



*Republic of the Philippines*  
*Department of Environment and Natural Resources*

# **LAMP, PROTOTYPE 1**

## **OUTPUT 2.2, ACTIVITY 21**

### **SYSTEMATIC REGISTRATION FINAL REPORT**

**December 2002**

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**REPORT C9**



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## **Executive summary**

The report sets out the progress by the Systematic Registration Adviser in Activity 21 against both the terms of reference of the Adviser and the design of Output 2.2 in the Annual Plan.

The Adviser was required to assist PIO 1 to implement mass judicial titling using free patents and to assist in the design of methodology, field procedures, documentation and training. The aim was to be ready to commence fieldwork for the issue of free patents as soon as the new law became operative, which was expected in October 2002. The law reviving free patents was signed by the President on 13 November 2002 but will not become operative until gazettal.

In preparation for the commencement of the new laws, processes for sporadic free patents were examined and adapted for mass [systematic] titling techniques in consultation with stakeholders. An Operations Manual for Free Patents under mass titling techniques was drafted, reviewed and evaluated at an orientation day workshop on 3 December 2002.

Some ways of streamlining free patent processes were identified during this review period, and were adopted. For example, the base camp can collect relevant evidence in advance of interviews, and CENRO can undertake a partial pre-verification for the locality, confirming that the land is not subject to an existing patent, patent application, dispute or competing claim. Other potential ways for streamlining were identified. However, these will require a new regulation, and therefore a draft letter to the regulation committee has been prepared. One of the difficulties is that LAMP is perceived as a temporary structure and this restricts its ability to introduce major changes in processes.

Two field tests were developed. The first, to commence in December 2002, is to provide a link with existing pending patents in the target barangays. The aim is to assess the status of existing applications that have not been completed, and to help collect lacking evidence. The aim is to revitalize these lapsed applications, and to generate titles as quickly as possible. The second field test is to process new applications by systematic registration, commencing as soon as the new law becomes operative. Full field processes will be undertaken, reviewed and evaluated at the start of Activity 25.

By way of training, a basecamp clerks/deputy public land inspectors orientation day was conducted on 3 December 2002. A training day for barangay representatives is scheduled for 11 December 2002.

The Adviser was also required to assist PIO 1 to conduct a review of judicial titling and to document the outcomes. The adviser helped PIO 1 to design and conduct a mid-term review of judicial titling in September 2002. This has been separately reported. The adviser also conducted a further review of the judicial titling pilots and reported on this in October 2002. The report was circulated and reviewed by field staff.

The judicial titling pilots are progressing and should be producing certificates of title by March 2003. It will then be appropriate to conduct a complete review of the total process in consultation with all stakeholders. A strategy for this major review was developed during Activity 11.

A further review of judicial titling was conducted at a workshop on 6 December 2002. The aim was to help the Systematic Registration Manager to complete the annual review of production in order to prepare for the project's yearly review and planning meeting. A number of issues, mainly associated with the management of systematic registration, were raised. Reporting forms were also amended.

The Adviser was required to describe better mass land titling procedures at a workshop. The Adviser presented options in land titling at the workshop for the Geodetic Engineers Association of the Philippines conducted on 11 and 12 November 2002. This described the advantages and disadvantages of existing options and potential improvements.

The Adviser also presented on future land titling options in the Philippines at the Local Advisory Group [LAG] on 21 November 2002. The LAG passed a resolution calling on LAMP to begin the circulation of the reform concepts commencing in the Provinces of Leyte and then visiting neighboring provinces in early 2003. A programme for the workshops is to be settled by the LAG at a special meeting to be conducted on 12 December 2002.

The Adviser and the Administrative Titling Adviser presented at the regional workshop on 2 December 2002 on the topic of Orientation to Land Titling Options. The participants included PIO 1 staff and regional representatives of the Registry of Deeds, PENRO and CENRO. Feedback was received.

The Adviser was required to make a final report on free patent and judicial titling procedures, setting out an evaluation of the potential of each for improvement under the existing laws. This report contains an evaluation of both the judicial and administrative land titling options. It sets out the advantages and disadvantages of each approach and potential for improvements.

One of the areas requiring improvement for both administrative and judicial titling is in the implementation of training. Chapter 3 of the report provides an overview of the main tasks and subtasks in systematic registration. This background material provides a basis for the development of an integrated training programme. It identifies the following short-term training needs:

- To formalise the training programme and make it more integrated
- To develop one comprehensive training programme that combines theory and field practice
- To establish a single training package of up to three weeks
- To package all existing training material to support the comprehensive programme and to identify other required material
- To identify specialists who can become trainers and provide them with instruction in the delivery of training
- To establish appropriate base camps as training locations for on-the-job experience.

The report sets out the next steps to be taken to meet the needs in the short-term and to ensure proper preparation for an expanded land titling programme in Phase II.

In addition to providing assistance in setting up and testing field processes, the adviser was also required to evaluate the suitability of land titling options and to raise options for enhancement that could benefit an expanded land titling programme. Chapter 4 of the report examines judicial titling. It sets out the reasons for the delay in the issue of titles, which were expected in December 2002 but will not be available until March 2003. It examines whether the delays are simply set-up problems peculiar to the first pilot or are likely to be encountered when the pilot moves into new areas. It illustrates how the judicial process is not fully within the control of the prototype but is dependent on a number of agencies, a factor that results in a slow process. It compares the capacity of field staff in the prototype with equivalent projects in Thailand and Indonesia, to illustrate how the field staff in Leyte have very limited power in the titling process compared to their counterparts overseas.

The report highlights how judicial titling documentation must undergo multiple reviews by lawyers and ultimately by the court. The prototype has benefited from excellent support from the judiciary and court staff in Leyte. Such support will be a key factor in other locations if this is to prove to be a viable option. The report concludes that it will take 12 months for a title to issue by judicial proceedings.

One of the key needs in the judicial titling pilots is for the effective management of the base camps. The prototype has delegated this function to the Systematic Adjudication Team Leaders, managed by the Systematic Registration Manager. The reviews of judicial titling have stressed the need for the Systematic Adjudication Team Leaders to be proactive in identifying and resolving issues that prevent efficiency. One of the features of the prototype has been the large

number of review workshops where issues are identified by brainstorming. However, these may have the appearance of relieving the Systematic Adjudication Team Leaders of responsibility for solving problems. A number of management issues to be examined by the Systematic Adjudication Team Leaders are listed, to ensure the smooth management of field processes. The importance of setting and reviewing weekly work targets and activities for each staff member on the team is key in keeping staff focused on the achievement of specific outcomes.

In evaluating judicial titling as an option for an expanded Phase II land titling programme, the report examines a number of its advantages and disadvantages. It is the only land titling option that applies to all land types and produces a title that is free of restrictions on subsequent transactions. However its main drawback is that its procedures are detailed, technical and time-consuming, resulting in a delay of up to 12 months in the issue of titles.

Chapter 5 examines progress in the free patent development. It sets out changes to the existing procedures that have already been accepted by stakeholders for the mass titling programme. It also examines options for achieving even greater efficiencies if an appropriate administrative order is made. The order could clarify a number of issues, permitting greater efficiency. For example, the uncertainty about the payment of taxes could be removed; the notice period could be reduced from 45 to 30 days; the question about constructive or actual occupation could be answered; the capacity of the claimant to rely on unregistered deeds could be confirmed; the type of evidence required can be explained; the pre-requisites for the posting of notices can be clarified and the approval processes can also be simplified.

In evaluating free patents, one significant attraction is that titles can issue in half the time taken by judicial titling, because only one agency is involved.

The major drawbacks are that it applies only to agricultural land and results in a title that restricts subsequent sales and mortgages for a period of five years. The report highlights that the approval process for free patents is unduly complicated, with the application passing through five levels of the organisation before being signed. There is potential for a time saving by removing unnecessary bureaucratic levels.

Chapter 6 examines potential enhancements to both Judicial Titling and Free Patent to make them more streamlined. For the sake of completeness, it also examines Miscellaneous Sales Patents and Homestead Patents, although neither is considered to be a viable platform for a mass land titling programme. Options for simplifying processes are tabulated, together with a review of whether the change can be introduced administratively or requires amending legislation. A major disadvantage suffered by both options is the long period of occupation to be proven for land - 57 years for judicial titling and 42 years for free patent. The process can be simplified by changing the possession period to 10 years, to bring it into line with the Civil Code.

It is interesting to note that the free patent process is already simpler than judicial titling and yet it is capable of further simplification by administrative action. By comparison, most changes to judicial titling require legislation.

Both administrative and judicial titling have strengths and weaknesses. Neither is the perfect option for Phase II. What is needed is an administrative titling option that combines the strengths of both.

The report makes some recommendations. The administrative titling process is preferred over the judicial approach. However, for the early part of Phase II, it is suggested that a combination of free patents for agricultural land and judicial titling for residential land be used. In the later part of Phase II, given political commitment to legislate a more effective legal basis for the programme, a single land titling option can be introduced. Features of this option are set out in the report. It will be administrative, based on proof of 10 years' possession, apply to all land types and will issue a title without restrictions on subsequent transactions.

The report is supported by various attachments. The first is a summary paper of land titling options under the existing law. The second, third and fourth are tables setting out criteria for the evaluation and comparison of land titling options. Some aspects of these will be useful in the field visits in Activity 25, when the systems in Lao and Thailand can be compared with the Philippines. Some aspects will be used in Activity 25 to evaluate the land titling options identified in Activity 21.

## 1. Introduction

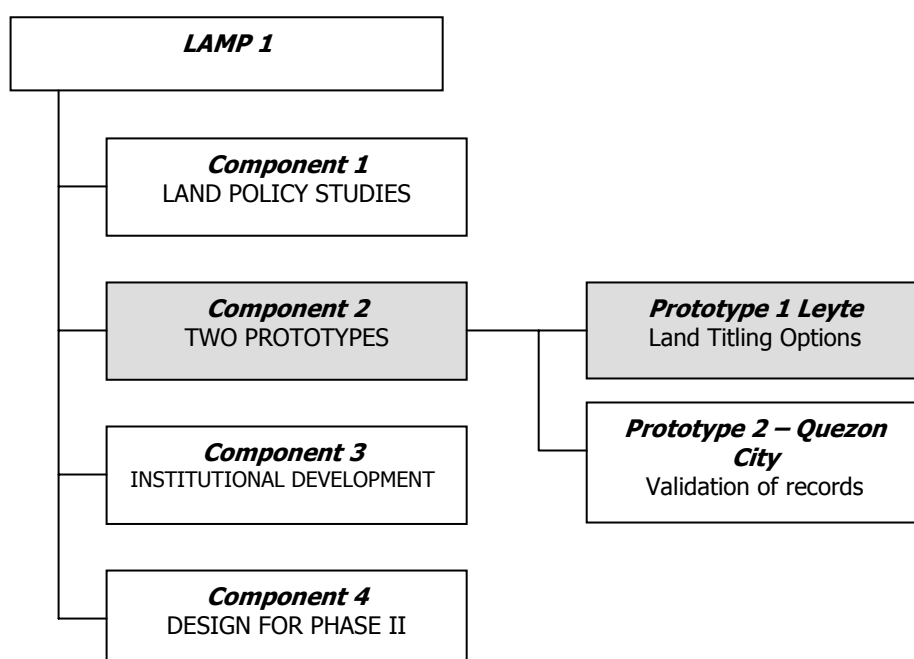
### 1.1 Context of PIO 1 in LAMP

This chapter describes the context of Adviser support to Prototype 1 during Activity 21, for the period July to December 2002.

The Land Administration and Management Project [LAMP] is part of the government's initiatives to alleviate poverty by improving security of land tenure and to sustain economic growth by fostering efficient land markets in rural and urban areas. The objectives of the project are to test alternative approaches in accelerated land titling programmes and to build a sound policy and institutional foundation for the implementation of the long-term land administration and management programme. The expected outputs are clear, coherent and consistent policies and laws for: an accelerated land titling programme to formally recognise and protect rights in land; for an efficient and effective land administration system; and for a functioning land market in urban and rural areas.

LAMP 1 is based on a Learning and Innovation loan by the World Bank, permitting the project to study the legal, institutional and procedural complexities in land administration. This will highlight strengths and weaknesses in the present arrangements and will assist DENR to identify options for proceeding with the longer-term project. The following diagram illustrates the structure of LAMP in relation to the Prototype 1 Office, where the adviser is situated.

*Diagram: Structure of the Project and role of PIO 1*



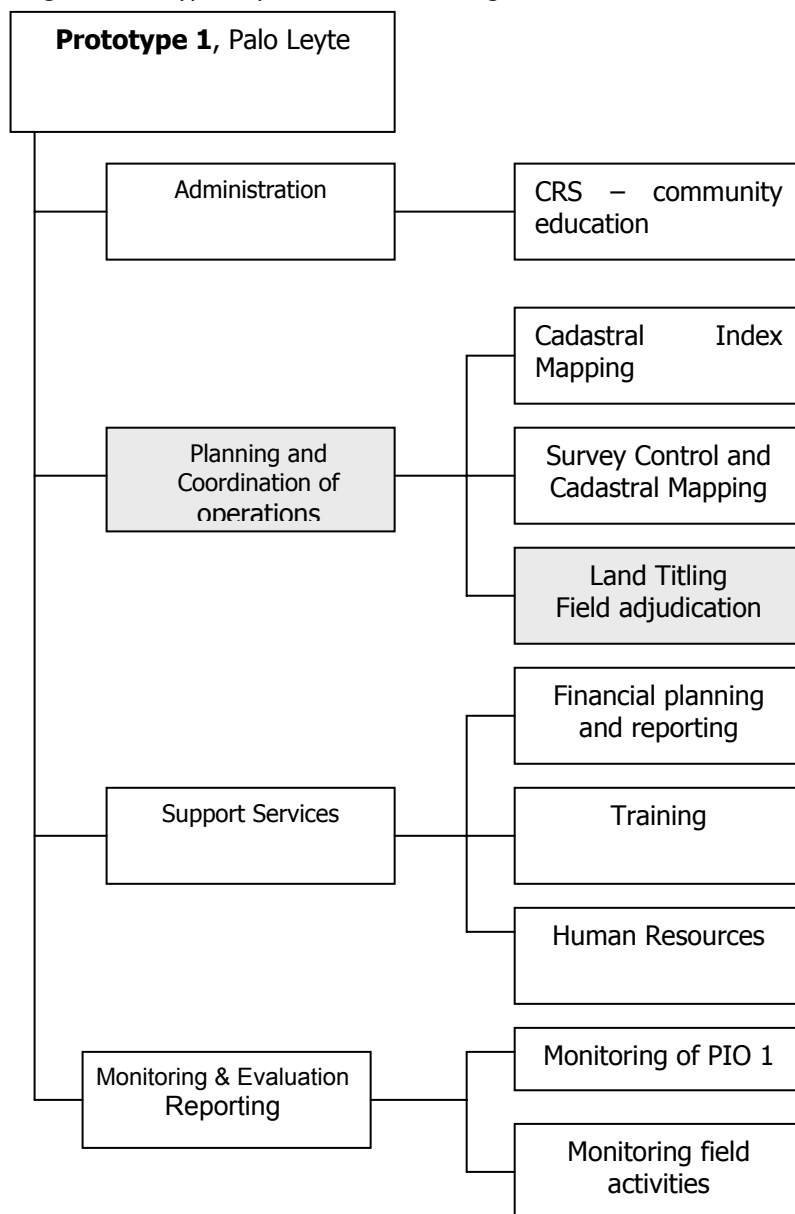
### 1.2 The context of the Technical Assistance Activities in Prototype One Implementation Office (PIO 1)

Prototype 1, situated in Leyte, focuses on developing and testing new procedures in land titling and establishing an operational One Stop Shop, where all land-related services to the community can be situated. During Output 2.2 of LAMP, the prototype will, by pilot studies, field tests and analysis of laws, consider options for improving land titling procedures. The aim is to develop a streamlined, effective, community-accepted land titling procedure that is capable of widespread implementation in Phase II. By way of comparison, Prototype 2, situated in Quezon City, focuses

on improving land records, validating titles, identifying fake/ duplicate titles and testing the One Stop Shop concept in an urban environment.

In Output 2.2, Technical Assistance support is given to land titling functions of PIO 1. The operational areas of PIO 1 impacting on titling functions can be illustrated as follows:

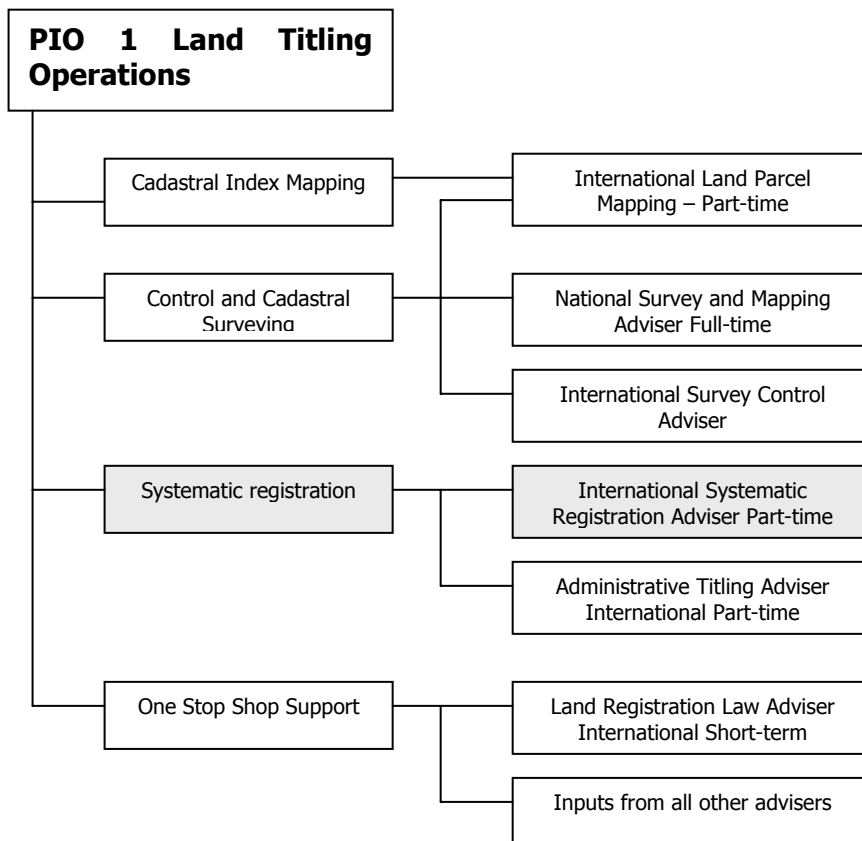
*Diagram: Prototype 1 operations in land titling*



### 1.3 The context of the systematic registration activity

The following diagram illustrates Technical Assistance support for PIO 1 in Activity 21.

Diagram: The context of TA inputs into Activity 21



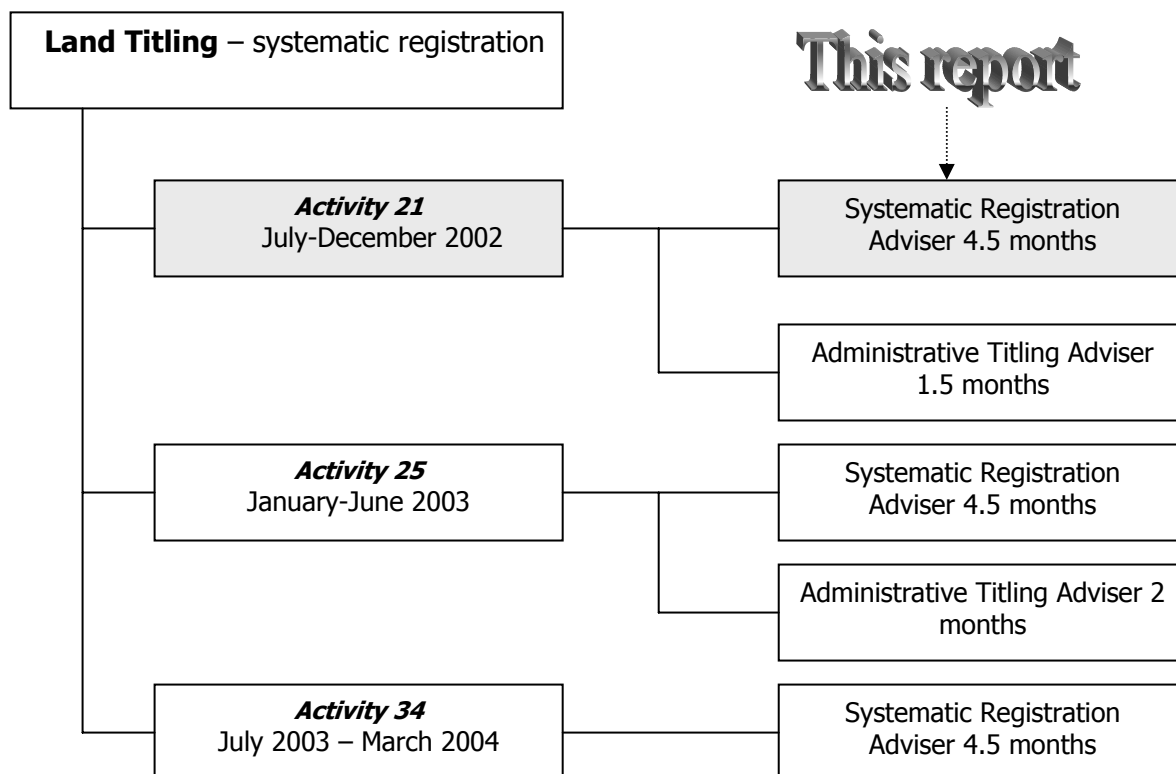
In October 2002 AusAID approved changes to the structure of adviser support for systematic registration in Output 2.2. This included the allocation of an additional 3.5 months' input to be given during Activities 21 and 25. This additional input is being provided by the Administrative Titling Adviser.

As a result of the contract changes referred to above, and because of the delay in the mobilisation of the Administrative Titling Adviser, it was necessary to restructure inputs from the Systematic Registration Adviser and the Administrative Titling Adviser. The restructure is set out in the following Table:

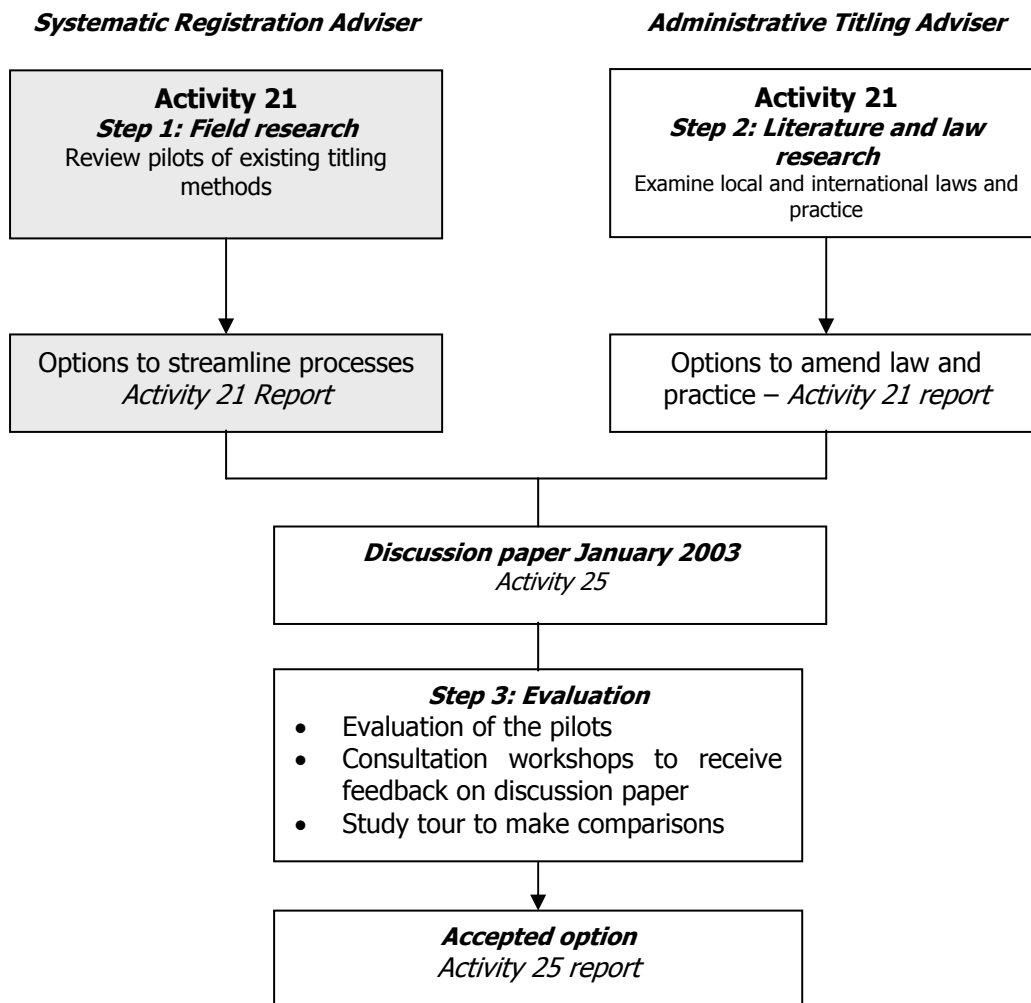
Table: Structure of TA inputs into systematic registration in Output 2.2

<b>Activity</b>	<b>Systematic Registration Adviser</b>	<b>Administrative Titling Adviser</b>
<b>21</b>	<ul style="list-style-type: none"> <li>Support for the review of Judicial Titling</li> <li>Establish free patent pilot and processes</li> <li>Identify institutional and procedural strengths and weaknesses of land titling options under the existing laws</li> <li>Criteria for evaluating land titling options</li> <li>Participate in workshops and prepare reports</li> </ul>	<ul style="list-style-type: none"> <li>Review international laws and project experience. Drawing on that research and on the law in the Philippines, identify options for accelerating land titling, their advantages and disadvantages</li> <li>Inputs into free patent training</li> <li>Workshop</li> <li>Report on the impact of international experience and its potential impact in the Philippines</li> </ul>
<b>25</b>	<ul style="list-style-type: none"> <li>Assist PIO 1 to complete community assessment of Judicial Titling</li> <li>Maintain support for the management of judicial titling pilots</li> <li>Continue support for the implementation of free patents</li> <li>Develop evaluation methodology for free patents</li> <li>Workshops to evaluate land titling options</li> </ul>	<ul style="list-style-type: none"> <li>Evaluation of options for accelerating land titling, to be undertaken at workshops and in consultation with stakeholders</li> </ul>

The inputs into systematic registration have been structured as follows:



The following diagram illustrates how the Systematic Registration Adviser and Administrative Titling Adviser combine to produce the desired outcomes in Output 2.2.



