy statement on land administration reform. Consideration could also be given to building on such a policy statement, in due course, by the incorporation of agreed strategic directions in reform legislation setting a framework for implementation action.

At the earliest opportunity, the present land administration agencies should be left in no doubt as to the Government's resolve to establish a new land administration agency. This is essential if their vital contributions to implementation planning for establishment of the new agency are to be forthcoming.

The Integration Report's recommendations, as presented in the Executive Summary, incorporate this overall approach.

*Leadership of future consultation and consensus building:*

The next phase of consultation and consensus building must be, and be seen to be, actively driven and steered by decision-makers within government if it is to have credibility. This raises the related, but wider, issue of future arrangements for overall leadership and management of the reform program.

It is proposed that the Task Force consider its future role in this regard, including the needs it may have for dedicated secretariat resources to service Task Force members effectively during the next phase of consultation and consensus building. Consideration should also be given as to whether, in the coming months, the present Task Force might need to evolve more formal arrangements enabling it - or a successor body - to mobilize government resources and oversee activities to implement agreed reform objectives.

The experience of major public sector reform programs generally is that the most successful outcomes are achieved by:

- firm and publicly-articulated commitment by government to specific reform directions; allied with
- flexibility and pragmatism in the design of reform details and timetables, including a genuine preparedness to finalize details and timetables in the light of wide consultation.

The next phase of consultation and consensus building, as proposed here, aims to incorporate both features.

## 7. ACTION PLAN

### 7.1 Context

This report has addressed strategic directions and key recommendations for the reform of the land administration system. While these entail major changes in laws, institutional arrangements and operating procedures neither the extent nor the timing of action necessary to implement them can be specified in any great detail at this stage.

The extent of implementation action required will obviously depend on the Government's decisions on this report. It will also be influenced by any significant requirements for additional work arising from the forthcoming consultation and consensus building phase.

The timing of implementation action will be influenced significantly in several cases by requirements for preparation and passage through the Congress of legislative amendments. Implementation timetables will also need to be considered in concert with the design of future phases of the LAMP, and resource requirements and availability for the implementation of recommendations.

The following is merely an outline plan of action. Timing of action foreshadowed for the period beyond March 2003 is particularly problematic at this stage.

### 7.2 Outline action plan

Three categories of action would follow consideration and adoption of this report's proposals:

- action to clarify arrangements for future leadership and management of the reform agenda, especially in the period prior to establishment of the proposed Land Administration Authority;
- action to proceed concurrently with the next phase of consultation and consensus building (Section 6) and implementation of the initial reform measures proposed by this report;
- action to take stock of the many other recommendations contained in the four policy studies and to determine whether and how they might be implemented.

The need for Task Force consideration of future arrangements for leadership of the reform agenda has already been addressed (Section 6.3). As noted, this consideration should extend to future arrangements for the support of the Task Force in its leadership role, including the future contribution to be made by the PMO in this regard.

An outline action plan for implementation of the initial reform measures proposed by this report is provided in Box 10 (next pages).

**BOX 10: INDICATIVE ACTION PLAN FOR CORE RECOMMENDATIONS**

<b>Recommendation</b>	<b>September '02 – March '03</b>	<b>April '03 – March '05</b>	<b>Longer-term (after March '05)</b>
<p>1. The roles, functions and services of LMB/LMS, LRA and NAMRIA should be undertaken by a single Land Administration Authority (LAA).</p>	<ul style="list-style-type: none"> <li>• Convene working party to prepare draft legislation (if required) or a draft Executive Order to establish LAA, comprising OP (Chair), DBM, DOJ, NEDA, HUDCC, DAR, and PMO, co-opting officers of LMB, LRA &amp; NAMRIA as necessary</li> <li>• Convene working party to prepare strategy and implementation plan for transfers of functions, staff and funding to LAA, comprising OP (Chair), DBM and PMO, co-opting officers of LMB, LRA &amp; NAMRIA as necessary</li> <li>• Convene working party to prepare a draft Service Level Agreement for future delivery of land titling activities by the LAA, comprising DBM (Chair), PMO, and other officers co-opted as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• Legislation (if required) introduced to the Congress by June '03</li> <li>• Legislation (if required) passed by Congress by December '03</li> <li>• LAA Board appointed and transfers commence by March Quarter '04</li> <li>• Draft Service Level Agreement completed and ready for consideration by inaugural LAA Board when appointed</li> <li>• LAA fully operational by March Quarter '05</li> </ul>	<ul style="list-style-type: none"> <li>• LAA structures, operating procedures, regional service centers and cost recovery systems fully implemented and tested by end-2007</li> <li>• Strategic review of options for further institutional reform undertaken in 2008</li> </ul>
<p>2. A Central Appraisal Unit should be established within the LAA for the regulation of valuation standards.</p>	<ul style="list-style-type: none"> <li>• Establish interim Unit within Bureau of Local Government Finance (BLGF)</li> <li>• Include planning for longer-term arrangements as part of action on (1)</li> </ul>	<ul style="list-style-type: none"> <li>• Interim Unit to prepare, by June '03, a five year 'corporate plan' addressing future work programs and their resourcing, notably work programs for: regulation of valuation standards; amendments to Local Government Code provisions relating to valuations and Assessors; and support for strengthening of appraisal profession</li> </ul>	<ul style="list-style-type: none"> <li>• Not applicable at this stage</li> </ul>