#### 1.4 Terms of reference of the Systematic Registration Adviser

The specific terms of reference of the Systematic Registration Adviser for Activity 21 are to:

- (i) Assist PIO 1 to implement the mass titling by Free Patent Titling, including design of methodology, development of field procedures, documentation and training.
- (ii) Assist the PIO 1 to evaluate judicial titling and document the lessons.
- (iii) Describe better mass titling approaches that could be implemented under the existing laws. Present at workshop and report.
- (iv) Assist the PIO 1 to fully appreciate other approaches to mass land titling that are used in other countries. Input to the research study. (Note that this is the main responsibility of the Administrative Titling adviser).
- (v) Make a final report on free patent titling progress and lessons, judicial evaluation and lessons, potential improvement under the existing laws.
- (vi) Coordinate the compilation of an executive summary of all inputs of TA into this deliverable, by end third week January 2003.
- (vii) Assist the Australian Project Director in the co-ordination of activities in Leyte and the interaction with PIO 1.

This report principally covers items (i) – (v) but it also touches on item (vii).

## 2. Progress by Systematic Registration Adviser against Terms of Reference

### 2.1 Summary of Progress

A total of 4.5 months of input was provided by the Systematic Registration Adviser during Activity 21. The following Table reflects outcomes:

Table:

<b>TOR</b>	<b>Requirement</b>	<b>Achievements and Reports available</b>
<b>1</b>	<p><b>Develop pilot methodologies for free patents</b> - Assist PIO1 to implement the mass titling by Free Patent Titling, including design of methodology, development of field procedures, documentation and training.</p>	<p><i>The new law reviving free patents was signed by the President on 13 November 2002 and will now be gazetted. It will become operative following gazettal. In preparation for the commencement of the new laws:</i></p> <p>Two workshops were conducted with CENRO ROD and PENRO to design processes and address issues.</p> <p>An Operations Manual for Free Patents was drafted, reviewed and evaluated at an orientation day workshop on 3 December 2002. Further inputs were included in the Manual. Further consultation with CENRO, PENRO, ROD and MARO occurred during the workshop.</p> <p>Potential ways of streamlining processes were identified with stakeholders and these have been included in the new processes. Other potential ways for streamlining were identified. However, these will require a new regulation and a draft letter to the regulation committee has been prepared.</p> <p>Two field tests were developed to commence in December 2002. The first is to provide a link with existing pending patents in the target barangays. The aim is to assess the status of existing applications that have not been completed and to help collect lacking evidence. The second field test is to process new applications, commencing as soon as the new law becomes operative in December 2002. Full field processes will be undertaken, reviewed and evaluated at the start of Activity 25.</p> <p>A base camp clerks/deputy public land inspectors orientation day was conducted on 3 December 2002.</p> <p>Training for barangay representatives is scheduled for 11 December 2002.</p> <p>The following should be completed in Activity 25:</p> <ul style="list-style-type: none"> <li>• Conclude and evaluate the two field tests and revise procedures</li> <li>• Full implementation of free patents by systematic registration in San Miguel and Alang Alang.</li> <li>• Drafting a regulation setting out the procedures for systematic free patents applications and processing.</li> <li>• Strategy for major review and evaluation of free patent processes.</li> </ul>

<b>TOR</b>	<b>Requirement</b>	<b>Achievements and Reports available</b>
<b>2</b>	<p><b>PIO 1 to conduct an evaluation of judicial titling</b> - Assist the PIO1 to evaluate judicial titling and document the lessons.</p>	<p><i>The adviser helped PIO 1 to design and conduct a mid-term review of Judicial Titling in September 2002. This has been separately reported.</i></p> <p><i>The adviser also conducted a review of the judicial titling pilots and reported on this in October 2002. The report was circulated and was reviewed by field staff.</i></p> <p><i>The Judicial Titling pilots are progressing and should be producing certificates of title by March 2003. It will then be appropriate to conduct a complete review in consultation with all stakeholders. A strategy for this major review was developed during Activity 11. In the meantime this report also updates the evaluation of Judicial Titling – see below.</i></p> <p><i>A further review of Judicial Titling was conducted on 6 December 2002. The aim was to help the Systematic Registration Coordinator to complete the quarterly review of production in order to prepare for the project's annual review and planning meetings. A number of issues, mainly associated with the management of systematic registration, were raised. Reporting forms were also amended.</i></p>
<b>3</b>	<p><b>Workshop</b> - Describe better mass titling approaches that could be implemented under the existing laws. Present at workshop and report.</p>	<ul style="list-style-type: none"> <li>• The Adviser presented options in land titling at the workshop for the Geodetic Engineers Association of the Philippines conducted on 11 and 12 November 2002. This described the advantages and disadvantages of existing options and potential improvements. No feedback was received.</li> <li>• The adviser presented on future land titling options in the Philippines at the Local Advisory Group [LAG] on 21 November 2002. The LAG passed a resolution calling on LAMP to begin the circulation of the reform concepts commencing in the Provinces of Leyte and then visiting neighboring provinces in early 2003. A programme for the workshops is to be settled by the LAG at a special meeting to be conducted on 12 December 2002. The LAG will participate in future meetings of the Presidential Task Force. It is seeking a more significant role in developing stakeholder support and lobbying for reform in Activity 25.</li> <li>• The Adviser and the Administrative Titling Adviser presented at the regional workshop on 2 December 2002 on the topic of Orientation to Land Titling Options. The participants included PIO 1 staff and regional representatives of the Registry of Deeds, PENRO and CENRO. Feedback was received.</li> </ul> <p><i>Activities to be completed in Activity 25: In consultation with the PIO 1 LAG, various consultation workshops will be conducted commencing in the province and then extending to adjoining provinces. The aim is to receive expert feedback and to generate support for amendments to facilitate land titling in Phase II.</i></p>

<b>TOR</b>	<b>Requirement</b>	<b>Achievements and Reports available</b>
<b>4</b>	<b>Inputs into research by Administrative Titling Adviser</b> - Assist the PIO1 to fully appreciate other approaches to mass land titling that are used in other countries. Input to the research study. (Note that this is the main responsibility of the Administrative Titling adviser).	The main inputs into the research by the Administrative Titling Adviser was in obtaining research materials and samples from other jurisdictions. The adviser also developed a suggested matrix of issues for the adviser to review and participated in a joint workshop to present a vision for the future, focusing on a legal framework to support an expanded land titling programme.
<b>5</b>	<b>Final report</b> - Make a final report on free patent titling progress and lessons, judicial evaluation and lessons, potential improvement under the existing laws.	This report
<b>6</b>	<b>Summary report</b> - Coordinate the compilation of an executive summary of all inputs of TA into this deliverable, by end third week January 2003	Summary report for AusAID to be compiled by mid-January 2003  An introductory chapter was circulated to advisers in November. A first draft of the joint report is scheduled for circulation in PIO 1 on 12 December 2002.
<b>7</b>	<b>TA coordination</b> - Assist the Australian Project Director in the co-ordination of activities in Leyte and the interaction with PIO1.	The Adviser: <ul style="list-style-type: none"> <li>• Identified management issues and advised PIO 1 on a regular basis.</li> <li>• Participated in technical meetings.</li> <li>• Developed a design for adviser inputs into Output 2.2 and prepared a summary booklet for circulation</li> <li>• Assisted in mobilisation of other advisers</li> </ul>

## 2.2 Reports submitted/ material compiled by the adviser during Activity 21

The following reports or compilations were made available by the Adviser during Activity 21:

<b>TOR Item</b>	<b>Report</b>	<b>Progress</b>
1	<b>Free Patent Operations Manual.</b>	Initial drafts were developed. The Manual was reviewed at the free patents workshop on 3 December 2002 and various aspects were corrected to make it more accurate.
1	<b>Management tool for free patent pilots –</b>	This includes workplans for the Systematic Registration Coordinator and the Systematic Adjudication Team Leaders. It was initially circulated in November. Workplans were revised as field tests were developed.
1	<b>Management tool for judicial titling -</b>	This contains workplans etc. for the Systematic Registration Coordinator and Systematic Adjudication Team Leaders.
2	<b>Management meetings of the Systematic Registration Coordinator with the Systematic Adjudication Team Leaders</b>	This is a folder of weekly agendas/ management issues prepared by the adviser for the Systematic Registration Coordinator, providing a guide to issues to be settled at the meetings.

<b>TOR Item</b>	<b>Report</b>	<b>Progress</b>
2	<b>Judicial Titling Training and Operations Manual</b>	<i>The latest version was circulated on 7 November 2002. It was used in the training programme for new adjudicators and base camp clerks on 14, 15 November. It has been handed over to the Systematic Registration Coordinator for future updates. To assist the Systematic Registration Coordinator to keep the Manual up-to-date, all field staff were requested to review the manual. Forms were amended during the review day.</i>
2	<b>Training material for Cadastral Officer and Commissioner's Report.</b>	<i>This material was distributed to five Cadastral Officers and five Commissioners of the Court at the workshop on 15 November 2002</i>
2	<b>Progress report and lessons from judicial titling</b>	<i>The report by the Adviser was circulated in November 2002.</i>
2	<b>Judicial supplementary training manual – concept stage – not complete</b>	<i>This will compile copies of all court documents actually used in the first court action. These will be scanned into a record for distribution upon completion of the first case, to be used as a precedent for other cases.</i>
3	<b>Workshop presentation – land titling options under the existing law</b>	<i>Compilation of the presentations provided to PIO 1</i>
5	<b>Final Report for Activity 21</b>	<i>This report</i>
6	<b>Combined summary report by Advisers</b>	<i>Scheduled for delivery to PIO 1 on 12 December 2002.</i>
7	<b>Design of Output 2.2 Activities</b>	<i>Completed version circulated 11 November 2002</i>
7	<b>Management issues for PIO 1</b>	<i>Folder of weekly agendas / management issues raised by the adviser with PIO 1 during activity 21</i>
7	<b>Monthly reports</b>	<i>Submitted monthly to Project Director</i>
7	<b>CD Rom version of Activity 1 design, reports and presentations</b>	<i>Scheduled for delivery to PIO 1 on 12 December 2002, depending on availability of all reports.</i>

### 3. Introduction to systematic registration

The key purpose of systematic registration is to systematically adjudicate alienable and disposable land in order to issue titles to rightful owners of untitled land.

#### 3.1 Main tasks in systematic registration

The main tasks in systematic registration are as follows:

<b>Main Tasks</b>	<b>Sub-tasks</b>
<p><b>Systematic Registration Manager</b></p> <p><i>The Manager is concerned with the management of all resources in systematic registration and ensuring that all targets are met</i></p>	
Managing project-wide aspects of systematic registration	<ul style="list-style-type: none"> <li>✓ Management of staff resources</li> <li>✓ Recruitment of staff, ensuring that gender and merit principles are observed</li> <li>✓ Training needs, coordination</li> <li>✓ Maintenance of Operations Manuals</li> <li>✓ Managing Systematic Adjudication Team Leaders to ensure that they operate effectively as team leaders, supervisors and trainers</li> </ul>
Planning	<ul style="list-style-type: none"> <li>✓ Selecting locations</li> <li>✓ Selecting appropriate titling options</li> <li>✓ Setting targets for teams</li> <li>✓ Barangay start and completion dates</li> </ul>
Coordinating	<ul style="list-style-type: none"> <li>✓ Ensure targets are met</li> <li>✓ Resources supplied to base camps in a timely manner</li> <li>✓ Supplies supplied to base camps in a timely manner</li> <li>✓ Interaction with other agencies</li> </ul>
Ensuring quality	<ul style="list-style-type: none"> <li>✓ Ensure that a quality management process is operating effectively</li> <li>✓ Ensuring the process operates to review all outputs</li> </ul>
Reviewing and evaluating	<ul style="list-style-type: none"> <li>✓ Ensuring lessons are documented</li> <li>✓ Ensure targets are met</li> <li>✓ Identifying roadblocks, issues, problems</li> <li>✓ Revising processes to address problems</li> </ul>
Reporting	<ul style="list-style-type: none"> <li>✓ Statistical outcomes</li> <li>✓ Gender outcomes</li> <li>✓ Ensuring Regular reporting requirements met</li> <li>✓ Reporting problems, Issues, lessons learned</li> </ul>
<p><b>Systematic Adjudication Team Leaders</b></p> <p><i>The SAT Leader is principally involved in the management of the staff and resources of the base camp to ensure that all work targets are achieved</i></p>	

<b>Main Tasks</b>	<b>Sub-tasks</b>
Managing daily processes in base camps	<ul style="list-style-type: none"> <li>✓ Managing resources</li> <li>✓ Managing staff</li> <li>✓ Managing equipment etc</li> </ul>
Planning	<ul style="list-style-type: none"> <li>✓ Set target dates to achieve base camp goals</li> <li>✓ Set weekly work activities and targets for each staff member. Ensure focus on achieving specific targets</li> <li>✓ Review weekly progress against set targets to ensure outputs of the right standard are achieved at the right time</li> </ul>
Problem Solving	<ul style="list-style-type: none"> <li>✓ Identifying problems encouraged</li> <li>✓ Solving problems</li> <li>✓ Training staff in new processes</li> </ul>
Supervising daily activities	<ul style="list-style-type: none"> <li>✓ Ensure smooth operation of daily activities</li> <li>✓ Keeping systematically adjudication staff focused and productive</li> <li>✓ Recording daily and weekly outcomes</li> </ul>
Monitoring outputs to ensure targets are met	<ul style="list-style-type: none"> <li>✓ Implementing methods to track progress</li> <li>✓ Reviewing progress to ensure staff are working effectively</li> </ul>
Reporting	<ul style="list-style-type: none"> <li>✓ Daily Journal</li> <li>✓ Weekly progress reports</li> <li>✓ Monthly reports</li> <li>✓ Delivery of reports to the right staff at the right time</li> </ul>
Liaising	<ul style="list-style-type: none"> <li>✓ CRS Assistant</li> <li>✓ Barangay</li> <li>✓ Municipality</li> <li>✓ PIO 1</li> <li>✓ Court officers</li> </ul>
Developing staff	<ul style="list-style-type: none"> <li>✓ Observing needs</li> <li>✓ Developing staff</li> </ul>
Maintain Information Systems	<ul style="list-style-type: none"> <li>✓ Database for court documents</li> <li>✓ Updated database for CIM</li> </ul>
Equipment and supplies	<ul style="list-style-type: none"> <li>✓ Ensure that the base camp clerk maintains adequate stores supplies and consumables</li> </ul>
<p><b><i>Deputy Systematic Adjudication Team Leaders</i></b></p> <p><i>The deputy SAT Leader is principally concerned with managing the quality of all outputs from the adjudication team</i></p>	
Managing quality	<ul style="list-style-type: none"> <li>✓ Reviewing daily journals</li> <li>✓ Reviewing weekly progress reports</li> <li>✓ Reviewing monthly reports</li> <li>✓ Monitoring outputs by each adjudicator</li> <li>✓ Reviewing documentation to ensure quality</li> <li>✓ Developing systems to monitor quality</li> <li>✓ Ensure staff are familiar with and follow the Operations Manuals</li> <li>✓ Recommend better processes</li> </ul>

<b>Main Tasks</b>	<b>Sub-tasks</b>
<b>Adjudicators</b>	
<i>Adjudicator is principally concerned with collecting, compiling and assessing evidence to support claims and preparing recommendations for the issue of titles</i>	
Researching	<ul style="list-style-type: none"> <li>✓ Obtaining all evidence prior to commencement of interviews</li> <li>✓ Assessing the impact of the evidence on potential claims</li> </ul>
Interviewing	<ul style="list-style-type: none"> <li>✓ Identify appropriate interview method</li> <li>✓ Develop interview schedule</li> <li>✓ Interviewing claimants</li> <li>✓ Documenting the interview</li> </ul>
Inspecting	<ul style="list-style-type: none"> <li>✓ Identifying boundaries</li> <li>✓ Identifying improvements</li> <li>✓ Attitudes of neighbours to claim</li> </ul>
Preparing documents	<ul style="list-style-type: none"> <li>✓ Preparing documents required as supporting evidence</li> <li>✓ Preparing court documents</li> <li>✓ Preparing files</li> </ul>
Determining claims	<ul style="list-style-type: none"> <li>✓ Assessing sufficiency of documents</li> <li>✓ Determining that claimants are qualified</li> <li>✓ Determining what additional evidence is required</li> <li>✓ Decide the validity of claims</li> </ul>
Resolving Disputes	<ul style="list-style-type: none"> <li>✓ Determining type of dispute – barangay boundaries, between neighbours, between family members</li> <li>✓ Determining options for resolving – barangay dispute process, survey party, adjudicators</li> <li>✓ Mediate, conciliate</li> </ul>
Facilitating Court Processes	<ul style="list-style-type: none"> <li>✓ Furnishing court documents</li> <li>✓ Attending meetings with Cadastral Officer</li> <li>✓ Attending meetings with the Commissioner</li> <li>✓ Coordinating reports by the court officers</li> </ul>
Assisting the Survey Party	<ul style="list-style-type: none"> <li>✓ Boundary markers</li> <li>✓ Sketching</li> </ul>
<b>Base Camp Clerks</b>	
Encoding documents for adjudicators	<ul style="list-style-type: none"> <li>✓ Answers</li> <li>✓ Cadastral Officer's Reports</li> <li>✓ Commissioner's Reports</li> <li>✓ Supporting deeds and affidavits</li> </ul>
Encoding reports for SAT Leader	<ul style="list-style-type: none"> <li>✓ Daily Progress Report</li> <li>✓ Monthly reports</li> <li>✓ Periodical reports</li> </ul>
Maintaining filing system and all records	<ul style="list-style-type: none"> <li>✓ File for each parcel</li> <li>✓ Attendance records</li> <li>✓ Correspondence and notices</li> </ul>
Maintain database	
Maintain supplies	
Maintain the base camp during hours of operations	

<b>Main Tasks</b>	<b>Sub-tasks</b>
Support all staff as required	

The training modules for systematic registration must address the above requirements. The next steps are to:

- Develop a summary of essential and desirable knowledge and skills to perform each sub-task
- Develop training modules to address these requirements in a comprehensive way
- Determine a method of assessment - to review whether staff have the requisite knowledge and skills

### **3.2 Main systematic registration types**

<b>Land registration type</b>	<b>Details</b>
<i>Judicial titling – cadastral proceedings</i>	<i>The court issues the title Role of the adjudicator is to interview collate evidence, prepare documents for review by the cadastral officer</i>
<i>Administrative titling</i>	<i>Here the DENR issues patents The role of the adjudicator/ deputy public land inspectors is to interview and collate evidence, prepare lacking evidence, carry out the ocular inspection and to submit (i) Application for public land (ii) affidavit by Applicant (iii) Inspection report</i>

### **3.3 Training for systematic registration**

The training to date has been conducted in a fragmented way, with different training days set for specific topics. The training programme needs to equip the following:

- Systematic Registration Manager
- Systematic Adjudication Team Leaders [presently 4 but more required]
- Deputy Systematic Adjudication Team Leaders [presently nil but 4 + required]
- Adjudicators [presently 16 but more required]
- Deputy public land inspectors [presently 4 but more may be required]
- Base camp clerks
- Barangay representatives participating on the SAT

The following inefficiencies exist:

- No standard modules have been developed
- No standard trainers have been appointed
- No set training material
- Each time training is required, the Training Coordinator is dependent on the Systematic Registration Manager to develop a programme and design training material. Resources from earlier training need to be compiled by the Training Coordinator. As systems are developed the training will become repetitious and the Training Coordinator should be able to organise the training with less inputs.

#### ***The training for systematic registration needs to focus on the following topics:***

- Communication/ Interview skills
- Gender and gender application to fieldwork
- Conflict resolution – processes in the barangay; skills

- Legal drafting – preparing documents for land claimants
- Structure of government and the role of agencies; the agencies associated with land titling
- Land Law
- Land registration law
- The government's Comprehensive Land Reform Programme
- Management of programmes
- The supervision of staff
- Introduction to the Land Administration and Management Project – aims, structure, components, concepts
- Introduction to Prototype 1 – subcomponents, structure, functions, the pilot areas and structure
- The mapping and survey of land – boundary definition
- The CIM database and CIM sheets
- Systematic registration – by judicial and administrative titling processes
- The roles of various participants in systematic registration the role of CRS
- How to prove title – possession, tacking
- Land and property in marriage
- Inheritance law
- The Civil Code
- Drafting legal documents
- Evidence to support a claim of title – examine the variety of evidence available; from whom; what it proves
- Samples of title documents used in the Philippines
- Negotiation
- Quality assessment processes
- Change - managing it, coping with it, contributing to it.

The short-term needs of the training programme for systematic registration are to:

- Formalise the training programme and make it more integrated
- Develop one comprehensive training programme that combines theory and field practice
- Establish a three-week training package
- Package all existing training material to support the comprehensive programme and identify other material required
- Identify specialists who can become trainers and provide them with training in the delivery of training
- Establish appropriate base camps as training grounds

In the longer term, the aims are to ensure that the training programme produces a supply of skilled staff to participate in an expanded land titling programme.

### **3.4 Next Steps in the Training Programme**

- PIO 1 to determine the responsibilities of the Training Coordinator and Systematic Registration Manager in developing and maintaining the training programme
- Establish a team to develop a comprehensive training programme for adjudicators. Set a timetable and apply the new programme to staff to be recruited and trained for Pastrana and Santa Fe extensions
- Identify set trainers
- Training Coordinator to develop Train the Trainer material
- Training Coordinator /Systematic Registration Manager to compile all training material used to date and identify additional resources required

A key output from LAMP 1 should be a packaged training programme for establishing a land titling programme in a new location.

## **4. Judicial Titling**

### **4.1 Progress**

Adviser inputs into Judicial Titling commenced during the Bridging Technical Assistance and continued during Activities 11 and 21. The initial field activities commenced in April 2002 and will take up to 12 months to issue titles. The first titles should be produced in March 2003.

A Table summarising the progress in the Judicial Titling pilots is set out in Attachment 5.

### **4.2 Reasons for delays in producing titles**

It was initially expected that titles would be produced by the Judicial Titling pilots by December 2002. The following reasons for delay will provide an overview of issues confronting the implementation of the Judicial Titling process.

#### ***4.2.1 Delays in the cancellation of the Libertad survey prevented the filing of the Petition***

PIO 1 is waiting the Project Management Office in Manila [PMO] to notify it that DENR has cancelled the original survey contract so that it can proceed with the lodgment of the Petition. As at December 2002, the original contract has not been cancelled.

#### ***4.2.2 Delays in the completion of the amending survey in San Isidro and Anahaway have prevented lodgment of the Petition***

The delays in the completion of the amending survey in San Isidro and Anahaway prevented lodgment of the Petition for the period April-November 2002. The issues were resolved and the Petitions were filed on 22 November 2002.

#### ***4.2.3 Delays in the procurement of the survey contractors for Pastrana have resulted in deferral of activities in several barangays***

The delays in the procurement process resulted in the initial pilots in Pastrana being limited to one barangay, Macalpi-ay. The revised procurement was advertised in October 2002. It is expected that the process will be completed in December 2002, with survey contractors being available at that time.

#### ***4.2.4 Difficulty resolving barangay boundary conflict results in pilot being cancelled at Ormocay***

Despite numerous attempts at public meetings to resolve differences between the adjoining barangays, agreement to reset the contested boundary was not reached. The project activities were discontinued. Clearly defined barangay boundaries are fundamental to cadastral proceedings and this condition was not met.

#### ***4.2.5 Delays in the approval of the Macalpi-ay Petition by the Solicitor General***

Although the initial four Petitions for Dagami were processed rapidly by the Solicitor General, this was not repeated for the Pastrana Petition. The Petition was furnished to the Solicitor General's office in July 2002 and were not returned until October 2002. The delay in approving the Petition has substantially delayed this pilot.

#### ***4.2.6 Local lawyer ceases to participate in training***

In early 2002 the project was fortunate to have the services of a local attorney as a trainer of adjudicators in judicial titling. He provided detailed instruction on the evidence required to prove

possession, drafted samples of all documents likely to be required by adjudicators during the pilots, and drafted summaries of the law, procedures and guidelines on tacking of possession. However in May 2002 he discontinued his participation in the project.

A major difficulty in the pilot has been the uncertainty of the process, in relation to the finer points of drafting Answers for filing in the court. The Judicial Titling process is clearly dependent on legal process and therefore the need for accuracy on points of law is emphasised. During training, a strict view was taken of the documents to be attached to the Answers. The aim was that the adjudicators should prepare the strongest case in the Answer rather than the weakest, by attaching the maximum supporting documents. This was seen as an effective strategy in the first pilots. If the evidence was excessive in the first pilots, the opportunity would be taken during the review to reduce the evidence.

Following the conduct of training by the local lawyer, it was intended that the Cadastral Officer would fill the role of reviewing draft Answers and providing feedback as the Answers were prepared, resulting in additional training inputs for the adjudicators. But there have been difficulties in mobilising the original Cadastral Officer [see below]

One proposal was to employ a national lawyer to provide this input. PIO 1 succeeded in gaining the approval of PMO to engaging a local lawyer as part of the staff of the Prototype office. The lawyer will assist with the following issues:

- Arranging all court documents to initiate the cadastral proceedings
- Liaison with the court, the delegate of the Solicitor General, the Cadastral Officer and the Commissioner of the Court.
- Liaising with the Cadastral Officer to list inadequacies in the initial documents prepared by the adjudicators on providing specific feedback to the adjudicators.
- Setting the standard of proof required in Answers and summarizing the evidence to be attached to each Answer.
- Providing training inputs to the adjudicators.

At the date of this report, the local lawyer still has not been appointed.

#### ***4.2.7 Process is uncertain***

The mass Judicial Titling process is not well-defined. It has not been used in over 20 years. Since the judicial titling activity is a pilot project, the opportunity has been taken during the pilot to review and change processes were necessary. For example, during the training of the Clerks of the Court the following changes were introduced:

- Slight change to the Answer format.
- Change to the style of the report by the Commissioner of the Court to narrative format. This simplifies the document preparation process.
- Record of Interview renamed as Declaration of Ownership.

A late change occurred at the pre-hearing conference for Bolirao. At that meeting the original Cadastral Officer indicated that he would not approve Answers designated "Heirs of the late...". He would however accept applications in the name of "the estate of".

These changes have, according to adjudicators, slowed progress in preparing Answers. These issues also highlight that additional training in the use of word processing software is required to minimize the disruption of future changes.

#### ***4.2.8 Mobilisation of original Cadastral Officer has been difficult***

The first Cadastral Officer was identified in August 2001 and he assisted the initial Judicial Titling Committee at that time. The original plan was to have the Cadastral Officer, a lawyer from the Registry of Deeds, fully involved in training courses and in reviewing the structure and content of Answers from the start of the Pilot. However, this plan was affected by the non-participation of the attorney. It was exacerbated by the loss of the short-term training resource, a local lawyer, who was originally able to fill the gap in the development of documentation for the pilots.

The original Cadastral Officer was officially appointed on 22 July but did not systematically undertake duties with the project or attend the initial hearings. As a result, PIO 1 decided to train the Clerks of the Court to be appointed as Cadastral Officers. However, the appointments were not effective until November 2002 – see below. This issue meant that the Systematic Adjudication Team Leaders lacked decisive legal information during the drafting of the Answers at a key stage of the pilots. Although it took 8 months to mobilise Cadastral Officers, it is expected that the model settled during the pilots is capable of being followed in future pilots.

#### ***4.2.9 Mobilisation of subsequent Cadastral Officers takes time***

As soon as it became clear that the original Cadastral Officer was not available, an alternative plan was initiated to have clerks of the Regional Trial Court appointed as Cadastral Officers. New training was developed and undertaken and action was commenced to appoint additional cadastral officers. This required correspondence between the local judges and the Court Administrator before this plan could be implemented. As a result:

- Additional training for the Clerks of the Court was conducted in July 2002
- The Dagami Municipal Trial Court judge was at that time requested to approve the appointment of Clerks of the Court as Cadastral Officers
- The judge was reluctant to do so without approval of the executive judge
- The executive judge required confirmation from the Court Administrator of his capacity to appoint Clerks of the Court as Commissioners and Cadastral Officers. Although all Clerks of the Court are law graduates, the judge also sought confirmation of the power to appoint non-lawyer Clerks of the Court as Cadastral Officers. This confirmation was given during September.
- One Cadastral Officer and one Commissioner were appointed by the end of September and an orientation workshop was conducted on 3 and 4 October to develop an interview programme so that production of titles could occur in December 2002. The Cadastral Officer works in Tacloban and prefers to interview claimants in her office.
- In view of the time-consuming nature of the interview process with the Cadastral Officer, PIO 1 has acted to have additional Cadastral Officers appointed. Three new appointments occurred in late October, with initial interviews commencing in November. Not all appointees were able to commence duties and some subsequent appointments may be required.

PIO 1 is proceeding to maximize the time of the Cadastral Officers to ensure adequate preparation of Answers.

#### ***4.2.10 Difficulties in the Cadastral Officer Process***

The following issues have been raised during reviews:

- The Cadastral Officers have required additional evidence to be furnished. For example the officers have required the following (i) the tax history in every case [the Systematic

Registration Manager was able to obtain this for every parcel as a matter of urgency] (ii) where one heir applies on behalf of multiple heirs, the officer requires a Special Power of Attorney. Adjudicators have had to prepare this document for every file containing an application on behalf of multiple heirs.

- The Cadastral Officers have different standards concerning the proof of ownership.
- Cadastral Officers are part-time and so have conflicts in schedule, with some not being able to maintain high output rates. However the project envisages that this part of the processing can be undertaken rapidly.
- It was envisaged that Cadastral Officers would work from the base camp but this has not occurred. They prefer to work from their existing offices and this entails transporting the applicants to that location.
- It was originally envisaged that the Cadastral Officer would review the documents in the presence of the adjudicator and that the adjudicator would complete a report of the lacking evidence for each file. This was important not only for the processing of the document but also for education, where the lessons from a Cadastral Officer could be disseminated to other adjudicators. However some Cadastral Officers prefer to work alone and it takes time for the adjudicator to understand the outcome from written notes.

#### ***4.2.11 Lack of Answers from government agencies***

The mid-term review highlighted the lack of participation by government landowners in the pilot areas. This is being followed up by the Systematic Registration Coordinator.

#### ***4.2.12 Emphasis on 100% participation is counter-productive***

The adviser stressed the need to pursue 100% participation rates. This resulted in up to five visits to claimants by the local CRS staff, often with no results. When all pilot results are available, PIO 1 can compare and assess participation rates. A policy of accepting 80% participation is expected to be accepted.

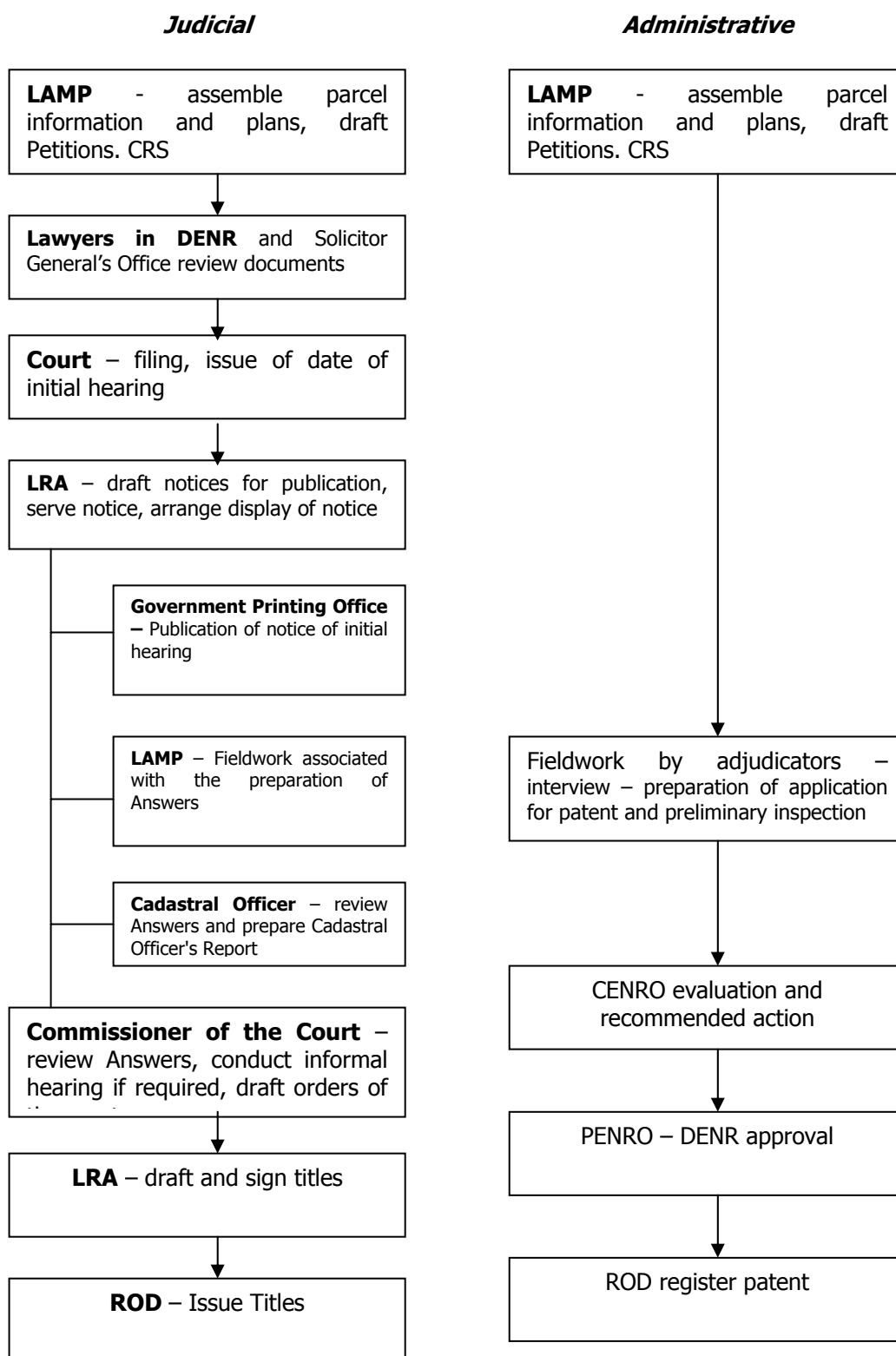
#### ***4.2.13 General deputisation of the DENR Leyte lawyer required***

The initial hearing of Hinulogan did not initially proceed because the DENR lawyer was unable to provide to the court a copy of his deputisation for the Solicitor General. Further enquiries confirmed that this had expired. Subsequently a general deputisation was subsequently obtained.

#### ***4.2.14 Judicial titling depends on a range of external agencies for inputs.***

The following diagram shows the dependencies. It also compares the process with free patent titling.

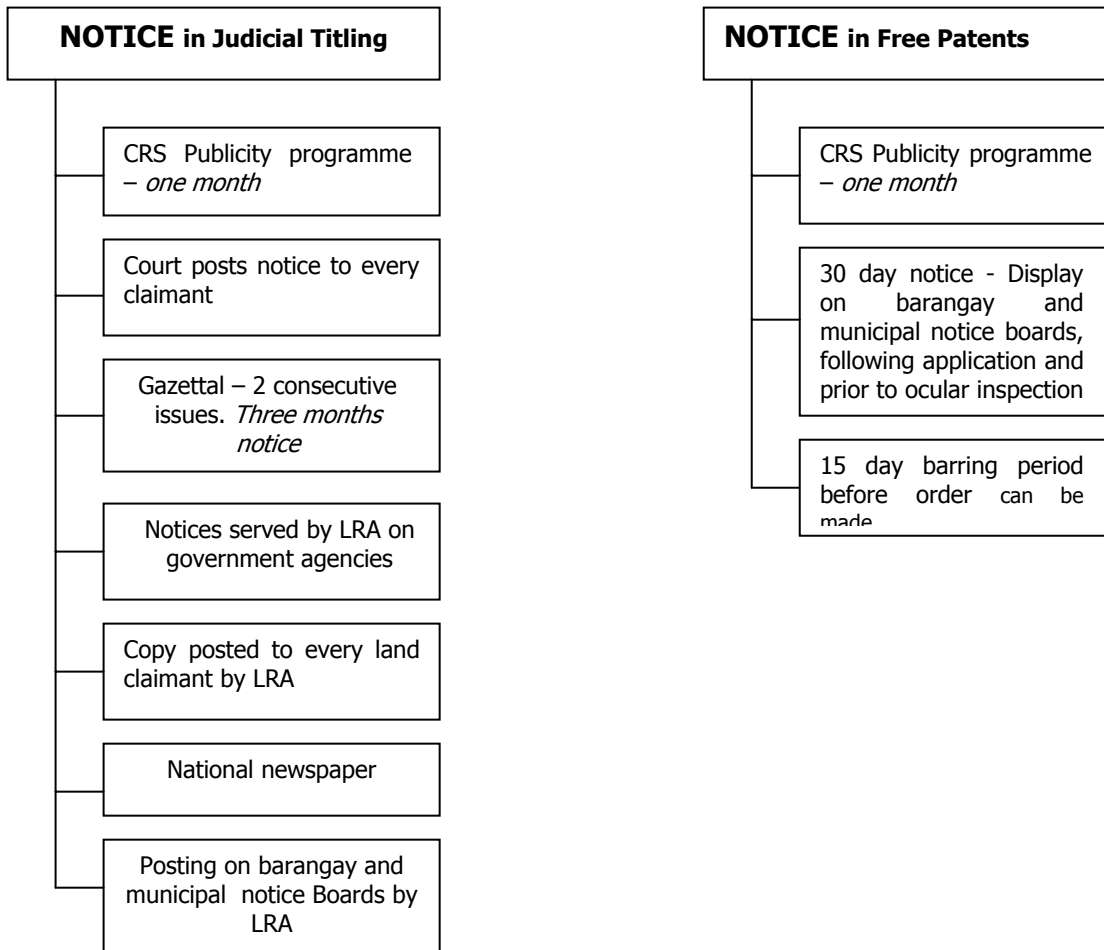
Diagram: Contrast Interagency dependencies



It is apparent that administrative titling involves fewer agencies and thus permits a more streamlined approval process. A review of the time taken is set out below.

#### 4.2.15 Multiple notices are given for Judicial Titling applications

The following diagram summarises the notices given for Judicial Titling and Free Patent titling:



Given that the publicity required by the Judicial Titling process is more extensive than that provided for in free patent titling, there is scope for reducing the notice of the initial hearing from 3 months to one month. The community mobilisation activities undertaken by the project are extensive in an effort to ensure maximum participation by the community. The process should be contrasted with free patents, where the notice given is 30 days before a title is granted [the stakeholders are looking to reduce this to 15 days' notice plus 15 days' barring period]. The effect of granting a title is the same in both cases. This highlights the potential to reduce the notice for judicial titling processes. In addition, the need for gazettal is questionable. It can be replaced by notices in the national and local press.

#### 4.2.16 Multiple reviews by lawyers

The following interventions are required by lawyers or court officials:

- Review of all documents by the Cadastral Officer
- Review of the claims and the Cadastral Officer's Report by the Commissioner of the Court
- Review of the Commissioner's recommendations by the judge

It is important that judicial titling cases be quickly dealt with as delays can cause problems:

- Circumstances can change for claimants after the original interview – such a sales, a death in the family
- The court may be concerned about the date of the Answer
- If the process goes into the following year, new community tax certificates may be required to support the application.

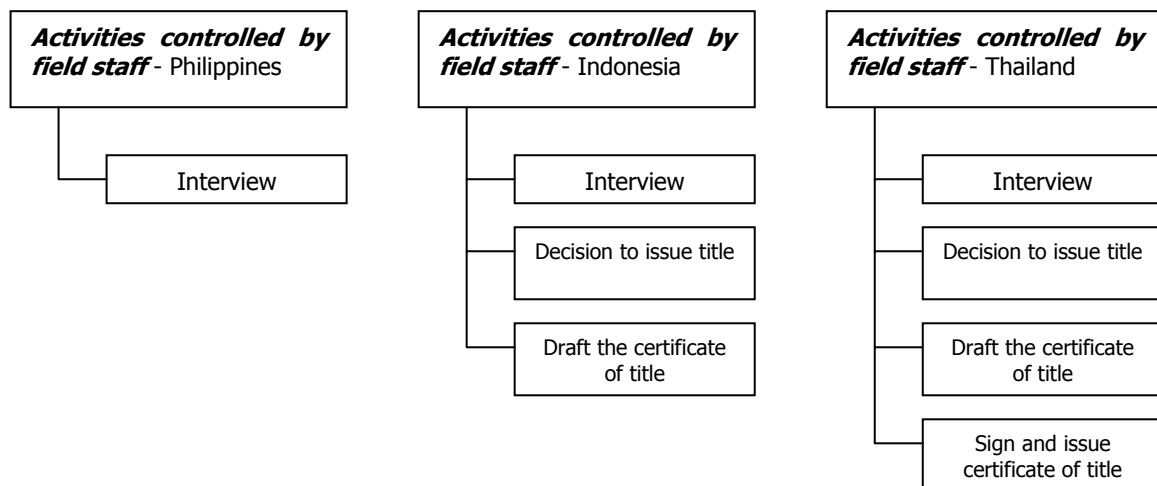
**4.2.17 Lack of control of key functions:**

The field staff and PIO 1 have limited control over field processes. For example, the field party has the capacity to conduct interviews and to gather information, but it lacks power over the following:

- decision-making process – the decision about the validity of the claim of the applicant and the decision to issue a title
- drafting the certificate of title to be issued to the claimant
- signing titles for issue to claimants –

The following diagram compares the situation in the Philippines with that in systematic registration in Thailand and Indonesia.

*Diagram: Activities controlled by field staff in the Philippines, Indonesia and Thailand*



The diagrams illustrate the greater control by field staff in Thailand and Indonesia over the title issue process.

**4.3 Lessons that can assist in improving efficiency in the field**

**4.3.1 The management of the systematic adjudication fieldwork is key.**

The mid-term review in May and September 2002 highlighted the need for the Systematic Adjudication Team Leaders to operate effectively as front-line managers, to ensure the effective utilization of the resources provided by PIO 1 to the base camps. Although PIO 1 is responsible for the effective management of all field resources, it has entrusted responsibility for the day-to-day management to the Systematic Adjudication Team Leaders.

Over the last six months there has been a noticeable improvement in the outputs from SAT Leaders in the generation of management reports on time, organising the activities of the basecamp clerks, supporting technical meetings, updating the barangay profiles and improving the design of the forms, improving the report format for outputs from the adjudicators, organising programmes for project visitors and explaining field processes to visitors, and

supporting CRS meetings, where the SAT Leader provides a description of the technical processes.

However, the following still need emphasis:

- The process of liaison with the local CRS to ensure smooth support from those responsible for mobilising the community and for following up on lacking documents;
- Liaison with the Cadastral Officer to ensure smooth implementation of the review of documents;
- Setting weekly targets/ deliverables for each adjudicator and reviewing outputs weekly in a meeting between the Systematic Adjudication Team Leader and the adjudicator;
- Setting start and finish dates for the activities in a barangay. This includes setting deadlines for the completion of interviews and documentation for each barangay;
- Assessing the skills of staff and providing staff development where required. Monitoring the performance of individual adjudicators and giving training where required;
- Regular meetings between the Systematic Adjudication Team Leader, the adjudicator and the CRS Assistant to review progress for lots where there is no participation. It is vital that timely decisions are made that the lot is not likely to proceed because (i) the owner cannot be contacted (ii) the owner has been contacted but shows no interest in proceeding (iii) the owner is interested in proceeding but has inadequate evidence (iv) the owner has inadequate evidence but has insufficient funds to complete the evidence such as having documents notarized. Once a parcel has been classified as not continuing, this should be marked on the Weekly Progress Report;
- Ensuring the adjudicators submit adequate Daily Journals;
- Ensuring the adjudicators update the Weekly Progress Report and that the base camp clerk submits a revised copy weekly to the CRS officer;
- Smoothing out backlogs in the encoding of documents;
- Accepting responsibility for planning additional training for staff. For example it has been identified that base camp clerks need training and development in the use of computers. However there has been little planning of the training. Such issues are seen as a "management issue" of PIO 1 rather than as the responsibility of the Systematic Adjudication Team Leaders to plan;
- Not simply collating reports but using them as a management tool to identify problems;
- Monitoring the production of the draft Answers, Cadastral Officer's Reports and Commissioner's Reports by the adjudicators;
- Ensuring that adjudicators do not delegate their functions to the base camp clerks;
- Liaison with government landowners to ensure provision of Answers by for government land;
- Taking the initiative to identify ways in which processes can be improved and implementing them;
- Ensuring that adjudicators don't start work in new barangays until their responsibilities in the old barangay have been completed;

Recent workshops indicate that the Systematic Adjudication Team Leaders have good ideas for improving processes. However it is key that they be encouraged to take their ideas and to implement them as part of their role as manager rather than waiting for a workshop to extract the information.

It is key that the leaders accept as their responsibility the constant improvement of processes. The activities are pilots and PIO 1 has stressed the new for constant review. This needs to be translated into action. An extension of this concept is that each base camp should be viewed by its staff as an experiment in itself, with the Systematic Adjudication Team Leader as the manager of the learning process. Project managers should encourage the Systematic Adjudication Team Leader to conduct regular review meetings in the base camp instead of depending on time-consuming workshops to review processes. This is more suited to the busy production schedules of base camps.

### ***4.3.2 The Systematic Adjudication Team Leader should be supported by a deputy Team leader responsible for the quality of all technical outputs***

The functions of the Systematic Adjudication Team Leaders are many and varied. The importance of attention to the management and liaison functions has already been stressed. However, to date, the Leaders are also responsible for the very detailed monitoring of the quality of outputs, completion of the Quality Assessment Form etc. There were instances highlighted by Cadastral Officers where adjudicators did not attach basic documents to Answers. The quality management process needs to be strengthened. In the interests of allowing the Leaders to focus on management issues, the mid-term review flagged the need for deputy team leaders to take over the quality function. The Systematic Registration Coordinator should develop revised terms of reference for the leader and deputy.

### ***4.3.3 Delays in getting certificates from agencies***

A major lesson has been that efficiencies will be provided by PIO 1 obtaining supporting evidence direct from agencies as follows:

- *Registry of Deeds* – copies of registered titles etc
- *Tax assessors* – copies of tax certificates

However the mid-term review flagged that this process is not being implemented systematically by all base camps. PIO 1 has provided a research assistant to the Systematic Registration Coordinator to facilitate this area. This should ensure progress.

### ***4.3.4 Minimum qualification for adjudicators if judicial titling maintained***

One option under consideration is to review the minimum qualifications of adjudicators involved in judicial titling and to require a law degree. The role in judicial titling has involved analysis of the entitlements of the claimant and the drafting of legal documents. Some feedback on the difficulty of this process has been received.