**BOX 10: INDICATIVE ACTION PLAN FOR CORE RECOMMENDATIONS (continued)**

Recommendation	September '02 – March '03	April '03 – March '05	Longer-term (after March '05)
<p>3. Court processes for confirmation of incomplete &amp; imperfect titles should cease and be replaced with simple administrative processes.</p> <p>4. Titles to land should be based on possession for the same period as provided for by the Civil Code.</p>	<ul style="list-style-type: none"> <li>Establish a drafting committee to prepare legislative amendments comprising DOJ (Chair), DENR, LRA, PMO and serviced by the UP's Institute of Government Law Reform</li> <li>Develop proposed procedures for simple administrative processes</li> </ul>	<ul style="list-style-type: none"> <li>Legislation drafted and introduced to the Congress by December '03</li> <li>Operational procedures and training programs for new administrative processes finalized by December '03</li> <li>Legislation passed by Congress by September Quarter '04</li> <li>Phase-out of Court processes and their replacement by administrative processes commences January '05</li> </ul>	<ul style="list-style-type: none"> <li>Residual cases before the Courts largely dealt with by end-2007</li> <li>LAA administers all future titling/registration matters</li> </ul>
<p>5. The current rate of Capital Gains Tax on property transactions should be halved and the future of CGT and Documentary Stamp Tax reviewed in two years' time with a view to possibly exempting property transactions from these two taxes.</p>	<ul style="list-style-type: none"> <li>Prepare legislative amendment to halve the rate of Capital Gains Tax and introduce it to the Congress (DOF)</li> </ul>	<ul style="list-style-type: none"> <li>Monitor impact of halving CGT rate on title transfers and CGT revenues (DOF)</li> <li>Establish Review Committee by end-2004 to review possible abolition of Capital Gains Tax, and Documentary Stamp Tax, and to consider possibilities for increases in Real Property Tax and Transfer Tax</li> </ul>	<ul style="list-style-type: none"> <li>Subject to outcome of Review</li> </ul>
<p>6. The requirement for payment of real property taxes as a prerequisite for registration of transfers of titles should be removed.</p>	<ul style="list-style-type: none"> <li>Establish working party to draft required legislative amendments comprising DOJ (Chair), DOF, LRA, UP Law Center, PMO</li> </ul>	<ul style="list-style-type: none"> <li>Legislative amendments drafted and introduced to Congress by March '03</li> <li>Legislative amendments passed by Congress by December '03</li> </ul>	<ul style="list-style-type: none"> <li>Monitor the impact of the change on transfer registrations and revenues</li> </ul>
<p>7. One market-based land valuation system should be developed and implemented for all real property taxation purposes.</p>	<ul style="list-style-type: none"> <li>Establish working party chaired by DOF, including interim central appraisal unit within BLGF, for development of implementation strategy and technical details</li> </ul>	<ul style="list-style-type: none"> <li>Working party to report to Government by end-June '03</li> <li>Further action contingent on working party proposals and Government decisions thereon</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable at this stage</li> </ul>

As regards recommendations of the four policy studies that have not been explicitly addressed by this report, a number of these address matters consequential to the studies' principal recommendations. However, a mechanism is needed to ensure that all recommendations are duly considered and actioned as appropriate, including through further consultation with stakeholders where relevant.

It is recommended the LAMP Project Management Office coordinate arrangements for consideration by stakeholders of these other policy study recommendations, and that it present a report to the Task Force no later than end-March 2003 on action taken or proposed to implement them.

### **7.3 Technical assistance considerations**

Explicitly or implicitly each of the policy studies has identified areas in which technical assistance might potentially contribute to further development and implementation of this report's recommendations. Whether such assistance is, in fact, required is a matter for consideration by the Philippines authorities in the first instance having regard to decisions arising from this report. Thus no recommendations are made at this stage in respect of future technical assistance.

Some funds for the provision of technical assistance under the present PA-LAMP remain unallocated at this stage. Future requests for technical assistance would be considered in this context and/or in the context of the design for the next phase of the LAMP.