### ***4.3.5 Less dependence on the Legal Assistant***

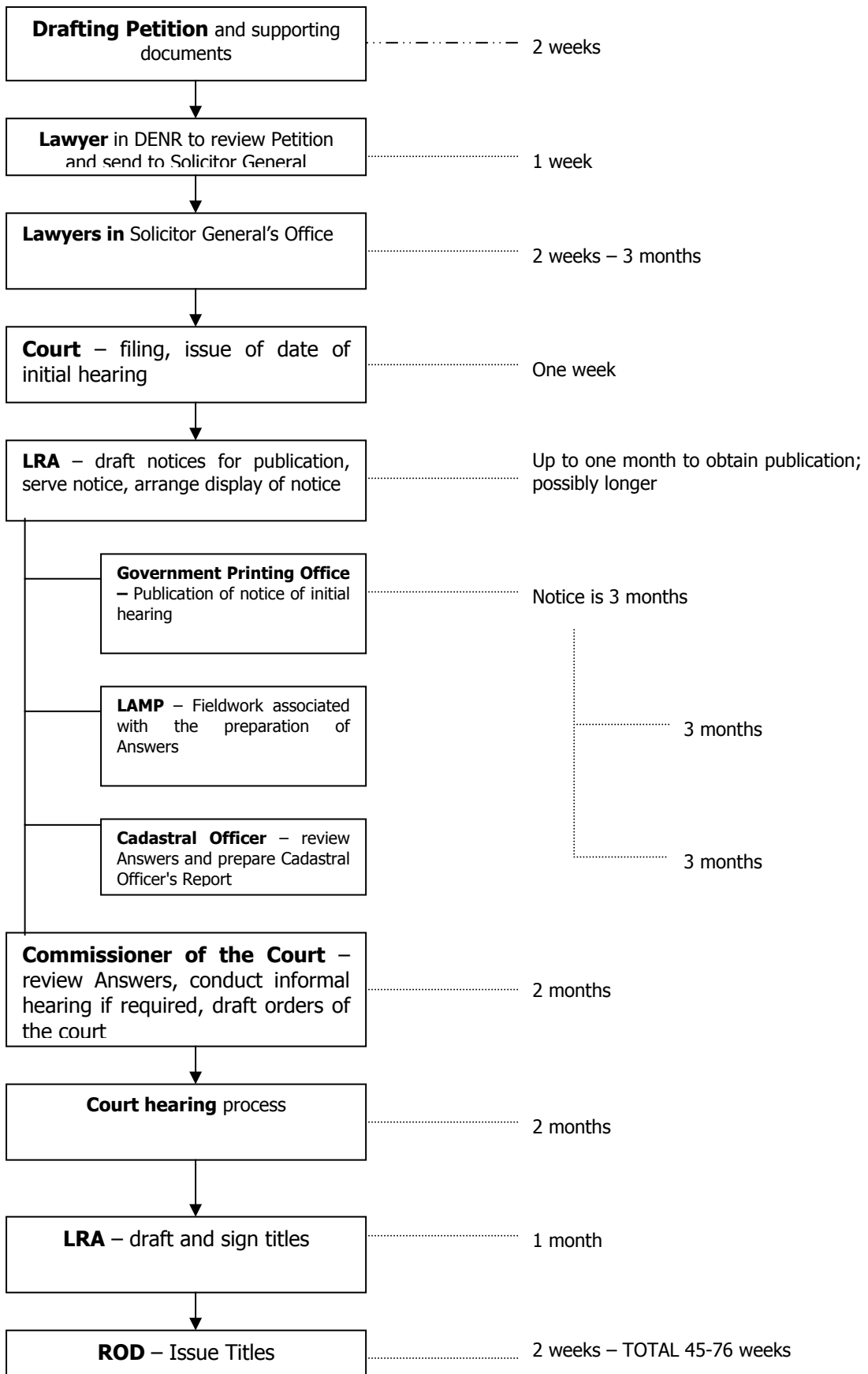
Because the documents to be prepared by adjudicators are now in a standard format, adjudicators should take responsibility for the editing of their outputs so that documents do not need to be corrected by the Cadastral Officer. It was always envisaged that the Systematic Adjudication Team Leader and the adjudicator responsible for a barangay would attend all court hearings affecting that barangay rather than relying on the legal assistant to provide the judge with information about the barangay's state of readiness for hearing. Whilst the legal assistant has responsibility for organising the departmental lawyer to attend the hearing, it would create an unnecessary bottleneck if the base camp sought to delegate to the legal assistant the role of representing it at the court. It is inappropriate to view the legal assistant as a staff member of the base camp.

## **4.4 Evaluation of Judicial Titling**

### ***4.4.1 Time Analysis***

Inter-agency dependencies impact on the time taken to process judicial titles. The following times are indicative of times in the initial pilots:

**Judicial**



#### 4.4.2 Cost Analysis

The following cost schedule is being completed by PIO 1:

<b>Feature</b>	<b>Detail</b>
<b>Titling option</b>	<b>Judicial titling</b>
<b>Cost of training</b>	
<i>Facilitators</i>	
<i>Venue</i>	
<i>Accommodation and catering</i>	
<i>Cost of CIM production</i>	
<i>Equipment</i>	
<i>Contract staff</i>	
<b>Cost of CRS programme</b>	
<i>Contract staff costs</i>	
<i>Printing and production costs</i>	
<i>Meeting costs</i>	
<i>Car hire costs</i>	
<i>Equipment costs</i>	
<i>Allowances</i>	
<b>Cost of adjudication programme</b>	
<i>Contract staff costs</i>	
<i>Base camp hire</i>	
<i>Base camp equipment</i>	
<i>Car hire</i>	
<i>Cost of monuments</i>	
<i>Allowances</i>	
<i>Base camp utilities</i>	
<i>Base camp consumables</i>	
<b>Survey control</b>	
<i>Equipment</i>	
<i>Contract staff</i>	
<i>Vehicle hire</i>	
<i>Allowances</i>	
<b>Survey costs</b>	
<i>Contractor</i>	
<i>Other</i>	
<i>Procurement costs</i>	
<i>Training and orientation</i>	
<b>Other agencies eg court</b>	
<i>Court</i>	
<i>Equipment</i>	
<i>Allowances</i>	
<i>Cadastral Officer</i>	
<i>Equipment</i>	

<b>Feature</b>	<b>Detail</b>
<i>Allowances</i>	
<i>Title Production costs</i>	
<i>Other costs – please specify</i>	
<i>Total Cost To Produce One Title – All Costs Included</i>	

#### **4.4.3 Delay analysis**

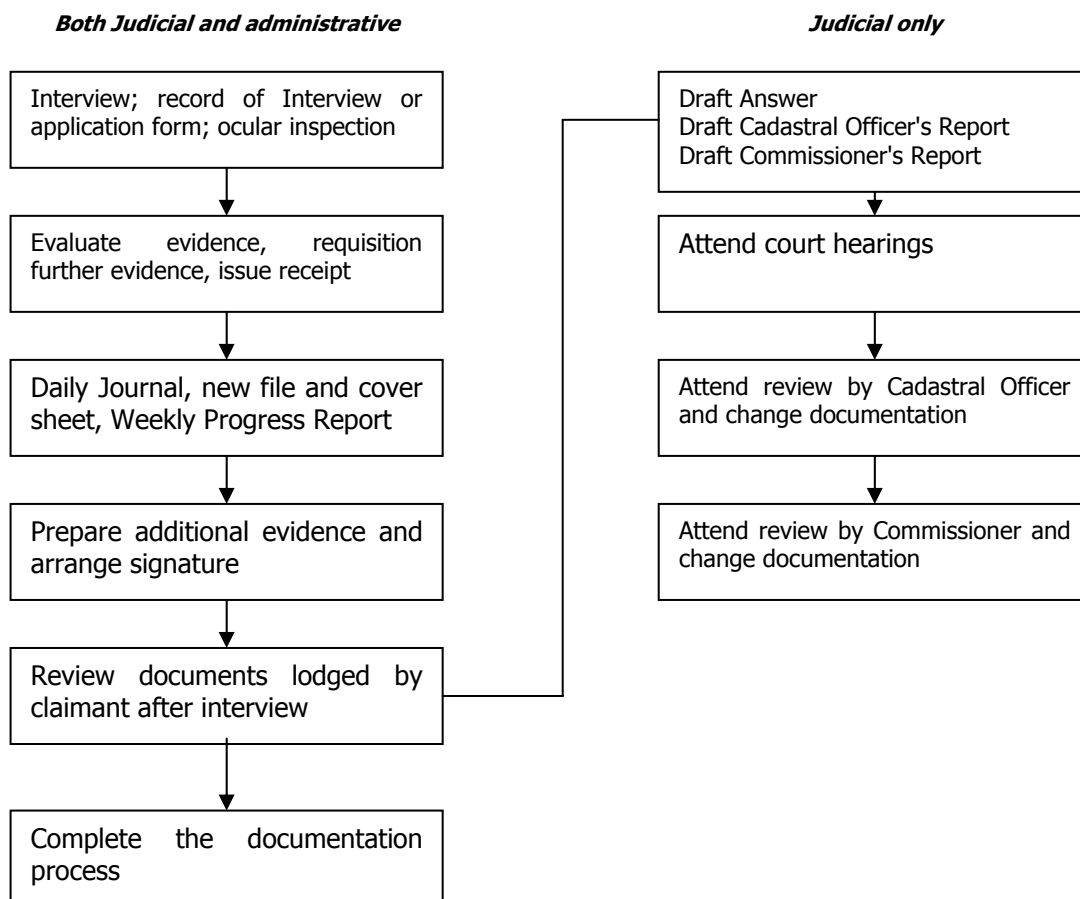
The following Table reviews the major reasons offered above for delays in the initial Judicial Titling pilots, together with an assessment of whether these delays have been resolved or will continue to be factors in future pilots:

<b>Reason for delay in initial pilots</b>	<b>Likely to delay future pilots</b>
<i>Delays in canceling surveys</i>	<i>No – reasons for delays in Manila removed</i>
<i>Delays in completing amending surveys</i>	<i>Potential</i>
<i>Delays in procuring survey contractors</i>	<i>No – procedures have been clarified and retried during the pilots</i>
<i>Barangay boundary conflicts</i>	<i>Yes, there may be boundary disputes in further pilot locations. In the meantime barangay selection criteria can minimize this by not selecting barangays with disputes. In an expanded programme the project could be preceded by a request that outstanding disputes be resolved before arrival of the project. As survey control and political boundary definition are done in advance, so barangay boundaries can be resolved in advance.</i>
<i>Delays by Solicitor General in approving Petitions</i>	<i>No. During the last Petitions processed a revised procedure was implemented to speed the process. The documents will be submitted in disk format to speed the production of amended documents.</i>
<i>Local lawyer not available</i>	<i>No – a staff lawyer is to be appointed.</i>
<i>Uncertainty about content of Answers</i>	<i>No - Another related benefit is that adjudicators are becoming more certain about the contents of Answers. The administrative order can set out the contents of Answers.</i>
<i>Process changes during the pilot</i>	<i>No – the major benefit of the pilots is that the process is being clarified and made more certain. This delay can be reduced if this clarified process is incorporated into an authoritative document such as an administrative order or regulation.</i>
<i>Mobilisation of cadastral officers</i>	<i>Yes – a strategy of using clerks of the provincial trial courts has been determined and tested successfully. This provides a model for future pilots. However, it depends on the attitude of the judge in each location.</i>
<i>Strict view of legal requirements</i>	<i>Yes – there is potential for future lawyers to take a different view of the proof requirements. However this risk can be</i>

<b><i>Reason for delay in initial pilots</i></b>	<b><i>Likely to delay future pilots</i></b>
	<i>minimised by an administrative order clearly setting out processes. The clearer and simpler the regulation, the less risk of differing interpretations.</i>
<i>Lack of answers from government agencies</i>	<i>Yes – but this risk can be minimised by specific CRS directed at government agencies.</i>
<i>Emphasis on 100% participation</i>	<i>No – the project will reduce its expectations.</i>
<i>Deputisation of DENR lawyer</i>	<i>Yes - potential for delays in future projects. The general deputisation is able to be resolved simply but the availability of the lawyer remains an issue</i>
<i>Delays from external agencies</i>	<i>Yes - the project in each new locality must establish strong links for example with the courts and with local government for the collection of evidence. PIO 1 has a very efficient process for collecting tax evidence that may not be as easily established in other locations.</i>
<i>Multiple notices</i>	<i>Yes - but the project will recommend a reduction in the notice period and cancellation of the gazette requirement.</i>
<i>Multiple reviews by lawyers</i>	<i>Yes - there is potential to merge the roles of Cadastral Officer and Commissioner.</i>
<i>Lack of control of decision-making</i>	<i>Yes - unavoidable in the judicial process</i>

#### **4.4.4 Additional function for adjudicators in Judicial Titling**

The diagram illustrates that the role of the adjudicator for judicial titling includes extra functions that make the process longer and more demanding.



#### 4.4.5 Evaluation of judicial titling as a Phase II land titling option

In assessing the potential of judicial titling as an option for future projects, the following are seen as key:

Table: Advantages and disadvantages of judicial titling

<b>Issue</b>	<b>Detail</b> <i>[compare with free patent]</i>
<b>Advantages of judicial titling</b>	
<i>Applies to all land</i>	<i>All land can be titled under this approach, including residential and commercial land, church land and government land</i> [free patent is not as flexible - it does not apply to all land]
<i>Title absolute within 1 year</i>	<i>The judicially issued title is absolute in one year; the Homestead Patent is absolute in 25 years;</i> [the free patent is absolute in one year]
<i>Title issues without restrictions on transfer, mortgage</i>	<i>There is no five-year restriction on subsequent transactions.</i> [five-year restriction applies to free patent]
<i>Applies equally to tenanted land</i>	<i>This permits more land to be titled.</i> [for free patents the project is seeking the same advantage]
<i>Can apply to lots up to 12 hectares</i>	<i>Instead of requiring CARP issues to be resolved in advance, the land is first titled and then DAR action commences.</i> [for free patents the project is seeking the same advantage]
<i>It is not necessary to take into consideration other land owned by the claimant</i>	<i>Simplifies the process</i> [for free patents the aggregate of 12 hectares total land holding must be observed]
<b>Disadvantages of judicial titling</b>	
<i>Many organisations involved so the process is slower</i>	<i>The potential to eliminate the other agencies is small.</i> [free patent has a faster more expeditious process]
<i>High cost of voluntary judicial applications and slow</i>	[Not applicable to free patents]
<i>Dependence on court process so lack of control</i>	<i>Impressive cooperation was given by the courts in Leyte but can this be assured in other locations?</i> [not applicable to free patents]
<i>Lawyers involved in several stages of process</i>	<i>Risk of different opinions.</i> [not applicable to free patents]
<i>Every lot must be considered and the owner must prepare an Answer</i>	<i>Even the owners of titled land must be interviewed and encouraged to file an Answer. Whereas the claimants for unregistered land provide an Answer detailing their claim for the land, the owners of registered land file an Answer rejecting the court's capacity to make an order affecting their land</i> [not applicable to free patents - only untitled lots are considered]
<i>Multiple visits from CRS teams</i>	[fewer visits for free patents]
<i>Notice required is longer</i>	<i>Notice required is longer than for Free Patents and this slows the process</i> [shorter notice period for free patents]

#### **4.4.5 Further research required for next review day**

The following additional information has been requested from Systematic Adjudication Team Leaders to assist evaluation:

- *Community participation* - % participation rate for each barangay and major reasons for non-participation. Reasons may include (i) owner cannot be contacted (ii) the owner was contacted but has no interest in participating (iii) the owner is interested in participating but lacks the evidence (iv) the owner has the evidence but lacks the money to collate the evidence such as not being able to afford fees for notarizing documents.
- *Claims supported by deeds* - % of lots where fully documented and the claim is supported by deeds
- *Claims not supported by deeds, depending on affidavits by disinterested persons* - % of lots where the claim is not fully documented and relies on corroborative evidence and the nature of that evidence
- *Failure to prove claims* - % of claims where the claimant failed to establish a good title and the reasons why
- *Government participation in the pilots* -
- *Disputes* - an analysis of the nature of disputes and attempts to resolve them.
- *Assessment by the Cadastral Officer* - % of Answers for each adjudicator accepted the first time by the Cadastral Officer; list of additional documents required by the Cadastral Officer
- *Cost details* -

## **5. Free Patent titling**

### **5.1 Progress**

*The free patent titling law expired on 31 December 2000. The law renewing the process was enacted in July 2002 and was signed by the President on 13 November 2002. The law will now be published in the Gazette on and will come into effect following gazettal. The law has not been gazetted at the date of this report.*

In preparation for the commencement of the free patent reinstatement, PIO 1 conducted meetings and workshops with affected stakeholders in an attempt to highlight issues and streamline processes.

Initial training has been provided for base camp clerks and deputy public land inspectors involved in the field tests. An orientation programme for the barangay representatives involved in the field tests is also under development.

Two field tests were also under development in December. The first is to provide a link with existing pending patents in the target barangays. The aim is to assess the status of existing applications lodged before December 2000 but remaining uncompleted and to help collect lacking evidence. CENRO has agreed to cooperate and to provide all files for pending applications. The second field test is to process new applications, commencing as soon as the new law becomes operative. Full field processes will be undertaken, reviewed and evaluated at the start of Activity 25.

### **5.2 Lessons, Issues and Problems**

#### **5.2.1 New processes implemented**

The processes applying to sporadic applications have been reviewed by stakeholders in an effort to develop a more streamlined process for systematic registration. The following changes to processes have been accepted during the development period:

- **Permit the use of contractual adjudicators as canvassers in free patents** – their role will be to assess all material about the lots collected by the base camp, to conduct the interview, to complete the application for public land, to receive and evaluate evidence and to requisition further evidence.
- **Pre-verification will be carried out by CENRO** – Some steps normally taken after the application for public land is received by CENRO will now be performed up-front by CENRO. Before adjudication commences, the base camp will refer a list of land parcels to CENRO with details of the claimants. CENRO will review the allocation books and records and will indicate whether the lot (i) is covered by a pending public land application (ii) is affected by a dispute or a contested claim (iii) is already patented.
- **The base camp to carry out pre-interview checks** – this will involve collecting material from:
  - The Municipal Assessor – latest tax declaration
  - The Regional Trial Court – clearance certificate
  - LRA – where there has been a prior cadastral proceedings, a certificate that the land wasn't the subject of an order for a decree
  - MARO clearance certificate
  - Municipal Planning – land use plan.
- **Role of MARO** – MARO has agreed to simplify its interface with the project. The base camp will send to MARO the lot number, the survey claimant, and actual claimant and the area of

the land parcel. MARO will issue its clearance certificate. Where however the parcel of land is already the subject of a CARP application and the process is sufficiently advanced that it cannot be cancelled, the clearance certificate will not be issued and the free patent action will not proceed. Instead the issue of a CLOA will continue. It was also decided that (i) where there is no prior application and the land parcel in the application is less than 5 ha, the free patent can issue (ii) where the land in the free patent application exceeds 5 ha, there will be no objection by MARO. However it will record the details and will take follow-up action.

### **5.2.2 Potential enhancements if permitted by regulation**

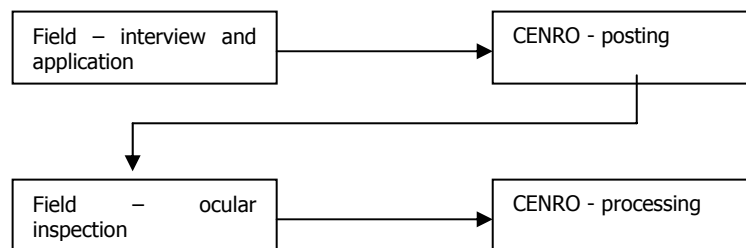
The following issues have been set out in a draft letter to PMO for attention of the Committee drafting the Free Patent Implementing Rules and Regulations.

- **Area limit** – The recently revived free patent law recognizes that patents can be issued up to 12 hectares in size. MARO has confirmed that it will accept applications up to 12 ha. However the Registry of Deeds in the One Stop Shop has indicated that it will not register patents exceeding 5 ha. The consensus is that the pilots should issue free patents up to 12 hectares as that will speed up the mass titling of land. MARO has confirmed that the titling process will in fact help its efforts at land distribution. The existence of a title and a land survey will assist MARO in its recovery process. Registration of a title exceeding 5 ha does not hinder MARO's work and it removes the potential for claimants to use the land titling process to avoid CARP obligations by subdividing the land before the titles are issued. It is recommended that the Rules should make it clear that the Registry of Deeds is empowered to register free patents up to 12 ha.
- **Pre-payment of taxes** – the law is unclear on the position of the payment of taxes before the issue of a patent. There are differing opinions on this point. One view is that the non-payment of taxes is not a hindrance to the issue of a title and in fact the existence of a formalised and official land title simplifies the tax collection process in two ways (i) any outstanding taxes can be recorded as a charge on the patent (ii) the certainty of ownership and an updated database should assist in locating taxpayers. The consensus is that the pilots should issue patents without requiring payment of taxes if there is a valid claim to ownership. Arrears can be recorded on the patent as a charge. The laws of some countries make taxes after the title issues a charge also against the land. This encourages the purchaser to ensure that real estate taxes are paid by sellers before accepting a transfer of the land.
- **Reliance on registered deeds** – Another issue is whether the applicant can rely on deeds if the deeds are not registered [as forming part of the chain of title to prove ownership of the land]. The consensus is that there is no impediment to the claimant relying on unregistered deeds as they are binding between the parties to the deed. Nevertheless there is some uncertainty within the Registry of Deeds. The problem with insisting that every deed be registered is that this process in turn requires payment of arrears of taxes. It is recommended that the Rules make it clear that the claimant can use unregistered deeds to support the application.
- **Actual and constructive possession** – the concept of the agricultural patent, especially the Homestead Patent, was to issue it to the actual cultivator. This seems to have been a requirement of free patents in the original design but is not such a strong requirement today. The impact on the present project is where the owner has leased the land to a tenant farmer, a common occurrence in the prototype area. The consensus is that actual occupation and cultivation are not required for a free patent but constructive occupation will suffice. This could be clarified in the IRR.
- **Posting of Notices** – Administrative Order No. 2000-63 dated 25 July 2000 and Administrative Order No. 2000-67 dated 1 September 2000 provide for a thirty-day publication requirement and fifteen-day barring period from the last day of posting of notice of free patent application. Thus it takes forty-five days from the posting of the notice before

the CENR Officer prepares and issues the order approving or rejecting the application. To expedite this process it is recommended that the thirty-day notice be reduced to fifteen days.

In addition, there is some confusion as to the steps that need to be completed before the land is posted.

- o In previous applications received under sporadic processes, the application is posted by CENRO after the owner lodges an application for public land supported by documentary evidence. The posting occurs and then the deputy public land inspector goes into the field to conduct the ocular inspection. Although these processes work well for sporadic applications initiated by the owner, they bring inefficiencies for systematic titling processes. For example it means two separate interviews by the adjudicator (i) to complete the application and to receive the evidence. Then a delay occurs for 30 days while posting occurs (ii) at the completion of the notice period the adjudicator goes back into the field to conduct the ocular inspection. This results in the following cyclical process:



In the interests of streamlining processes, the prototype is seeking to have all field processes completed at one time before referring the file to CENRO for processing. This will permit the interview and acceptance of the evidence, the posting and the ocular inspection to be completed before the file is referred to CENRO for review of the application.

- o CENRO considers that before the application can be posted, it needs to be stamped "Received" and also stamped "Verified" in CENRO. This of course is an administrative process that may not add value but has characterized processes in the past. These steps should not be preconditions to posting of notices. Although CENRO has agreed to change its processes to conduct a form of pre-verification, it is not sure if it has the power to dispense with the stamping requirements. It is recommended that the IRR simplify the posting requirements to permit efficiencies.
- o The notice should not be an individual notice for each land parcel but, in recognition of the mass processes, it should permit a single notice containing multiple applications.
- o It should be possible for objections to be lodged at the base camp and at CENRO.
- *In relation to deputy public land inspectors* – under the present practice only regular employees or those occupying permanent positions in CENRO may become land inspectors. In CENRO Leyte there are six deputy public land inspectors, so an expanded land titling programme will place a major burden on these staff. It is recommended that CENRO be empowered to engage contractual deputy public land inspectors. This will provide greater flexibility when DENR seeks to gear up the production processes. The advantage of this approach is that mass land titling processes can be expanded more rapidly using contract staff, who will be trained by the same programme conducted by the Land Management Division. This will ensure that quality of outputs is maintained. The processing of applications by CENRO provides another safeguard. It is recommended that the IRR specifically permit the use of contract staff.

- *Evidence required to support an application* – One of the benefits of an IRR is that it has the capacity to set out processes, roles and supporting evidence in an unambiguous way. The following are relevant:
  - *Evidence to prove possession of the land* – Republic Act 6940 provides that an applicant for free patent must have continuously occupied and cultivated the land for thirty years before RA 6940 became effective. This requires proof that the land has been occupied since 16 April 1960. The land may be occupied by the applicant or predecessors in title. Under the new law, RA 9176, this requirement was retained. This forty-two-year requirement places a degree of stress on claimants and there is a need for the period to be reduced. Whilst it is accepted that the IRR cannot achieve this major change, it can simplify the proof requirements in the interim, while DENR pursues a change in the law by other means [for example to reduce the possession period to 10 years as set out in the Civil Code]. The evidence can exclude for example current tax receipts or proof that the claimant has paid taxes. Specific evidence is set out below.
  - *Evidence of citizenship* – Under the provisions of the Republic Act 6940, the grant of free patent is limited to natural-born Filipino citizens who are owners of not more than 12 hectares of land. DENR Memorandum Circular 9 dated 5 May 1993 enumerates the following requirements before a foreign-sounding name can be considered as satisfying this requirement, namely (i) sworn statement either in the application form or in a separate affidavit that the applicant is a natural-born citizen and does not own over 12 hectares of land (ii) confirmation reports made by the inspector. Other supporting evidence required is (iii) a joint certification from DAR and DENR if the applicant is a CARP beneficiary (iv) joint affidavit by two disinterested persons who are resident of the place, confirming that the applicant has resided on the parcel and cultivated the land. It is recommended
    - (i) that the provision of a joint affidavit should not be compulsory in every case. Also the confirmation report from the Inspector should not be required to verify the citizenship claim. It is not required to confirm the citizenship issue because the claimant would be liable for any misrepresentation made in the affidavit.
    - (ii) The joint affidavit should only be required in cases where the claimant lacks documentary evidence to prove that the land has been occupied for the required period. The affidavit could provide evidence from a knowledgeable community member able to confirm the length of possession of the land.
- ***Processing of claims*** - the existing process is undertaken by government staff within CENRO who have a level of expertise in this area. However, when the project expands this will provide a bottleneck that may limit production. It is recommended that CENRO be empowered to recruit and train contract staff to undertake the processing of claims. To ensure the greatest flexibility it would be beneficial if processing were able to be undertaken in the field such as at the base camp.
- ***Multiple processing*** - during preparations for the pilot it became apparent that CENRO, PENRO and the Land Management Division carry out similar processing functions that in effect duplicate the checking role of the other agencies. All three sections will have a larger workload in an expanded programme and will be looking to the project to provide additional resources. A more efficient approach may be to eliminate the duplicate functions and to appoint in the regulation only one processing agency - see below.
- ***Approval process*** – a recent memorandum from the Secretary addressed to Regional provides for the restoration to the Regional Executive Directors of the power to approve patent with an area not exceeding 3 hectares. Patents exceeding that area must still be

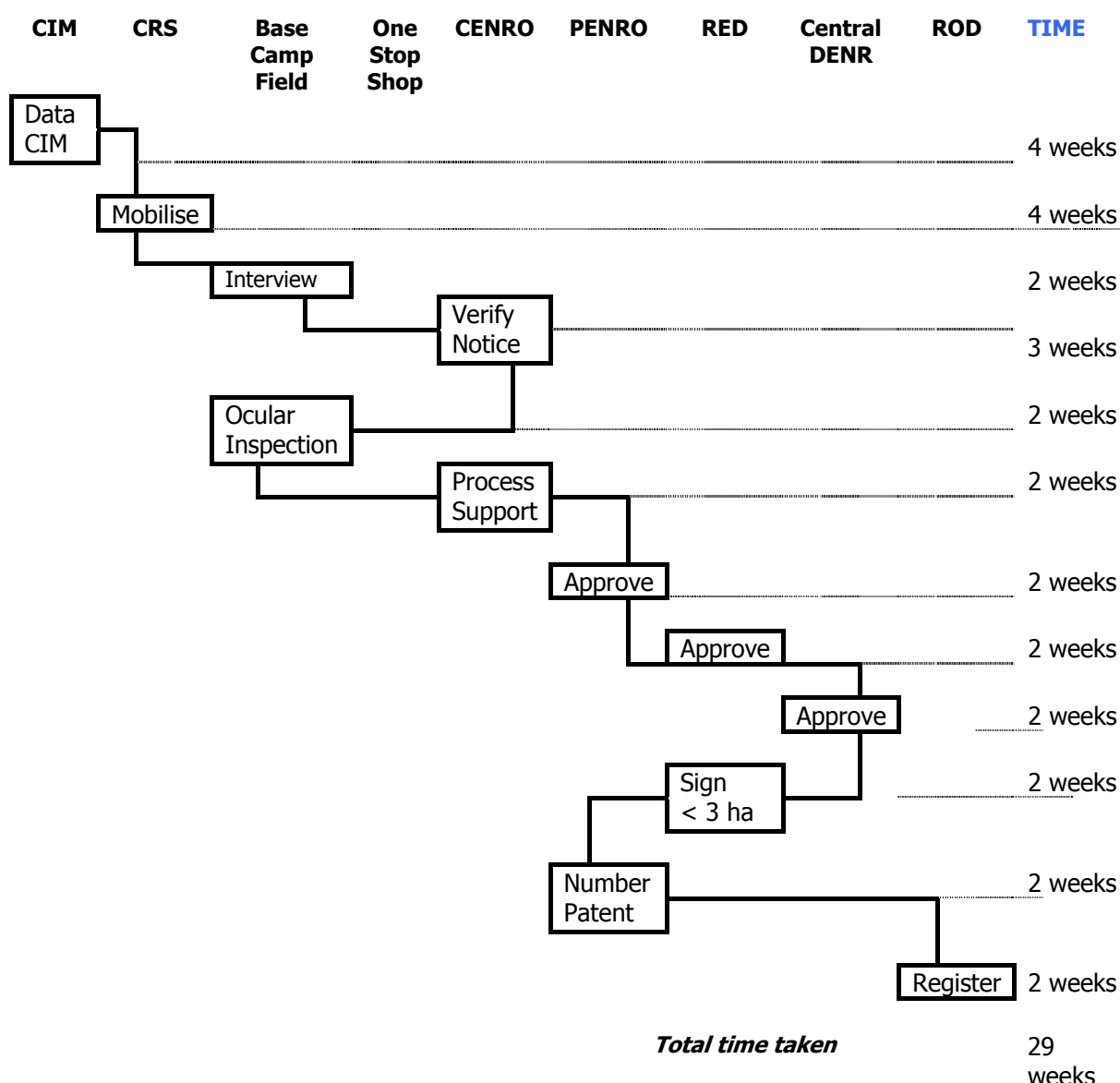
approved by the Undersecretary for Lands. Whilst the need for checks and balances is understood, it is submitted that setting up a mass land titling programme will require a degree of flexibility in the process to sign the multiple titles likely to be issued under the programme. Although approval by the Secretary may be retained for sporadic registration, it is recommended that the following apply to systematic registration: (i) all patents should be approved by PENRO; or (ii) all patents may be approved by the Prototype Manager.

### 5.3 Evaluation of Free Patents

#### 5.3.1 Time analysis

The first diagram shows time taken for existing processes:

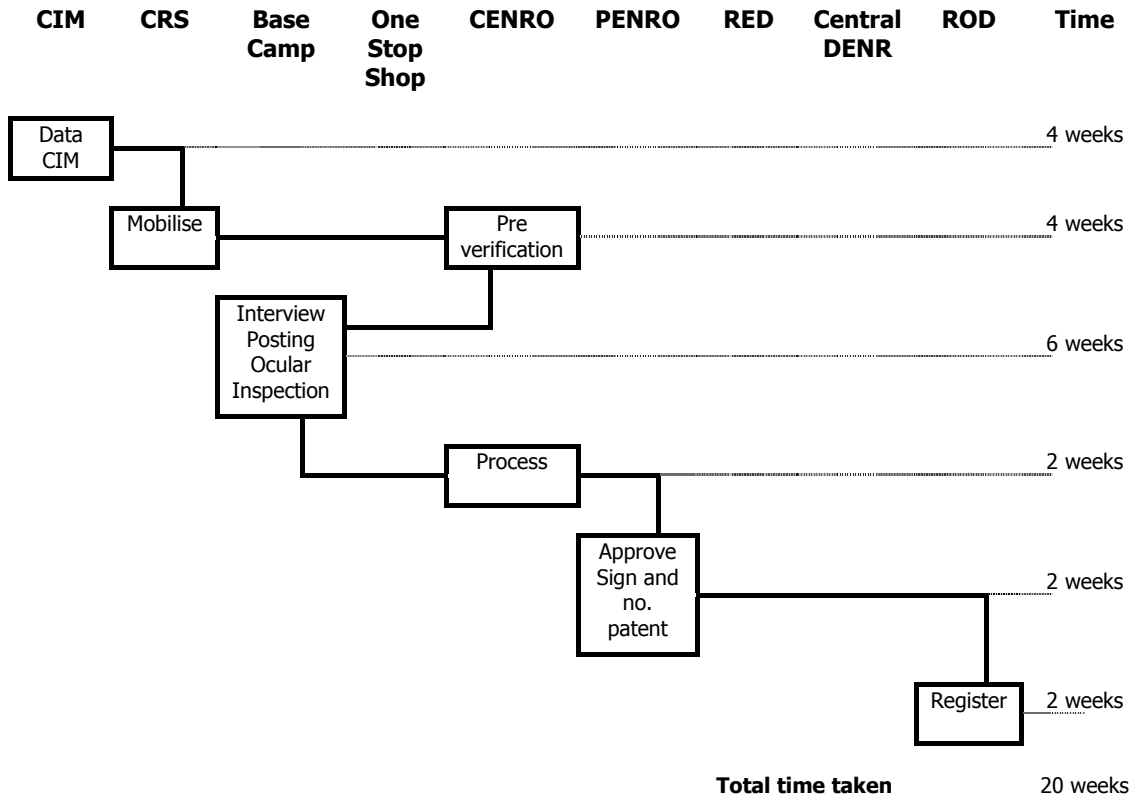
Diagram: Mass free patents using existing processes



It should be noted that the CIM and CRS functions have been added for the systematic registration processes of a mass titling programme and do not occur in a sporadic approach.

The second diagram shows potential time for streamlined processes.

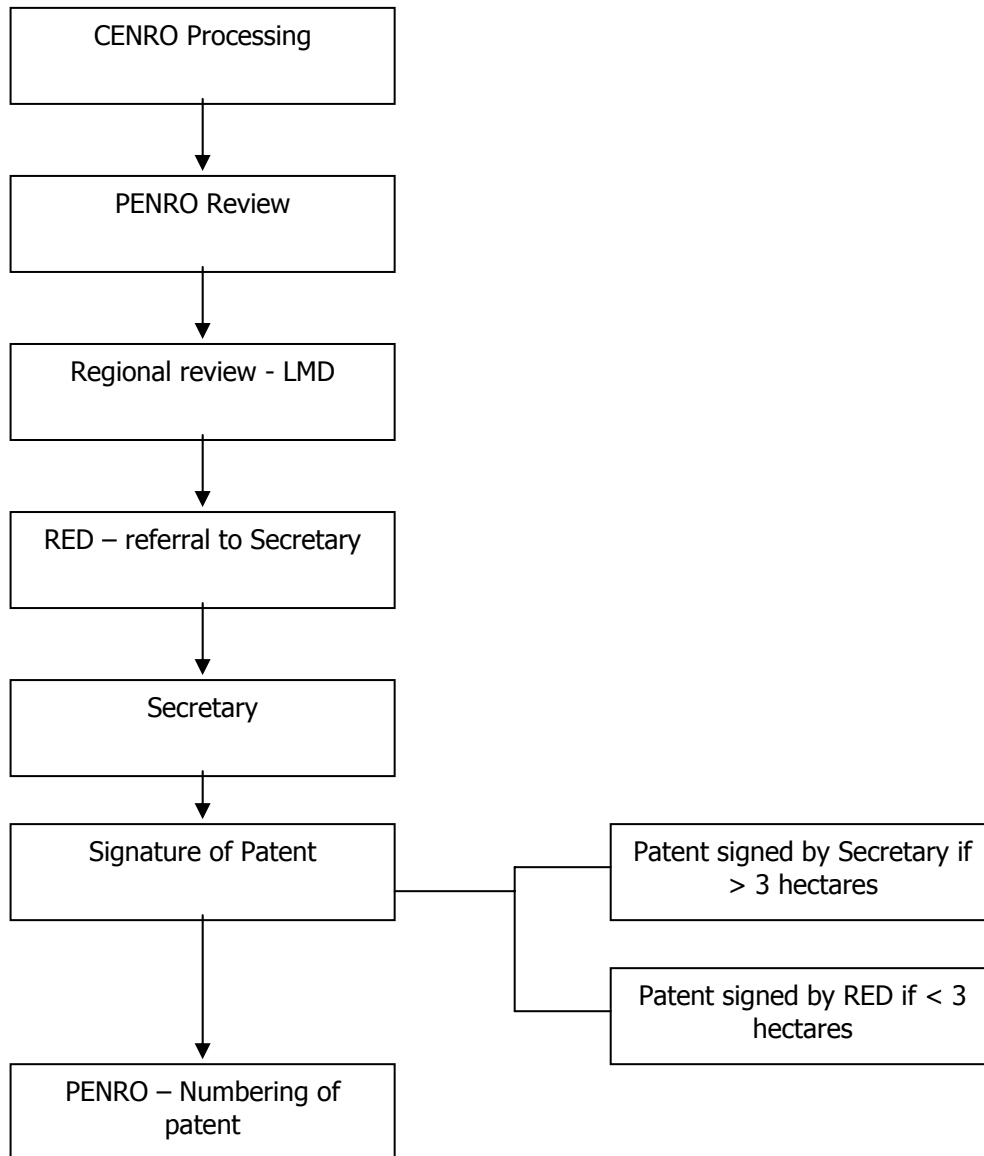
Diagram: Mass free patents with simplified field processes



**5.3.2 Complex approval process, although fewer agencies are involved**

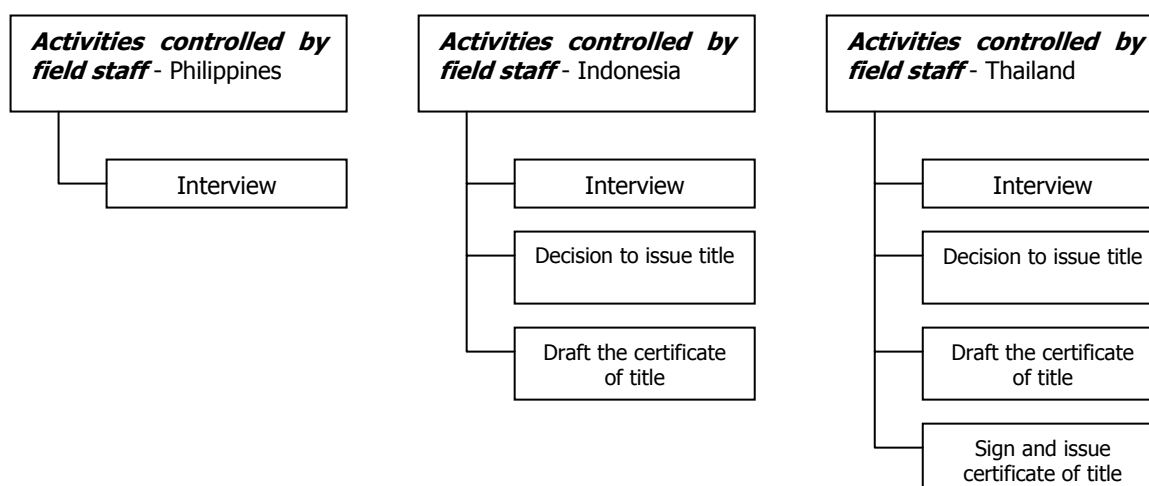
The following diagram sets out the detailed approval processes applicable to the approval of patents before the expiry of the free patent law:

*Diagram: Approval Process*



In the next diagram the situation of approval of titles in the Philippines can be contrasted with the power to approve titles delegated to the local level in Indonesia and Thailand:

Diagram: Activities controlled by field staff in the Philippines, Indonesia and Thailand



### 5.3.3 Use of deputy public land inspectors limits the ability to use this process in an expanded programme

The use of government inspectors will limit the potential to expand free patent titling without a corresponding increase in permanent government staff. It is recommended that CENRO have the flexibility to use contract inspectors

### 5.3.4 Bottleneck in CENRO for processing

Similarly, processing of applications to determine the validity of a claim is undertaken by permanent government staff. In the prototype, discussions are taking place concerning the power of CENRO to appoint and train contract staff to undertake this function. This will provide maximum flexibility in an expanded programme.

### 5.3.5 Evaluation of free patents as a potential Phase II land titling option

The process for free patents is faster and simpler, with potential to issue titles issued in half the time of judicially approved titles. However, free patents are not the ideal solution for a long-term land titling project because of the disadvantages set out in the table below.

Table: Advantages and disadvantages of free patents

<b>Issue</b>	<b>Detail</b>
<b>Advantages of free patent</b>	
Simple administrative process	
Fewer organisations involved	
Fewer field activities than judicial as it is not necessary to consult every lot owner. Only claimants need be interviewed	
Notice required is less	
<b>Disadvantages</b>	
Restrictions on sales and mortgages for five years	These are completely inappropriate where the land has potentially been owned by the claimant for 30 years
Doesn't apply to residential land	Can't cover all land in the barangay. So an additional

<b><i>Issue</i></b>	<b><i>Detail</i></b>
<i>No application to government land and church land</i>	<i>titling method is required to support free patents.</i>
<i>Complicated approval process with multiple reviews</i>	<i>This can be simplified by administrative order</i>
<i>Processing bottlenecks – deputy public land inspector required for ocular inspection and LMO3 for processing</i>	<i>The capacity to use contract staff for these functions is a key issue impacting on the potential to expand the free patent programme</i>
<i>Proving a claim is made complex by requiring proof the land has been used for 42 years</i>	
<i>The requirement to use deputy public land inspectors is restrictive and limits the use of contract staff</i>	
<i>Limitation on area – 5 hectares</i>	<i>This may be extended to 12 ha by regulation</i>
<i>Tenanted land can't be titled by this process</i>	<i>This may be clarified in the regulation</i>

## **6. Enhancements to the land registration options under the existing law**

### **6.1 Introduction**

*This evaluation is preliminary, offered for further review in Activity 25. During Activity 25, the pilots will be evaluated in depth and the options will be evaluated in consultation with stakeholders.*

In this report the main aim is to identify land titling options that have relevance in Phase II. In the next activity the pilot projects and options will be reviewed and evaluated in more detail. However the following preliminary evaluation is offered as part of the review process.

Streamlining/ improvements have already been introduced as part of the pilot process. The following refers to enhancements not yet achieved.

### **6.2 Overview of the existing system**

#### **6.2.1 Advantages in the existing system**

The advantages under the existing land registration system can be summarised as follows:

- Clear ownership rights are provided
- Registration of title already in place although only 20-30% of land is registered
- A community dispute resolution process already exists
- A land redistribution process is in place
- The private sector is available to support the process. There is some capacity to use contract resources, making it easier to expand in Phase II.

#### **6.2.2 Problems in the existing system**

The following issues have been noted in relation to the existing system:

- Multiple agencies issue titles - LRA, DENR and DAR
- Multiple titling methods - administrative, judicial and land distribution
- Multiple certificate of title formats – original and transferred certificates, patents etc
- Multiple laws affect land registration
- Numerous incomplete pending applications confuse the applicants in the pilot locations
- Formal land registration system is not extensive – in Leyte, 20% of land is registered
- Proof requirements make field titling processes difficult – 57 years or 42 years of possession
- Centralised approval process exists for administrative titling
- Lack of integration of maps and ownership details. This provides an opportunity for more than one title to be issued per parcel
- Administrative titling options do not apply to all land
- Detailed technical descriptions of lots used on titles creates opportunities for transcription errors and complexity in the title
- Informal land market is established to avoid transaction taxes
- The registered title is not always accepted as a basis for securing loans
- Arrears in taxes can be a problem. Cumulative at 2% per month
- Tendency to protect existing practices rather than exposing all to review
- LAMP is seen as a temporary phenomenon – difficult to make extensive changes
- Multiple systems in land valuation
- Declining number of transactions taxed; total cost of government fees can exceed 8% of value per transaction. On top of this, professional fees must be added.

### **6.3 General directions**

The policy studies conducted over the last year and the pilots conducted within Prototype 1 suggest that:

- One agency should be responsible for land titling
- One method for registering land should exist and it should apply to all types of land
- If one titling process can be introduced for all land, it should have the simple procedures of administrative titling
- One form of certificate of title only should exist
- All transactions with land recorded on the original certificate of title – eliminate the Transferred Certificate of Title
- Eliminate complex technical descriptions on title – simply describe the land by reference to a lot in plan
- A simplified land titling process should apply -
  - Reduced possession period – 30/ 20/10 years
  - Documentary proof of ownership for that period preferred
  - Corroborative affidavits from community should be accepted if documentary evidence is inadequate in a particular case
  - Proof that property has been taxed for possession period
  - Proof of payment of taxes by the claimant provides strong support but it is not vital if other evidence of ownership has been provided.
- A simple regulation should be enacted setting out the evidence required
- The regulation should confirm that arrears in taxes is not a barrier to the issue of a title for the land.

## 6.4 Simplified processes

Some efficiencies have already been introduced during the pilot processes. In this section, consideration is given to ways in which Judicial Titling, Free Patent titling, Homestead Patents and Miscellaneous Sales can be simplified. The Homestead Patent and Sales Patent have been included for the sake of completeness but they are not considered a sound basis for the implementation of a mass land titling programme.

### 6.4.1 Judicial titling

The following methods of streamlining judicial titling require review:

<b>Simpler process</b>	<b>Law/ regulation required?</b>	<b>Advantages</b>
<i>Reduced period of proof – 10 years</i>	<i>Law</i>	<i>Significantly simplifies process of proving a claim</i>
<i>Clear procedures in regulation</i>	<i>Regulation/ Administrative Order</i>	<i>Will give certainty concerning procedures, evidence to be furnished; removes doubts, potential for different opinions</i>
<i>Merge role of Cadastral Officer and Commissioner of the Court</i>	<i>Law</i>	<i>Eliminates double checking, saves time There will be expertise among Commissioners as pilots increase</i>
<i>Reduce public notice of Petition to 30 days</i>	<i>Law</i>	<i>Faster process</i>
<i>Remove need for Commissioner's order to be endorsed by the judge</i>	<i>Law</i>	<i>Reduces impact on the court and potential delays caused by listing. Faster process. In effect this will become an administrative process</i>

### 6.4.2 Simplified free patent

The following ways of streamlining free patents require evaluation:

<b>Simpler process</b>	<b>Law/ regulation required?</b>	<b>Advantages</b>
<i>Decentralised approval</i>	<i>Administrative order</i>	<i>Simplifies the process; faster if 3-4 approval processes are replaced by one approval process</i>
<i>Apply to residential commercial industrial</i>	<i>Law</i>	<i>The result will be an administrative process that applies to all land</i>
<i>Apply to government land church land</i>	<i>Law</i>	
<i>Reduced possession period - 10 years</i>	<i>Law</i>	<i>Significantly simplifies process of proving a claim</i>
<i>Mass notice of applications – permit a single notice to apply to multiple parcels rather than to require a single notice for each parcel</i>	<i>Administrative order</i>	<i>Faster process</i>
<i>Replace the affidavit of public notice from the barangay chairman with an affidavit from the SAT leader that the notices have been displayed and no objections received</i>	<i>Administrative order</i>	<i>Faster process</i>
<i>Public objections to be accepted by the base camp – permit the base camp or CENRO to accept objections</i>	<i>Administrative order</i>	<i>Faster process</i>
<i>Eliminate multiple interviews by permitting the ocular inspection and the original interview to be carried out at the same time and by permitting the public notice to be displayed by the base camp</i>	<i>Administrative order</i>	<i>Realise efficiencies in process; all field activities can be undertaken at the one time and the file can be submitted to CENRO when all evidence has been compiled.</i>
<i>Clear procedures in regulation</i>	<i>Law and Regulation/ administrative order</i>	<i>Will give certainty concerning procedures, evidence to be furnished; removes doubts, potential for different opinions</i>
<i>Remove restrictions on transfer and mortgage</i>	<i>Law</i>	<i>The product from administrative titling will be the equivalent of the product of judicial titling</i>
<i>Relationship with agrarian reform programme clarified – 5-12 ha</i>	<i>Administrative order</i>	<i>Remove area of uncertainty</i>
<i>Clarify application to tenanted land</i>	<i>Law/ AO</i>	<i>Remove uncertainty</i>
<i>Remove the need for a deputy public land inspector to carry out the ocular inspection –</i>	<i>Law/AO</i>	<i>Remove bottleneck; permit the use of contract resources, facilitating expanded programme</i>
<i>Permit the processing to be undertaken in the field rather than in CENRO. Permit CENRO to hire and train contract processors.</i>	<i>Law/AO</i>	<i>Faster process</i>
<i>Reduce the public notice period from 30 days to 15 days</i>	<i>Administrative order</i>	<i>Faster process</i>
<i>Recognise that the Registry of deeds can register patents exceeding 5 but less than 12 hectares</i>	<i>Administrative order</i>	<i>Faster process as it is not necessary to first subdivide larger parcels. The role of MARO is not hindered but is helped by the issue of a title.</i>

### 6.4.3 Simplified Homestead Patent

It is not a simple process to make the Homestead Patent process suitable for a mass titling programme. The patent would need to be changed in a way that would make it fundamentally different. The following would be required:

<b>Simpler process</b>	<b>Law/ regulation required?</b>	<b>Advantages</b>
<i>Remove the cultivation period if already cultivated for 12 months</i>	<i>Law</i>	<i>Speeds the issue</i>
<i>Make the patent absolute 12 months after issue</i>	<i>Law</i>	<i>Improve quality of the patent</i>
<i>Remove the need for approval of sales for 25 years</i>	<i>Law</i>	<i>Improve attractiveness of the patent</i>
<i>Remove the restrictions on transfer and mortgage</i>	<i>Law</i>	<i>Improve quality of the patent</i>
<i>Apply it to residential land</i>	<i>Law</i>	<i>Makes it applicable to a broader class of land but this would fundamentally change the concept of the homestead patent</i>
<i>Permit multiple applicants</i>	<i>Law</i>	<i>Make the process simpler for inheritance situations and married applicants</i>

### 6.4.4 Simplified Sales Patent

The sales patent process is fundamentally flawed because it involves a sale of land to a person who is already the owner and who may have already paid the purchase price. Requiring the claimant to pay the full value of the land a second time and to pay all arrears of taxes makes the process very unattractive. The patent would need to change fundamentally before it became suitable for a mass titling programme. The following would need to be considered:

<b>Simpler process</b>	<b>Law/ regulation required?</b>	<b>Advantages</b>
<i>Remove the need to pay the purchase price</i>		<i>Removes the payment of the purchase price a second time – the claimant will generally already be the purchaser of the land</i>
<i>Eliminate the public auction process</i>		<i>The process exposes the applicant to the risk that another person can bid more for the land than the applicant!</i>
<i>Simplify the advertising requirements</i>		<i>Remove burdensome requirements</i>
<i>Remove the limit on the claimant of one sales patent per municipality</i>		
<i>Remove the requirement of a tax declaration in the name of the claimant</i>		<i>Removes the need to pay arrears in tax before the title issues</i>

## 6.5 Summarising Judicial –v- Administrative titling

In deciding if an administrative or judicial titling process should be adopted, the following may be relevant:

- The product from judicial titling may be superior as there are no five-year restrictions on transfer and mortgage
- The judicial titling process has fewer restrictions on the type of land covered. But free patents cannot apply to residential or commercial land, government or church land or tenanted land
- Judicial titling applies to more parcel – it can apply to parcels up to 12 hectares
- It is not necessary in judicial titling to be concerned with other land owned by the claimant.
- The process for free patents is simpler, with fewer steps and fewer inter-agency dependencies
- The basis of proof is similar 57/42 years' possession. For free patents the staff of CENRO exercise an administrative function in deciding if this requirement has been met. By way of contrast, in judicial titling, a similar decision requires the involvement of a Cadastral Officer, a Commissioner of the court and a judge.
- The Judicial Titling process takes up to 12 months but the free patent process can produce titles in 5 months
- The free patent process, being an administrative process, fits with examples in other countries.

## 6.6 Initial recommendations in Activity 21

- A simple title registration process is required
- The one simple method should apply to all land types and all land owners – agricultural, residential, commercial, industrial, government and church land
- The process should be administrative rather than judicial
- The claim should be based on possession for a minimum period of time specified in the Civil Code
- The title registration process should be simplified by:
  - Eliminating the technical description
  - Delegation of the signing powers from the central to the local level. The delegation can extend to CENRO/ PENRO, the prototype manager or the SAT Leader.
  - Permitting the use of contract staff to prepare preliminary reports and recommendations to eliminate or reduce strain on the staff of CENRO
  - One form of certificate of title replacing the various forms now in use. All land to have similar status but some land types may have conditions endorsed on the face of the title.
  - A simple regulation setting out the process and procedures to be followed, evidence required to support a claim. In particular the regulation should confirm that the claim is based on possession and is therefore not dependent on the production of deeds supporting the full period of the claim. In the absence of deeds, additional corroborative evidence may be provided by other means, including confirmation by the community that the period of occupation has been fulfilled. Should evidence be available of the payment of taxes this may also add weight to the claim. The regulation will clarify the public display. Notice provisions to be followed, to ensure that competing claims for the land are identified and contestants have the opportunity to submit a competing claim.
  - Recognizing [not frustrating] the use of technology in the preparation and drafting of titles. It is inevitable in an expanded land titling programme that the mass production of titles will be simplified by technology; often the law inadvertently removes this flexibility by being drafted in terms of manual production methods.
  - Replace the complex possession periods with a period of 10 years based on the prescription period in the Civil Code.
- Statutory recognition that once the prescription period has been satisfied then the land ceases to be part of the public domain and becomes subject to private ownership.
- If a free patent format of administrative titling is preserved then:

- o The period of occupation should be brought into line with the Civil Code
- o The power to process a grant should apply to all types of land – in addition to agricultural it should apply to residential, government industrial /commercial, church etc
- o Eliminate the restrictions on transfer or mortgaging land on the premise that it has already been occupied for 10 years by the current claimant
- o Where the land has been occupied for less than 10 years, consideration could be given to the use of a provisional title that ripens into a full title after the 10-year period if no adverse claim is received.
- o Provide greater flexibility in the use of contract staff by permitting delegation to deputy public land inspectors who are contract staff. Training will be provided by the Land Management Division.

## 6.7 Initial recommendations for Phase II

At the start of LAMP Phase II, both judicial titling and free patents can be utilised. The following options are recommended:

*Table: Land titling structure to initiate LAMP II*

<b>Land Type</b>	<b>Titling method</b>
<i>Agricultural land</i>	<i>Free Patent</i>
<i>Barangays containing substantial areas of residential, commercial, government and church land</i>	<i>Judicial titling</i>

For the longer term, the following model is suggested:

*Table: Longer-term proposed titling model*

<b>Land Type</b>	<b>Titling method</b>
<i>All land</i>	<p><i>Revised and simplified administrative titling method.</i></p> <p><i>Title will issue to claimant able to establish 10-12 years' possession either in his or her own right or by building on the prior possession of a predecessor in title</i></p>

### 7. Next steps for land registration in PIO 1

The Table sets out the next steps to be taken in the development of workable land titling solutions for Phase II.

<b>Activity</b>	<b>Description</b>	<b>Objective</b>
<b>Activity 25</b>	<i>The judicial titling pilots and field tests of land titling options will continue to be supported. In addition all field tests will be reviewed in consultation with the community and stakeholders and areas in which the titling options permitted under the existing legislation can be improved by administrative or legislative action will be identified. The project will develop a strategy for the expansion of these methods.</i>	Complete the judicial titling pilots and issue titles; conduct community consultation and identify options to streamline the process.  Complete the free patent field tests and pilots. Evaluate free patent pilots and compare them with the judicial titling methods
	<i>An integrated training programme will be developed to simplify training under an expanded land titling programme</i>	One single training session to be conducted, suitable for both judicial and free patent titling. Full material and support documents to be provided. On the job training incorporated.
	<i>In addition a site visit will be arranged to some of the countries whose laws and processes have been evaluated during Activity 21, so that staff in PIO 1 in the key disciplines can evaluate options first-hand.</i>	Carry out comparative studies
	<i>In addition the land titling options developed reviewed and inspected during Activity 21 will be tested in workshops with industry groups, so that the options are evaluated with inputs from the community. A strategy for implementation will be developed.</i>	<i>Identify options under the existing law that could be applied in an expanded land titling programme in Phase II.</i>
	<i>As part of the design process for an expanded land titling programme it is expected that during Activity 25 a pilot will be conducted in which all CRS, mapping and adjudication processes are conducted by the maximum use of contract staff. The aim of this test will be to develop an effective staffing structure for an expanded land titling programme so that it can be geared up in new locations into an effective production process.</i>	Test the capacity to use mostly contract staff in an expanded programme.
<b>Activity 34</b>	<i>Field tests of land titling options will continue to be supported.</i>  <i>An integrated report of all land titling options and lessons learned from the pilot activities will be compiled. In relation to land titling methods permitted under existing legislation, the report will include a strategy on how to staff and expanded production process in Phase II.</i>	Take first steps in orienting the new locations of Phase II

	<p><i>It is expected that this activity will provide an effective transition from the design and evaluation processes of LAMP 1 and the expanded production processes of LAMP II. This activity will permit the concepts to be explained to officials in the initial target areas of LAMP II and will also permit the development of a recruitment and training programme to provide a platform of skilled staff on which LAMP II can be built.</i></p>	
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### **ABBREVIATIONS & ACRONYMS**

AO	Administrative Order
A & D	Alienable and disposable
AusAID	Australian Agency for International Development
BBIM	Barangay Boundary Index Map
CENRO	Community Environment and Natural Resources Office
CIM	Cadastral Index Mapping
CRS	Community Relations and Services
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
Ha	Hectares
IRR	Implementing Rules and Regulations
LAM	Land Administration and Management
LAMP	Land Administration and Management Project
LEI	Land Equity International Pty Ltd
LMB	Lands Management Bureau (DENR)
LMD	Land Management Division of the Region of DENR
LMO	Land Management Officer
LRA	Land Registration Authority
MARO	Municipal Agrarian Reform Officer
PENRO	Provincial Environment and Natural Resources Office
PIO	Project Implementation Office
PLA	Public Land Application
PMO	Project Management Office
RED	Regional Executive Director
ROD	Registry of Deeds
SAT	Systematic Adjudication Team
SG	Solicitor General
TA	Technical Assistance
TOR	Terms of Reference

**Attachment 1**

**Introduction to land titling options under the existing law**

**1. Options for the registration of land**

The classification of land is governed by the Commonwealth Act 141 (as amended). It classifies land of the public domain as:

- Alienable and disposable – further classified according to use into:
  - Agricultural }
    - Residential }
      - Commercial } Can be titled
      - Industrial }
        - Other }
          - Timber
          - Mineral

The 1987 Constitution has a slightly different classification:

- Agricultural – which can be alienable and disposable
- Forest and Timber
- National Parks

**2. Titled land and Untitled land**

In the Philippines, there are two systems for the recording of real property transactions [see Noblejas]:

- **Where the land is titled** – this is a form of Torrens title land under the Land Registration Act No. 496 of 1903 [as amended by Presidential Decree PD 1529 on 11 June 1978]. Registered land is characterised by indefeasible rights. At the expiration of 12 months from the issue of the decree for the registration of the land, the title becomes incontrovertible. Land transactions are recorded on the certificate of title, which is evidence of the ownership rights and encumbrances. The official certificate of title shows the state of the title, setting out the owner and encumbrances affecting the land.
- **Where the land is untitled** – Section 194 of the Administrative Code provided a system for the registration of instruments affecting unregistered land. All deeds affecting unregistered land can be recorded by the Registrar of Deeds - see also Act 2837 and Act 3344 of 1926. Recorded transactions for unregistered land generally do not confer title greater than that held by the party conveying title [see Section 113 of the Property Registration Decree PD 1529]. The registration of a deed in itself does not confer a valid interest in land. The effect of registration is to give public notice and to make the contract binding on third parties:

*Section 113 . Recording of Instruments relating to Unregistered Lands. No deed, conveyance, mortgage lease or other voluntary instruments affecting land not registered under the Torrens system shall be valid, except as between the parties thereto, unless such instrument shall have been recorded in the manner herein prescribed in the Office of the Registrar of Deeds..."*

There is no title document and ownership is established by various deeds in the chain of title. A significant difference between registered and unregistered land is the impact on subsequent transactions. The execution of a deed conveys ownership of unregistered land, whereas for registered land no deed of conveyance or mortgage etc takes effect or binds the land until it has

been registered by the ROD [see section 50 of the Land Registration Act]. The integrity of the title of subsequent purchasers of registered land depends on the registration of the transaction by the purchaser.

### **3. How land may be titled [original registration]**

Alienable and disposable (agricultural) land can be registered by the following processes:

#### ***3.1 Administrative action to issue a patent for public land.***

The land in the patent, once registered by the Registrar of Deeds, will become registered land as if contained in a certificate of title. Patents can be issued as follows:

- Homestead Patents under Chapter IV
- Free Patents under Chapter VI [see also the Republic Act 782, 3872 Presidential Decree 1073, Republic Act 6940]
- Sales Patents under Chapter V

#### ***3.2 Judicial action where the court can confirm an imperfect title and order the issue of a certificate of title.***

There are two types of court proceedings:

- *Voluntary Judicial Titling proceedings* – this is an application relating to one parcel of land brought by the owner of the parcel. Applications can be made to the court by a claimant seeking judicial validation of an imperfect title. The claimant hires Counsel and presents documentary and verbal evidence to support the claim.
- *Mass, compulsory Judicial Titling proceedings* initiated by the State for all the land in a barangay. These are known as cadastral proceedings. The Cadastral Act 2259 of 1913 requires the title of lands to be adjudicated and settled. It provides for mass judicial proceedings, in which the government takes the initiative in preparing an application to the court. Under this procedure, an effort was made to minimise the impact on the court, by permitting the court functions to be delegated to a "Commissioner of the Court" to identify and resolve applications where there is no dispute. The Commissioner has responsibility to review Answers already examined and reported on by the Cadastral Officer. The Commissioner is empowered but not required to conduct an informal hearing if further evidence is required to support any application. The Commissioner can recommend to the court an appropriate order in relation to uncontested lots. It is expected that the court will simply endorse the recommendations by the Commissioner for land not in dispute and no verbal evidence will be presented in court. This method has not been used in over 20 years. Judicial titling applications can only be made by Filipino citizens in relation to alienable and disposable land. If the land is forest land the application cannot proceed.

The most common way of acquiring title of unregistered land is by possession. Where land has been occupied openly and continuously for over 30 years, a valid claim can be made for the land. The claimant can apply to the court for validation of an imperfect title.

#### ***3.3 Land redistribution***

This involves the issue of a patent/title under the comprehensive agrarian reform programme. Presidential Decree 27 was issued to "emancipate tenants from the bondage to the soil" by the issue of an emancipation patent. Certificates of Land Ownership are also issued upon redistribution of land under the Comprehensive Agrarian Reform Law (RA 6657) which seeks to promote social justice issues.

The options for original registration of land are summarised in the following Table:

Table: Land Titling Options in the Philippines

<b>Option</b>	<b>Status</b>	<b>Pilot</b>
<b>Administrative – application for a patent for public land</b>		
Free Patents  <i>DENR</i>	<p>A mode of confirming the imperfect title of the actual occupant of land used for agriculture. The law expired on 31/12/00. The renewal law passed through the parliamentary process in July 2002. It was signed by the President on 13 November 2002 and will come into effect following gazettal.</p> <p>The basis of claiming land is a superior right of possession by the applicant of land that has been openly and continuously occupied since 16 April 1960</p>	San Miguel and Alang Alang, commencing December 2002
Homestead Patents  <i>DENR</i>	<p>This option had, until the project, not been used in over 40 years. It is suited to the first release of public land for original settlement, where the state wishes to bring land suitable for agriculture under cultivation.</p> <p>A person who is an occupier and cultivator of agricultural land can apply for the issue of a Homestead Patent. This is a grant of public land to a person seeking to establish and maintain a home on a farm. The claimant must prove actual, continuous and personal occupancy as a home and must establish that the land has been improved and cultivated.</p>	<p>Administrative titling was tested during the Bridging Technical Assistance by the conduct of two pilots at <b>Libertad</b> [Municipality Palo] and <b>Macalpi-ay</b> [Municipality Pastrana].</p> <p>Reviews of these pilots were conducted. A comparison with Judicial Titling is set out in this report.</p>
Sales Patents  <i>DENR</i>	<p>This is similar to homestead patents, where the State wishes to release land for the establishment of residential dwellings. It involves paying the full purchase price to the State.</p> <p>The patent process is not attractive where the residential land has been occupied for some time and was purchased by the claimant. The process necessitates paying another purchase price to the State.</p>	<p>Not specifically tested.</p> <p>During the field test at Libertad and Macalpi-ay, there was potential for claimants who didn't qualify for Homestead Patents to apply for a sales patent. However no applications were received. Field staff attributed this to the cost of the application. Major costs include (i) payment of the purchase price to the State [even though the applicant may have already have paid full market value to a prior owner]; (ii) the necessity to pay all taxes and arrears.</p>
CLOA and Emancipation Patents  <i>DAR</i>	<p>CLOA is a title issued as part of the land reform programme to "landless". The grant is limited in size to three hectares. Also, in 1972, the law permitted tenant farmers of land exceeding 24 hectares to be "emancipated" by the issue of an emancipation patent for part of the land. Both are therefore a means of land redistribution.</p>	Each pilot is to recognize these procedures.

<i>Option</i>	<i>Status</i>	<i>Pilot</i>
<b>Judicial</b>		
	This entails the lodgment of an application to the court for confirmation of an imperfect title. The basis of the claim in both cases is that the land has been openly and continuously occupied for more than 30 years and that the claimant can establish a superior claim to possession of the land. There are two types of judicial titling applications to the court:	
Individual applications <i>LRA</i>	An individual can apply to the court for the judicial confirmation of an imperfect title	No field test yet conducted.  2003
Mass applications cadastral proceedings <i>LRA</i>	A mass titling application can be made to the court by DENR to process all the land in a barangay	In Activity 11, PIO 1 designed a methodology for testing the mass certification approach. Fieldwork commenced in April 2002 and continued throughout 2002 in Activity 21]. The first titles are expected to issue in March 2003 [in Activity 25].

#### 4. Reasons for registering land

In *Zuniga –v- Court of Appeal* [95 SCRA 740 1980] the Supreme Court said:

*"The purposes of the Land Registration law in general, are: to ascertain once and for all the absolute title over a given landed property; to make, so far as it is possible, a certificate of title issued by the court to the owner of the land absolute proof of such title; to quiet title to the land and put a stop forever to any question of legality to a title, and to decree that land title to be final, irrevocable and undisputable."*

One of the features of registered land is that the title is effective against the whole world and is not assailable except by methods clearly set out in the land registration law.

Where a patent is issued or the court orders the issue of a certificate of title, the patent/ title is registered by the Registry of Deeds. This makes the land "registered" and applies the concept of registered land and indefeasibility of title to the owner. Significant advantages flow from registering land under the Torrens system:

*"... the following are the advantages of adopting the Torrens system in this country in general, and of bringing lands under the operation of the same..."*

- (1) the title issued under this system is indefeasible;*
- (2) the title issued is a conclusive evidence of ownership;*
- (3) the Torrens system relieves the land of unknown liens or claims against it;*
- (4) the security and certainty of the title raise the value of the land;*
- (5) security, brevity and clearness are substituted for insecurity, verbiage and obscurity with respect to the title to the land;*
- (6) the cost of conveyance is made very much cheaper because it does away with the necessity of examining previous records to ascertain the actual status of the title;*

(7) *no encumbrance, lien, adverse claim can affect the land unless registered in the Registry Book ... ;*

(8) *the method of dealing with the land is simplified, thereby making easier any transaction relative thereto;*

(9) *it quiets [removes conflicts concerning] title to or possession of the land;*

The Registration of Land Titles and Deeds by Noblejas, A.H. and Nolejas, E., Rex Book Store, 1986, at page 45.

Other advantages include the generation of valuable land information including a database that simplifies the collection of taxes and other charges affecting land and land transactions.

## 5. Comparison of land titling options

The choice of a titling option is affected by the land use of the parcel, as specified in the following Table:

*Table: Land use determines titling options*

<b>Land encountered</b>	<b>Titling Options</b>
If the land is ... Agricultural land	<i>Homestead Patent</i>
	<i>Individual Judicial titling application</i>
	<i>Mass Cadastral Proceedings</i>
	<i>Free Patent [when renewed]</i>
If the land is ... Residential land	<i>Individual Judicial titling application</i>
	<i>Mass Cadastral Proceedings</i>
	<i>Application for Sales Patent</i>
If the land is ... Commercial land	<i>Individual Judicial titling application</i>
	<i>Mass Cadastral Proceedings</i>
	<i>Application for Sales Patent</i>
If the land is ... Government land	<i>Judicial titling</i>

This Table highlights that:

- Free Patents are suitable for agricultural land but not for (i) residential (ii) commercial and industrial (iii) government and (iv) church land
- Judicial titling copes with all land uses.

The following table compares the individual and mass judicial titling processes:

*Table: Comparing individual and mass Judicial Titling*

	<b><i>Individual judicial applications</i></b>	<b><i>Mass judicial [Cadastral] proceedings</i></b>
1	<i>Landowner applies</i>	<i>Government applies</i>
2	<i>One landowner per application</i>	<i>Application includes all land in a barangay</i>
3	<i>Applicant arranges the survey and funds it</i>	<i>Government applies for the survey and funds it; contribution by claimants.</i>
4	<i>Owner claims ownership and asks the court to</i>	<i>State doesn't claim ownership but requests the</i>

	<i>confirm the title</i>	<i>court to determine titles for all land in the barangay</i>
5	<i>Applicant arranges publication in the Gazette. Publication relates to one applicant</i>	<i>Government arranges publication in the Gazette. One notice lists all land in the barangay.</i>
6	<i>Proceedings in Regional Trial Court</i>	<i>Proceedings in relation to non-contested claims are in the Municipal Trial Court</i>
7	<i>Applicant must prove ownership</i>	<i>If the title is non-contested, it is not necessary to prove the title as an order will be automatic</i>
8	<i>Court determination required</i>	<i>Court appoints a Commissioner of the to determine title and to report conclusions back to the court in the form of draft orders.</i>
9	<b>Evaluation</b> – <i>voluntary proceedings, one parcel at a time, is not a methodology suitable for mass land titling</i>	<i>Large-scale compulsory titling process has more attraction for a mass programme than individual judicial titling. Its main drawbacks are detailed technical processes and reliance on the cooperation of a number of external agencies, including the courts</i>

## 6. Homestead Patents

A person who is an occupier and cultivator of agricultural land can apply for the issue of a Homestead Patent. This is a grant of public land to a person seeking to establish and maintain a home on a farm. The claimant must prove actual, continuous and personal occupancy as a home and must establish that the land has been improved and cultivated.

### **Flowchart**

The pilots have helped to identify a number of technical deficiencies with **Homestead Patents**. These include:

**A married woman could not [at that time] apply** for a Homestead Patent except in specific circumstances. It effectively provided an obstacle to married women applicants. [This was subsequently corrected by Administrative Order 2002-13 dated 24 June 2002].

**Only one applicant can apply** - this is a major issue in the Libertad pilot project where the barangay council estimated that 80% of parcels are affected by inheritance, with multiple heirs. It is not possible for Homestead Patents to accept new applications in the name of the heirs jointly. This pressures families to either relinquish rights to one family member or to subdivide the parcel among heirs. Most parcels are not large to begin with. The project could be seen as:

- Generating family conflicts unnecessarily to determine how heirs should divide and own the land
- Causing families to subdivide the land into small parcels that are not viable agriculturally.

**An applicant cannot own another Homestead Patent.** If an applicant already has one Homestead Patent, s/he can't apply for another HP. If the applicant has claims over several parcels, only one can be accepted.

**The application is treated as a grant of public land** and thus it requires the applicant to in effect surrender ownership rights that may have already accrued. The existing rights encountered in the pilot areas may be sufficiently strong to justify a judicial titling application or a Free Patent application.

**There is a cultivation requirement that delays the issue of the patent for 12 months.** In Libertad the cultivation requirement was fulfilled at the time of the application, because land users have been occupying the land for many years. The law should be changed to provide that the 12-month qualification period be waived if the cultivation requirement is already satisfied at the time of the application.

**Application by a minor** - because of the prevalence of inheritance applications there is the issue of what application can be made by an heir who is not yet 18 years of age. Whilst it is accepted that a person 14 years old and above can apply if the head of the household, there is no procedure for an application by a minor heir who is not the head of the household.

**Collection of arrears of taxes** - It is inconsistent with the concept of an original grant of public land to require the grantee to pay arrears of taxes. Taxes are often levied against ownership of land and can extend back over a period of 10 years. The concept of the grant of land is that the land is assumed to be owned by the state. Therefore the issue of arrears of taxes is not relevant. Fortunately this requirement has been addressed in PIO 1 by securing the consent of the municipalities to dispense with arrears at the time of the issue of the patent but it is still proposed to collect arrears on Homestead Patents at the time of the first sale by the applicant

**Restrictions on the transfer of land and use of the land as collateral** - when the HP issues, it is not treated as an unrestricted title. The land is subject to a prohibition on the sale, mortgage of the land etc for the first five years. This applies even if the applicant has used the land for many years.

**Title not absolute for 25 years** – for 25 years after the issue of the title, transfers require the consent of the Secretary DENR. This applies to the sale of any improvements on the lot.

## 7. Sales

A Miscellaneous Sale is an application for land for residential, commercial or industrial purposes – it is thus non-agricultural. The process includes the sale of the land by the State at a public auction. The highest bidder can acquire the land if the occupier cannot equal the bid.

### **Flowchart**

Some of the limitations of **Miscellaneous Sales** are:

- The claimant by lodging the application is acknowledging that the land is public land, even though the land may have been in private use for a long time
- The applicant [who has generally already purchased the land] must again purchase the land by paying a purchase price to the state. The applicant must participate in public bidding to purchase the property if the applicant is not residing in the land applied for or the land use is for commercial purposes.

- The application must be extensively advertised. Publication expenses are payable by the applicant. Notices of the application must be displayed on the land, and on the bulletin board of the barangay hall and municipal/provincial capital
- A copy of the latest tax declaration is required. If the declaration is not in the name of the applicant, arrears of taxes must be paid, including arrears of real property and transfer taxes. Tax declaration for the residential house (building) is also required.
- The applicant can only apply for one residential lot in the municipality
- The title can't be issued until the purchase price is paid in full

## 8. Judicial Titling

A title issued by cadastral proceedings has significant advantages over a Homestead Patent:

- The homestead patent does not become absolute for 25 years, as sales in the next 25 years require the consent of DENR. Mortgages cannot be entered into for five years. However, the judicial title becomes absolute one year after issue and has no restrictions on sale or mortgage.
- Details of maximum areas of ownership are examined for homestead applications but not for judicial title claims processes
- Whereas only one claimant, the cultivator, can apply for ownership of Homestead Patent, there is no similar restriction affecting judicial claims. One area where this is significant is where the owner has died and multiple heirs wish to claim. For homestead patents the heirs must nominate one owner or subdivide the land. However for judicially issued titles the ownership can be registered in the name of the estate or multiple claimants.
- Cultivation requirements over 12 months must be established for homestead patents but not for judicial title. The net result is that the titling process for both applications is approximately 12 months.
- Whereas the homestead patent can only be issued for agricultural land, the court can confirm a title for any land – this includes residential and commercial land, government and church land.

There are some advantages for homestead applications:

- They can apply even if the land was only recently declared "alienable and disposable"
- The administrative titling processes are simpler, involving fewer agencies and a lesser standard of proof [actual occupation and cultivation –v- the land has been occupied continuously for 57 years and the claimant has the best claim to possession.
- Because the process is administrative, fewer visits to the claimant are required by field staff.

Judicial Titling produces a title of better value than homestead patent processes as it contains no restrictions on use, and is more flexible in relation to multiple owners. Nevertheless it is a slow process, more technical and more demanding on field staff. It is more dependent on the cooperation of external agencies. Thus overall it is less attractive than an administrative form of titling.

*Table: Advantages and disadvantages of judicial titling*

<b><i>Issue</i></b>	<b><i>Detail</i></b>
<b>Advantages of judicial titling</b>	
<i>Applies to all land</i>	<i>All land can be titled under this approach, including residential and commercial land, church land and government land</i>
<i>Title absolute within 1 year</i>	<i>The judicially issued title is absolute in one year; the Homestead Patent is absolute in 25 years; the free</i>

<b>Issue</b>	<b>Detail</b>
	<i>patent is absolute in one year.</i>
<i>Title issues without restrictions on transfer, mortgage</i>	<i>There is no five-year restriction on subsequent transactions</i>
<i>Applies equally to tenanted land</i>	<i>This permits more land to be titled.</i>
<i>Can apply to lots from 0-12 hectares</i>	<i>Instead of requiring CARP issues to be resolved in advance, the land is first titled and then DAR is notified.</i>
<i>It is not necessary to take into consideration other land owned by the claimant</i>	<i>Simplifies the process</i>
<b>Disadvantages of judicial titling</b>	
<i>Many organisations involved so the process is slower</i>	<i>The potential to eliminate the other agencies is small.</i>
<i>High cost of voluntary judicial applications and slow</i>	
<i>Dependence on court process so lack of control</i>	<i>Impressive cooperation was given by the courts in Leyte but can this be assured in other locations?</i>
<i>Lawyers involved in several stages of process</i>	<i>Risk of different opinions.</i>
<i>Every lot must be considered and must prepare an Answer</i>	<i>Even the owners of titled land must be interviewed and encouraged to file an Answer. Whereas the claimants for unregistered land provide an Answer detailing their claim for the land, the owners of registered land file an Answer rejecting the court's capacity to make an order affecting their land</i>
<i>Multiple visits from CRS teams</i>	
<i>Notice required is longer</i>	<i>Notice required is longer than for Free Patents and this slows the process</i>
<i>Some confusion over the need to pay arrears in taxes and the capacity of the claimant to rely on an unregistered deed as part of the chain of title</i>	

## 9. Free Patents

Free patents have similar advantages to Judicial Titling but the process is more flexible and faster. Although the title has restrictions on mortgage and alienation in the first five years, this is not a major disadvantage.

Free patents are suitable for agricultural land but not for residential, commercial or industrial land, land of the church and State land.

The following disadvantages were noted for homestead patents compared to Free Patents:

- There is no gender bias in Free Patents. Applications are not restricted to heads of households
- There is no requirement that the land be subdivided if there are multiple heirs, as the heirs can apply jointly
- Whereas the Homestead Patent assumes the land is public land, Free Patents recognize rights that have already accrued to the applicant
- Whereas Homestead Patents have a 12-month qualification period, the Free Patent may issue immediately
- There is no 25-year requirement for the consent of DENR to transfers. However Free Patents also have a 5-year restriction on sales and mortgages.
- The claim for homestead patent is easier to prove. To establish a claim for a free patent, possession for 30-55 years must be established.

Table: Advantages and disadvantages of free patents

<b>Issue</b>	<b>Detail</b>
<b>Advantages of free patent</b>	
<i>Simple administrative process</i>	
<i>Fewer organisations involved</i>	Faster process
<i>Fewer field activities than judicial as it is not necessary to consult every lot owner. Only claimants need be interviewed</i>	Faster, simpler process
<i>Notice required is less</i>	Faster
<b>Disadvantages</b>	
<i>Restrictions on sales and mortgages for five years</i>	<i>These are completely inappropriate where the land has potentially been owned by the claimant for 30 years</i>
<i>Doesn't apply to residential land</i>	
<i>No application to government land and church land</i>	
<i>Complicated approval process with multiple reviews</i>	
<i>Processing bottlenecks – deputy public land inspector required for ocular inspection and LMO3 for processing</i>	<i>The capacity to use contract staff for these functions is a key issue impacting on the potential to expand the free patent programme</i>
<i>Proving a claim is made complex by requiring proof the land has been used for 42 years</i>	
<i>The requirement to use deputy public land inspectors is restrictive and limits the use of contract staff</i>	
<i>Limitation on area – 5 hectares</i>	
<i>Tenanted land can't be titled by this process</i>	

Table: Comparison of Homestead Patents with Judicial titling

#	<b>Homestead Patent</b>	<b>Judicial Titling</b>	<b>Free Patents</b>
1	<b>Recognition of private rights - Public land</b> – all land in an administrative title claim is considered to be public land; thus accrued rights of a individual are ignored	<b>Recognition of private rights - Private</b> ownership rights recognized by the court	<b>Recognition of private rights</b> – private accrued rights are recognised and are validated by the process
2	<b>Basis of claim</b> - Recognises occupation of public land by granting a patent	<b>Basis of claim</b> - the land has been openly continuously and exclusively occupied since 12 June 1945	<b>Basis of claim</b> - the land has been openly continuously and exclusively occupied since 16 April 1960.
3	<b>Titling process</b> - Administrative titling – application to DENR	<b>Titling process</b> - Application to the court	<b>Titling process</b> – Administrative titling
4	<b>Area limit</b> – the limit on parcel size is five hectares – the excess must be subdivided and removed as part of the patent issue process	<b>No area limit</b> - Title can be confirmed judicially for any area. Lots larger than 5 ha will be notified to DAR for follow-up.	<b>Area limit</b> – 5 hectares. Approval is being sought for the registration of patents from 5-12 hectares
5	<b>Cost</b> - although cheaper than Miscellaneous Sales there is still a cost to applicants, including cadastral survey costs and registration fees.	<b>Cost Subsidized</b> – all major costs may be met by the government.  However some costs must be paid by the claimant including a contribution towards survey costs, fees for applying for certificates to support an application, fee for registration of the title, photocopy costs and notarial fees.	<b>Cost</b>
6	<b>Multiple applicants can't apply</b> – one applicant is allowed per parcel. This causes difficulties in coping with multiple ownership under family arrangements [husband and wife; joint heirs]	<b>Multiple applicants can apply</b> – there is not restriction on the number of joint applicants per lot.  Special Power of Attorney required where there are multiple heirs represented by one heir	<b>Multiple applicants</b> – no limit on multiple applicants  Special Power of Attorney not required.
7	<b>Married woman can't apply</b> – where there is a husband and wife, the application must be by the "head of the household". This is generally taken to mean the husband except in some specific circumstances. This was subsequently	<b>Married women can apply</b> – there is no head of household provision. There is no gender bias in judicial proceedings.	<b>Married women</b> – no restriction

#	<b>Homestead Patent</b>	<b>Judicial Titling</b>	<b>Free Patents</b>
	<i>changed by Administrative Order 2002-13 dated 24 June 2002.</i>		
8	<b>Inheritance problems</b> – because heirs can't apply jointly, this requires families to either nominate one claimant or to subdivide the parcel among all heirs. This may result in small non-viable lots	<b>No inheritance problems</b> – all heirs can apply jointly. An application can be lodged in the name of "the heirs of ...." and this provides great flexibility.	<i>Inheritance problems – no problems. One heir can represent all heirs or all can apply.</i>
9	<b>Restrictions on title</b> – the title can't be transferred or used as collateral for five years	<b>restrictions on title</b> – Nil - the title can be transferred or mortgaged immediately	<b>Restrictions on title</b> – 5 years restriction on transfers and mortgages
10	<b>Time until title absolute - 25 years until absolute</b> – there is a restriction on the title that, for 25 years, transfers require the consent of the Secretary DENR	<b>Time until title absolute - Immediate absolute title</b> – the title is absolute 12 months after the date of the decree authorizing the issue of the title	<b>Time until title absolute</b> – same as Judicial Titling
11	<b>Cultivation requirement?</b> <i>Cultivation requirements creates delay in issue of patent – there is a cultivation requirement to be fulfilled in the first twelve months. The patent is not confirmed in the first 12 months</i>	<b>Cultivation requirement?</b> <i>No cultivation requirements but 30 years continuous, open, notorious possession is required plus evidence of payment of taxes.</i>	<b>Cultivation requirement?</b> <i>The land must be under cultivation but there is no proof required beyond the ocular inspection</i>
12	<b>Area and lot limits - Limit of one parcel per applicant per municipality</b> – the applicant can only own one HP per municipality	<b>Area and lot limits - No limit</b> - on the number of parcels per municipality	<b>Area and lot limits</b> <i>Aggregate total land holdings in the Philippines must not exceed 12 hectares.</i>
13	<b>Limits on land covered by process</b> - <i>Government land cannot be covered by a homestead patent. Church land cannot be covered by a patent. Commercial and industrial land cannot be titled</i>	<b>Limits on land covered by process</b> - <i>Government land can be titled. Church land can be titled. Commercial and industrial land can be titled</i>	<b>Limits on land covered by process</b> – <i>only applies to agricultural land – not to state land, residential land, commercial land, church land</i>
15	<b>Land recently classified as "Alienable and Disposable"</b> – <i>can be titled</i>	<b>Recently classified land</b> – <i>cannot be titled</i>	<b>Recently classified land</b> – <i>cannot be applied for</i>

#	<b><i>Homestead Patent</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patents</i></b>
16	<b>One application and one ocular inspection sufficient -</b>	<b>Multiple interviews and reports</b> – <i>the adjudication team interviews the claimant at minimum once and Cadastral Officer must also conduct an interview. A report is required from the adjudication team [in the form of an Answer], from the Cadastral Officer [in the form of a Cadastral Officer's Report] and from the Commissioner of the Court [in the form of a narrative draft of the orders sought].</i>	<b>One application and one ocular inspection sufficient -</b>

## Attachment 2

### Features of an effective Land Titling system

In comparing systems and processes in different countries/ jurisdictions, the following desirable criteria provide an initial means of comparison and evaluation.

*Table 1: Description of desirable criteria in a land administration system*

No.	Criteria	Description of Criteria
1	Security.	<i>The system should be secure such that a land market can operate effectively and efficiently. Financial institutions should be willing to mortgage land quickly and there should be certainty of ownership and parcel identification.</i>
2	Clarity and Simplicity.	<i>To be effective the system should be clear and simple to understand and to use. Complex forms, procedures, and regulations will slow the system down and may discourage use of the system. Simplicity is also important in ensuring that costs are minimised, access is fair, and the system is maintained.</i>
3	Timeliness.	<i>The system should provide up-to-date information in a timely fashion. The system should also be complete; that is all parcels should be included in the system.</i>
4	Fairness.	<i>In development and in operation, the system should be both fair and be perceived as being fair. As much as possible, the system should be seen as objective, separated from political processes, such as land reforms, even though it may be part of a land reform program. Fairness also includes providing equitable access to the system through, for example, decentralised offices, simple procedures, and reasonable fees.</i>
5	Accessibility.	<i>Within the constraints of cultural sensitivities, legal and privacy issues, the system should be capable of providing efficient and effective access to all users.</i>
6	Cost.	<i>The system should be low cost or operated in such a way that costs can be recovered fairly and without unduly burdening users. Development costs, such as the cost of the adjudication and initial survey, should not have to be absorbed entirely by initial users.</i>
7	Sustainability.	<i>There must be mechanisms in place to ensure that the system is maintained over time. This includes procedures for completing the Cadastre in a reasonable time frame and for keeping information up-to-date. Sustainability implies that the organisational and management arrangements, the procedures and technologies, and the required educational and professional levels are appropriate for the particular jurisdiction.</i>

*Source: Tony Burns, Land Equity International, From a paper being prepared for the World Bank setting criteria for reviewing and comparing land registries.*

The following table of indicators of the effectiveness and efficiency of land administration systems has been compiled.

*Table: Comparison of Registries – indicators of an effective and efficient land administration system*

<b>Indicator</b>	<b>Philippines</b>
<i>Percentage of total parcels registered</i>	
<i>Percentage of transfers that are registered</i>	
<i>Annual registered transactions as a percentage of registered parcels</i>	
<i>Annual registered transfers as a percentage of registered parcels</i>	
<i>Annual registered mortgages as a percentage of registered parcels</i>	
<i>Ratio of annual registry running costs/registered parcels</i>	
<i>Ratio of annual registry running costs (including cadastre if separate)/registered parcels</i>	
<i>Registration staff days/registration</i>	
<i>Total staff days/registration</i>	
<i>Time to produce certified copy of title</i>	
<i>Time to complete registration of transfer</i>	
<i>Total ongoing land related court cases as a percentage of total registered parcels</i>	
<i>Average time to resolve ongoing court cases</i>	
<i>Number of registries per 1 million population</i>	
<i>Number of registries per 100,000 square kilometres in country land area.</i>	
<i>Average working days to pay for average transaction cost</i>	
<i>Transaction cost as a percentage of value</i>	
<i>Unit cost of systematic title</i>	
<i>Level of government where registration is undertaken</i>	
<i>Ratio of revenue/expenditure</i>	

*Source: Tony Burns, Land Equity International, From a paper being prepared for the World Bank setting criteria for reviewing and comparing land registries.*

Table 1 - Criteria and Relevant Indicators

No.	Criteria	Indicator
1	Security.	<i>Percentage of total parcels registered</i> <i>Percentage of transfers that are registered</i> <i>Annual registered transactions as a percentage of registered parcels</i> <i>Annual registered transfers as a percentage of registered parcels</i> <i>Annual registered mortgages as a percentage of registered parcels</i>
2	Clarity and Simplicity.	<i>Annual registered transactions as a percentage of registered parcels</i> <i>Annual registered transfers as a percentage of registered parcels</i> <i>Ratio of annual registry running costs/registered parcels</i> <i>Ratio of annual registry running costs (including cadastre if separate)/registered parcels</i> <i>Total staff days/registration</i> <i>Registration staff days /registration</i> <i>Time to produce certified copy of title</i> <i>Time to complete registration of transfer</i>
3	Timeliness.	<i>Total staff days/registration</i> <i>Registration staff days/registration</i> <i>Time to produce certified copy of title</i> <i>Time to complete registration of transfer</i>
4	Fairness.	<i>Total of ongoing land related court cases as a percentage of total registered parcels</i> <i>Average time to resolve ongoing court cases</i>
5	Accessibility.	<i>Percentage of total parcels registered</i> <i>Annual registered transactions as a percentage of registered parcels</i> <i>Annual registered transfers as a percentage of registered parcels</i> <i>Number of registries per 1 million population</i> <i>Number of registries per 100,000 square kilometres in country land area</i> <i>Time to produce certified copy of title</i> <i>Time to complete registration of transfer</i> <i>Average working days to pay for average transaction cost</i> <i>Transaction cost as a percentage of value</i> <i>Unit cost of systematic title</i> <i>Level of government where registration is undertaken</i>
6	Cost.	<i>Ratio of revenue/expenditure</i> <i>Ratio of annual registry running costs/registered parcel</i> <i>Ratio of annual registry running costs (including cadastre if separate)/registered parcels</i> <i>Average working days to pay for average transaction cost</i> <i>Transaction cost as a percentage of value</i> <i>Unit cost of systematic title</i>
7	Sustainability.	<i>Percentage of total parcels registered</i> <i>Percentage of transfers that are registered</i> <i>Annual registered transactions as a percentage of registered parcels</i> <i>Annual registered transfers as a percentage of registered parcels</i> <i>Ratio of revenue/expenditure</i> <i>Ratio of annual registry running costs/registered parcels</i> <i>Ratio of annual registry running costs (including cadastre if separate)/registered parcels</i>

Source: Tony Burns, Land Equity International, From a paper being prepared for the World Bank setting criteria for reviewing and comparing land registries.

The following questions can be raised in the Philippines to assess systems:

<b>No.</b>	<b>Criteria</b>	<b>Description of Criteria</b>
1	Security.	<i>Does the Philippine system give secure rights to all? Do the banks and community accept the title certificates?</i>
2	Clarity and Simplicity.	<i>Is the system easy for members of the public to understand? Do they know how to participate, how long it will take and how much it will cost? Are the rules simply defined in regulations? Are the transaction forms simple?</i>
3	Timeliness.	<i>Is a transaction completed quickly? How long does it take to issue a patent? How long does it take to register a transfer?</i>
4	Fairness.	<i>Is everybody treated with equity? Does everyone perceive they are being treated fairly. Do we SERVE our community? Are fees reasonable?</i>
5	Accessibility.	<i>Is the register accessible by all equally? How long does it take to get a search of a title or a survey plan? Is it decentralised? Easy travelling distance?</i>
6	Cost.	<i>Are the costs reasonable? IS the system transparent? Are informal fees strongly prohibited by our organisations? How much does it cost to issue a free patent? How much to register a transfer? Are our fees displayed clearly in our offices?</i>
7	Sustainability.	<i>IS the system gradually building itself up to capture all land and all land transactions Is the management taking steps to ensure that community views are followed? Do we do exit surveys of our clients to locate wrong practices? Is there a complaints procedure? Capacity for expansion?</i>

**Attachment 3**  
**Criteria for Evaluating Land Titling Systems**

### 1. Summary

The following items can be considered in evaluating land titling systems:

- Focus is on land titling – not on collecting taxes etc
- One simple form of title rather than multiple formats
- Title is accepted and valued by the community
- It is conclusive or strong evidence of the ownership of land
- It relies on a map index that eliminates the risk of more than one title for a parcel of land
- The owner holds free of claims by predecessors
- Title issued by a simple, fast and cheap process
- Land registration not dependent on complex technology
- Only one agency involved
- Decision-making and title drafting processes are delegated to the local level
- Process not dependent on rare skills held by a few, creating bottlenecks.
- Capable of expansion without resourcing issues
- Processes are transparent and respected by the community
- Process of establishing a claim is simple. Where documents are not available, the claim can be corroborated by the community

### 2. Detail

The following Table sets out draft criteria for evaluating land titling systems. It has been developed as a tool for PIO 1 to evaluate systems and processes. For example, it can be used during the study tour in Activity 25 to compare the Philippines with Thailand and Lao. It will enable participants to quickly focus on potential areas of similarity and difference. It includes:

- Legal structure
- Land administration
- Survey control
- Cadastral surveying standards
- Transaction 1 – original registration of land – **First registration of land**
- Transaction 2 – registration of subsequent transactions and subdivisions of land
- Transaction 3 – ease of access for searching purposes

*Table: Criteria for evaluating a land administration system*

<b><i>Desirable Elements</i></b>	<b><i>Features valued/ how rated</i></b>
<b><i>Legal structure</i></b>	
<i>Ownership rights are clearly stated</i>	
<i>Security of tenure –long-term rights are given</i>	
<i>Access to the courts to enforce rights – there is easy access to the courts to enforce rights and courts make decisions according to sound principles</i>	
<i>Promotes orderly development of land</i>	
<i>Protection from wrongful removal from land – the owner is protected from eviction by strong players such as government and land developers</i>	
<i>Capacity of the government to take back the land is limited by the law</i>	
<i>Where the government resumes/ appropriates land, reasonable compensation is immediately given</i>	
<i>Capacity to challenge the government's valuation when it is unreasonable</i>	

<b><i>Desirable Elements</i></b>	<b><i>Features valued/ how rated</i></b>
<b><i>Administration generally</i></b>	
<i>All land is included in the land administration system – government and privately owned</i>	
<i>Land administration process is controlled by one agency</i>	
<i>Level of decentralisation – decision-making is delegated to appropriate levels of the organisation</i>	
<i>Administration of land titling is self-funding, with costs covered by fees</i>	
<i>The land titling system promotes and supports the orderly collection of taxation</i>	
<i>Does not expose participants to unreasonable and inequitable levels of tax</i>	
<i>Technology – land titling does not depend initially on complex technology</i>	
<i>Skill levels of staff required</i>	
<i>Availability of skilled staff</i>	
<i>Ability to make simple corrections administratively to errors on titles without access to the courts</i>	
<i>Land administration authority is not dependent on the courts for the adjudication of titles</i>	
<b><i>Survey Control requirements</i></b>	
<b><i>Cadastral survey requirements</i></b>	
<i>Index maps readily available</i>	
<i>Land boundaries are defined in an authoritative way</i>	
<i>Capacity to reconstitute the boundaries in the field</i>	
<b><i>Transaction One – Original registration of land – General issues</i></b>	
<i>Focus is on issuing titles to land not on revenue collection</i>	
<i>Land titling process not required to enforce related issues such as compliance with building schemes, land use planning schemes. There is capacity to enforce these requirements after the land title issues</i>	
<i>One form of title can cope with a variety of different tenures</i>	
<i>Restrictions on the use or enjoyment of the land are easily identified such as by recording on the title document</i>	
<i>Flexible procedures for issuing titles where survey standards are not met</i>	
<i>Flexible procedures for issuing titles where ownership has not been proved 100%</i>	
<i>Flexible procedures where taxes remain unpaid.</i>	
<i>Process eliminates the possibility of more than one title issuing for a land parcel</i>	
<i>Title is accepted as authoritative and conclusive of</i>	

<b><i>Desirable Elements</i></b>	<b><i>Features valued/ how rated</i></b>
<i>ownership rights. It is accepted as strong or conclusive evidence of ownership and is not easily disputed</i>	
<i>The holder of a title is protected from claims by previous owners in the chain of title</i>	
<i>Extent of government guarantee of the title</i>	
<b><i>Specific issues</i></b>	
<i>Time to issue a certificate of title/ ownership from start of process to the end</i>	
<i>Cost per title</i>	
<i>Decentralised process – the decision-making process is decentralised to field staff</i>	
<b><i>Institutional / agency complexity – extent of dependence on other agencies</i></b>	
<i>Only one agency involved in issuing the title</i>	
<i>The title issues quickly</i>	
<i>Skills required to issue titles are readily available</i>	
<i>Process is efficient and avoids bottlenecks that serve a particular group in the process</i>	
<i>Capacity of the prototype to staff an expanded programme – capacity to rapidly acquire more staff/ resources with these skills to support an expanded programme</i>	
<i>Potential to use contract staff</i>	
<i>Information fully available describing process, time required, fees</i>	
<i>95% of claims processed in the advertised time</i>	
<i>Transparent processes</i>	
<ul style="list-style-type: none"> <li>• Minimal potential for informal fees</li> <li>• Capacity to lodge complaints</li> <li>• Objective processing of complaints</li> </ul>	
<i>Existing land ownership data is readily available to help titling authority</i>	
<i>Existing tax records are readily available</i>	
<i>Simple laws to support and clarify field processes</i>	
<i>Extent to which data gathered in field processes [ownership and boundary data] is distributed to other relevant government agencies</i>	
<b><i>Community Perceptions</i></b>	
<i>Support for the methodology</i>	
<i>Clear procedures that are understood by community members</i>	
<i>Cost and capacity of community members to pay cost</i>	
<i>Ease in participating</i>	
<i>Ease of collecting the supporting evidence</i>	
<i>Reward for participating</i>	
<i>Ability to object to the registration of a parcel of land if there is a basis for the objection</i>	

<b><i>Desirable Elements</i></b>	<b><i>Features valued/ how rated</i></b>
<i>Perception of the value of the product – title is accepted as valuable</i>	
<i>Recognised dispute resolution process available</i>	
<i>Extent to which community members trust the land titling agency</i>	
<i>Availability of people in the community with detailed knowledge of land ownership and land use patterns for the full period required to prove possession</i>	
<i>Capacity of community members/ stakeholders to have inputs into the review of the process. Capacity to change process.</i>	
<b><i>Field methodologies</i></b>	
<i>Key processes are controlled by the field party</i>	
<i>Compare the number of visits to claimants by CRS / community mobilisation staff to mobilise community participation</i>	
<i>Titling process applies to all land – privately owned, government land, church, residential, commercial, agricultural</i>	
<i>Minimal contacts from adjudication staff</i>	
<i>Extent of proof and technical detail required to substantiate claim</i>	
<i>Ease of proof – simple process</i>	
<i>Public notification – the intention to issue a title is publicly displayed and the process for objecting/ appealing is clear to all</i>	
<i>Simple process for objecting to claims</i>	
<i>Integration of survey party and adjudication party processes</i>	
<i>Notice periods not excessive</i>	
<b><i>Form of title</i></b>	
<i>Restrictions on the title</i>	
<i>Simple format for titles</i>	
<i>Format facilitates future transactions</i>	
<b><i>Quality monitoring</i></b>	
<i>A process is in place to review the quality of the product</i>	
<b><i>Transaction Two - Registration of subsequent transactions - Capacity to make changes to update the system</i></b>	
<i>Simple processes for changing owners</i>	
<i>Titles effectively indexed and easily retrievable</i>	
<i>Simple process for changing boundaries</i>	
<i>Existence of title should simplify land market processes</i>	
<i>Title does not need validation by a lawyer for subsequent transactions</i>	
<i>Reasonable fees – standard fees are displayed</i>	
<i>Clearly established process for registering</i>	

<b><i>Desirable Elements</i></b>	<b><i>Features valued/ how rated</i></b>
<i>transactions</i>	
<i>Orderly and fast process for registering transactions</i>	
<i>Transparent process</i>	
<i>Not dependent on expensive professional services</i>	
<i>Standard format of transaction forms</i>	
<i>How-To literature available</i>	
<i>Services accessible by all ranges of society regardless of gender, socio-economic grouping, ethnic background etc</i>	
<i>Valuation for fee/ transaction tax purposes is clearly defined and is not discretionary</i>	
<i>Time to register:</i> <ul style="list-style-type: none"> <li>• Transfer</li> <li>• Mortgage</li> <li>• Inheritance</li> </ul>	
<i>Cost to register:</i> <ul style="list-style-type: none"> <li>• Transfer</li> <li>• Mortgage</li> <li>• Inheritance</li> </ul>	
<i>There is a culture of registering transactions with land rather than accessing the informal system. Most members of the community make use of the process to register land transactions</i>	
<i>Participation in the registration process is rewarded – self-enforcing – people choose to participate rather than being compelled</i>	
<i>Acceptance of the transaction registration methods by banks and lending institutions</i>	
<i>Capacity of lending authority to register mortgages and securities against land and thereby gain priority for the registered security</i>	
<i>Process for registering transactions includes [or is integrated with] the review of index maps to ensure integrity of transaction</i>	
<i>Reasonable levels of fees and transaction taxes collected at the time of registration of taxes – compare types of fees and taxes collected and the % of land value paid in fees and taxes</i>	
<b><i>Transaction Three - Ease of access for searching purposes</i></b>	
<i>Searching is a simple process</i>	
<i>Searching has reasonable fees – standard and displayed</i>	
<i>Transparent process</i>	
<i>Searching process is accessible by all</i>	
<i>Time to search</i>	
<i>Cost to search</i>	

**Attachment 4**  
**Comparing administrative and judicial titling options – initial observations**

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
<b>Legal structure</b>		
<i>Ownership rights are clearly stated</i>	<i>Strong title</i>	<i>Strong title</i>
<i>Security of tenure –long-term rights are given</i>	<i>Secure tenure</i>	<i>Secure tenure – equal to judicially issued title except there is a five-year restriction on transactions that is inappropriate where the land has been occupied for over 30 years.</i>
<i>Access to the courts to enforce rights – there is easy access to the courts to enforce rights and courts make decisions according to sound principles</i>	<i>Equally accessible</i>	<i>Equally accessible</i>
<i>Promotes orderly development of land</i>	<i>Equal</i>	<i>Equal</i>
<i>Protection from wrongful removal from land – the owner is protected from eviction by strong players such as government and land developers</i>	<i>Equal</i>	<i>Equal</i>
<i>Capacity of the government to take back the land is limited by the law</i>	<i>Equal</i>	<i>Equal</i>
<i>Where the government resumes/ appropriates land, reasonable compensation is immediately given</i>		
<i>Capacity to challenge the government's valuation when it is unreasonable</i>		
<b>Administration generally</b>		
<i>All land is included in the land administration system – government and privately owned</i>	<i>Any land can be titled</i>	<i>Much less flexibility for free patents – no application to residential, commercial, industrial, government land, church land etc</i>
<i>Land administration process is controlled by one agency</i>	<i>Multiple agencies makes this a complex option and more restrictive than administrative titling</i>	<i>Single agency so simpler process</i>
<i>Level of decentralisation – decision-making is delegated to appropriate levels of the organisation</i>	<i>Decentralised but multiple agencies</i>	<i>Still centralised.</i>
<i>Administration of land titling is self-funding, with costs covered by fees</i>	<i>No Multiple agencies</i>	

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
	<i>Multiple costs</i>	
<i>The land titling system promotes and supports the orderly collection of taxation</i>	<i>Similar – tax methods well-established. LAMP will seek to provide updated data to tax authorities.</i>	<i>Similar – tax methods well-established. LAMP will seek to provide updated data to tax authorities.</i>
<i>Does not expose participants to unreasonable and inequitable levels of tax</i>		
<i>Technology – land titling does not depend initially on complex technology</i>	<i>Manual</i>	<i>Manual</i>
<i>Skill levels of staff required</i>	<i>High degree of skills Adjudicators to be law graduates Cadastral Officer to be law graduate Commissioners to be lawyers</i>	<i>LMO 3 are multi-skilled but not required to be a law graduate. There is some potential for a bottleneck but this can be removed by administrative order.</i>
<i>Availability of skilled staff</i>	<i>Must be negotiated with the courts in each location. Little flexibility in the use of contract staff</i>	<i>Two potential bottlenecks are the deputy public land inspectors and the LMO 3</i>
<i>Ability to make simple corrections administratively to errors on titles without access to the courts</i>	<i>No flexibility</i>	<i>No flexibility</i>
<i>Land administration authority is not dependent on the courts for the adjudication of titles</i>	<i>Dependent</i>	<i>Independent</i>
<b><i>Survey Control requirements</i></b>	<i>same</i>	<i>same</i>
<b><i>Cadastral survey requirements</i></b>	<i>same</i>	<i>same</i>
<i>Land boundaries are defined in an authoritative way</i>		
<i>Capacity to reconstitute the boundaries in the field</i>		
<b><i>Transaction One – Original registration of land – General issues</i></b>		
<i>No inter-agency dependencies limit the decision-making capacity of the land titling authority</i>	<i>Very restricted</i>	<i>Unrestricted</i>

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
<i>Focus is on issuing titles to land not on revenue collection</i>	<i>Attempts to collect back taxes have the potential to slow the system. Some resistance to relying on=It will be necessary in each location to convince the ROD staff that deeds in the chain of title need not be registered and thus it is not necessary to pay arrears of taxes</i>	<i>Similar</i>
<i>Land titling process not required to enforce related issues such as compliance with building schemes, land use planning schemes. There is capacity to enforce these requirements after the land title issues</i>	<i>No restrictions</i>	<i>Process must police the maximum lot size and also the limits on maximum area that may be owned by one owner.</i>
<i>One form of title can cope with a variety of different tenures</i>	<i>No flexibility – there is a different form of title for judicial, for free patents for sales, CLOA etc</i>	<i>No flexibility – there is a different form of title for judicial , for free patents for sales, CLOA etc</i>
<i>Restrictions on the use or enjoyment of the land are easily identified such as by recording on the title document</i>	<i>Easements and covenants can be recorded</i>	<i>Easements and covenants can be recorded</i>
<i>Flexible procedures for issuing titles where survey standards are not met</i>	<i>Nil</i>	<i>Nil</i>
<i>Flexible procedures for issuing titles where ownership has not been proved 100%</i>	<i>Nil</i>	<i>Nil</i>
<i>Flexible procedures where taxes remain unpaid.</i>	<i>Yes it is possible to record a charge on the title for unpaid taxes</i>	<i>Yes it is possible to record a charge on the title for unpaid taxes</i>
<i>Titles issued from an effective map index rather than owners index</i>	<i>Sporadic registration – no</i>  <i>Systematic registration - yes</i>	<i>Sporadic registration – no</i>  <i>Systematic registration - yes</i>
<i>Process eliminates the possibility of more than one title issuing for a land parcel</i>	<i>Sporadic registration – no</i>  <i>Systematic registration - yes</i>	<i>Sporadic registration – no</i>  <i>Systematic registration - yes</i>
<i>Titles effectively indexed and easily retrievable</i>	<i>Sporadic –</i>  <i>Systematic – unique identifier used</i>	<i>Sporadic –</i>  <i>Systematic – unique identifier used</i>
<i>Title is accepted as authoritative and conclusive of ownership rights. It is accepted as strong or</i>	<i>Yes. After 12 months the title as accepted as conclusive of ownership and free of competing</i>	<i>Yes. After 12 months the title as accepted as conclusive of ownership and free of competing</i>

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
<i>conclusive evidence of ownership and is not easily disputed</i>	<i>claims.</i>	<i>claims.</i>
<i>The holder of a title is protected from claims by previous owners in the chain of title</i>	<i>Yes after 12 months</i>	<i>Yes after 12 months</i>
<i>Extent of government guarantee of the title</i>	<i>Yes</i>	<i>Yes</i>
<b><i>Specific issues</i></b>		
<i>Time to issue a certificate of title/ ownership from start of process to the end</i>	<i>12 months</i>	<i>5-6 months</i>
<i>Cost per title</i>	<i>Voluntary judicial – P 80,000.00</i>  <i>Mass Judicial</i>	<i>Sporadic - ???</i>  <i>Systematic -</i>
<i>Decentralised process – the decision-making process is decentralised to field staff</i>	<i>No – there are major restrictions</i>	<i>Fewer organisations involved in the decision process, but within DENR the approval process is complex. It can be simplified by administrative order</i>
<i>Extent to which data gathered in field processes [ownership and boundary data] is distributed to other relevant government agencies</i>	<i>Under review</i>	<i>Under review</i>
<b><i>Institutional / agency complexity – extent of dependence on other agencies</i></b>		
<i>Processes required</i>	<i>Multiple</i>	<i>One</i>
<i>Agencies involved in the land titling process</i>	<i>Multiple</i>	<i>One</i>
<i>Roles of agencies</i>		<i>N/ A</i>
<i>Time required per agency</i>	<i>Total 12 months</i>	<i>Total 5 months</i>
<i>Staff resources and skills required</i>	<i>Multiple reviews by lawyers</i>	<i>No lawyers</i>
<i>Skill types required</i>	<i>Multiple reviews by lawyers</i>	<i>No lawyers</i>
<i>Availability of staff with the skills</i>	<i>Restricted</i>	<i>CENRO</i>
<i>Volume and type of training required to initiate the land titling method</i>	<i>Training of field staff considered equal for both options</i>	<i>Training of field staff considered equal for both options</i>
<i>Capacity of the prototype to staff an expanded programme – capacity to rapidly acquire more staff/</i>	<i>Depends on cooperation of agencies</i>	<i>More flexibility</i>

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
<i>resources with these skills to support an expanded programme</i>		
<i>Potential to use contract staff</i>	<i>Need DENR departmental lawyer,  Cadastral Officer can be contractor Clerks of the Court are required to be Commissioners</i>	<i>Deputy public land inspectors LMO3  There are the bottlenecks</i>
<i>Information fully available describing process, time required, fees</i>		
<i>95% of claims processed in the advertised time</i>		
<i>Transparent processes</i>		
<ul style="list-style-type: none"> <li>• Minimal potential for informal fees</li> <li>• Capacity to lodge complaints</li> </ul>	Systematic - yes	Systematic - yes
<ul style="list-style-type: none"> <li>• Objective processing of complaints</li> </ul>	Systematic - yes	Systematic - yes
<i>Existing land ownership data is readily available</i>	Equal	Equal
<i>Existing tax records are readily available</i>	Equal	Equal
<i>Suitability of existing laws to support and clarify field processes</i>	Need simple regulation	Need simple regulation
<b><i>Community Perceptions</i></b>	<i>Yet to be evaluated</i>	<i>Yet to be evaluated</i>
<i>Support for the methodology</i>		
<i>Understanding of the process</i>		
<i>Cost and capacity of community members to pay cost</i>		
<i>Ease in participating</i>		
<i>Ease of collecting the supporting evidence</i>		
<i>Reward for participating</i>		
<i>Ability to object to the registration of a parcel of land if there is a basis for the objection</i>		
<i>Perception of the value of the product</i>		
<i>Clear procedures that are understood by community</i>		

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
<i>members</i>		
<i>Recognised dispute resolution process available</i>	<i>Barangay dispute resolution process</i>	<i>Barangay dispute resolution process</i>
<i>Quality of output compared to other options</i>	<i>High quality</i>	<i>Lesser quality as the title is issued subject to restrictions on transfer</i>
<i>Extent to which community members trust the land titling agency</i>	<i>High trust for courts</i>	<i>Some suspicion of promises of cheap title. Obstacle is applications made in the past that have not produced titles</i>
<i>Availability of people in the community with detailed knowledge of land ownership and land use patterns for the full period required to prove possession</i>	<i>Barangay council can access detailed knowledge</i>	<i>Barangay council can access detailed knowledge</i>
<i>Capacity of community members/ stakeholders to have inputs into the review of the process. Capacity to change process.</i>	<i>Process can accept corroborative evidence sworn by knowledgeable but disinterested members of the community</i>	<i>Process can accept corroborative evidence sworn by knowledgeable but disinterested members of the community</i>
<b><i>Field methodologies</i></b>		
<i>Compare the number of visits to claimants by CRS / community mobilisation staff to mobilise community participation</i>		
<i>Titling process applies to all land – privately owned, government land, church, residential, commercial, agricultural</i>		
<i>Minimal contacts from adjudication staff</i>		
<i>Extent of proof and technical detail required to substantiate claim</i>		
<i>Ease of proof – simple process</i>		
<i>Public notification – the intention to issue a title is publicly displayed and the process for objecting/ appealing is clear to all</i>		
<i>Simple process for objecting to claims</i>		
<i>Integration of survey party and adjudication party processes</i>		

<b><i>Desirable Elements</i></b>	<b><i>Judicial Titling</i></b>	<b><i>Free Patent</i></b>
<b><i>Form of title</i></b>		
<i>Restrictions on the title</i>	Nil	5-year restriction on transactions
<i>Simple format for titles</i>		
<i>Format facilitates future transactions</i>	No	No
<b><i>Quality monitoring</i></b>		
<i>A process is in place to review the quality of the product</i>		

**STATUS REPORT ON SYSTEMATIC ADJUDICATION As of November 30, 2002**


Municipality/ Barangay	Total No. of Lots	No. of Claimants	No. of Adj.	Land Use				Title Types					No. of Interview		With Draft Answers		Court Progress		
				Res	Agr	Govt	Othrs	Titled	Unreg. Patent	Pending Patent	Disputed Lots	Untitled Workable	No. of Lots	%	No. of Lots	%	Answers Filed	Petition Filed	Date of Initial Hearing
<b>DAGAMI</b>																			
Hinulogan	293	233	2	27	237	28	1	13	-	3	17	278	275	94	195	67	37	4/26/02	10/2/02
Bolirao	184	81	1	-	163	19	1	9	-	17	2	156	162	88	162	88	14	4/26/02	8/8/02
Bayabas	127	74	1	-	114	12	1	4	-	7	3	113	99	78	85	67		4/26/02	11/6/02
Cabariwan	81	42	1	-	69	10	2	10	-	7	5	66	65	80	40	49		4/26/02	11/27/02
<b>TOTAL</b>	<b>685</b>	<b>430</b>	<b>5</b>	<b>27</b>	<b>583</b>	<b>69</b>	<b>5</b>	<b>36</b>	<b>-</b>	<b>34</b>	<b>27</b>	<b>613</b>	<b>601</b>	<b>87</b>	<b>482</b>	<b>70</b>			
<b>PASTRANA</b>																			
Macalpi-ay	172	119	2	27	141	4	1	12	-	-	2	158	171	99	171	99		10/28/02	
<b>TOTAL</b>	<b>172</b>	<b>119</b>	<b>2</b>	<b>27</b>	<b>141</b>	<b>4</b>	<b>1</b>	<b>12</b>	<b>-</b>	<b>-</b>	<b>2</b>	<b>158</b>	<b>171</b>	<b>99</b>	<b>171</b>	<b>99</b>			
<b>PALO</b>																			
Libertad	646	582	1	92	541	13	-	247	-	101	11	298	601	93	421	65			
Anahaway	367	169	1	38	326	3	-	262	-	14	-	91	366	99	366	99		11/22/02	
San Isidro	359	162	1	65	215	4	75	145	-	20	-	94	353	98	341	95		11/22/02	
<b>1.2</b>																			
<b>1.3 TOTAL</b>	<b>1372</b>	<b>913</b>	<b>3</b>	<b>195</b>	<b>1082</b>	<b>20</b>	<b>75</b>	<b>654</b>	<b>-</b>	<b>135</b>	<b>11</b>	<b>483</b>	<b>1320</b>	<b>96</b>	<b>1128</b>	<b>82</b>			
<b>GRAND TOTAL</b>	<b>2229</b>	<b>1462</b>	<b>10</b>	<b>249</b>	<b>1806</b>	<b>93</b>	<b>81</b>	<b>702</b>	<b>-</b>	<b>169</b>	<b>40</b>	<b>1254</b>	<b>2092</b>	<b>94</b>	<b>1781</b>	<b>80</b>			

**Attachment 6**

**Summary of Pilots in Output 2.2**

The following Table indicates the types of pilots being planned:

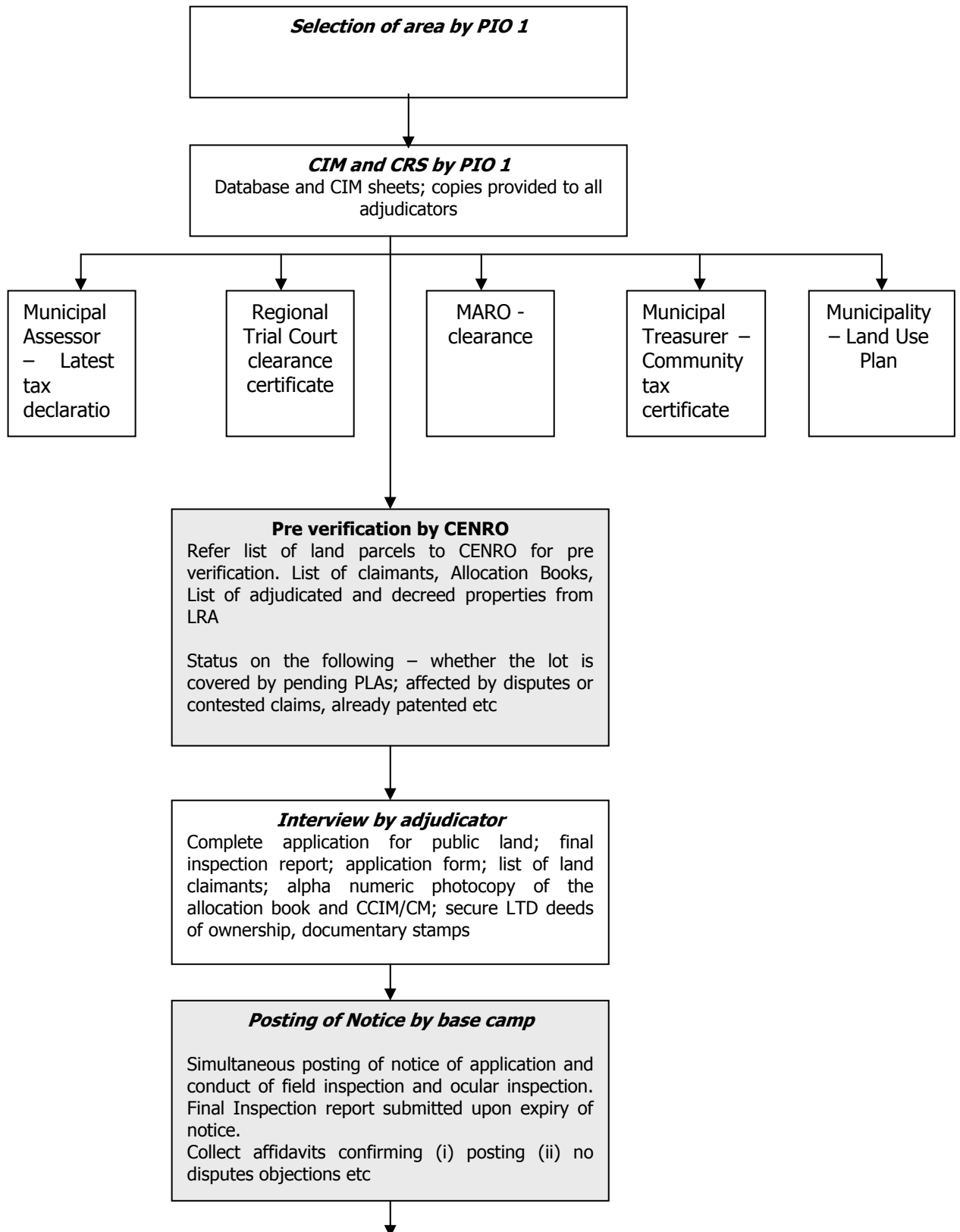
*SUMMARY OF PILOTS IN OUTPUT 2.2*

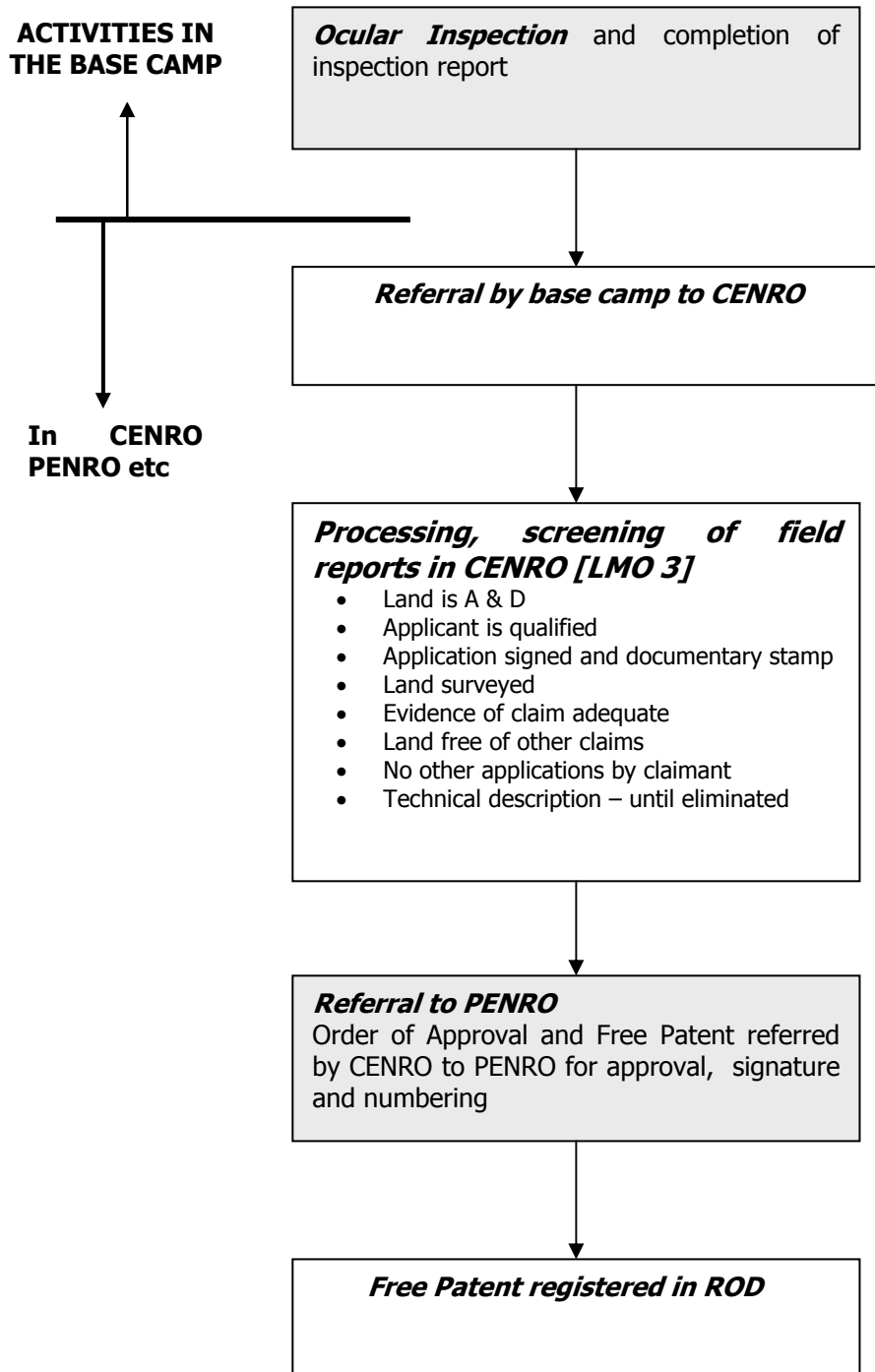
<b>Activity</b>	<b>Pilot</b>	<b>Location</b>	<b>Aspect to investigate Issues</b>	<b>Timing</b>
<b>21</b>	<b>1</b> Ongoing judicial titling pilots	7 locations  Dagami [4] Pastrana [1] Palo [3]	Finalise procedures  Convert Dagami into a training base camp to support the Palo expansion.  <b>Priority to complete</b>  <b>Review in November</b>	October 2002  Complete 2003  Evaluate November 2002
	CIM production		Continue production process	Complete and evaluate in 2002
	Digital CIM		Generate CIM in digital form	Complete and evaluate in 2002?
	Expanded judicial titling programme	10 barangays in Dagami, 2 in San Miguel	Already surveyed  Capacity to expand and streamline  PIO 1 decided to continue with the judicial titling activities rather than convert to free patent	Commence October 2002  Evaluate June 2003
	Judicial Titling in totally residential areas	7 barangays in Palo  	Test process in a purely residential area. Develop streamlined procedures.  This is a key to the design of phase II.  Generate procedural regulation.	Start September 2002  Complete 2003
	CRS conducted by Local government unit [link to Palo residential judicial titling pilot]		Test new approach in CRS delivery.  This will evaluate (a) LGU capacity to conduct CRS (b) PIO 1 CRS manual of procedures – capacity of PIO 1 to develop contractors to undertake this activity.	Start September 2002  Complete 2003

<b>Activity</b>	<b>Pilot</b>	<b>Location</b>	<b>Aspect to investigate Issues</b>	<b>Timing</b>
	<i>Sporadic judicial titling</i>	<i>Alang Alang</i>	<i>Develop and test streamlined procedures.</i>  <b>It has been decided to cancel this activity.</b>	
	<i>CRS by CO-CD [yet to be discussed with PIO 1]</i>	<i>San Miguel</i>	<i>Test alternate CRS approach</i>	
	<i>Free Patents for surveyed land</i>	<i>Alang Alang [5 barangays] and San Miguel [3 barangays]</i>	<i>Develop and test streamlined procedures. All participants to accept process.</i> <i>Generate procedural regulation.</i> <i>Key to design of Phase II.</i>  <i>Issue is that the survey is so old it may need to be done again. An alternative is to conduct this in Dagami.</i>	<i>Start October 2002</i>  <i>Complete April 2003</i>
	<i>Comparing field survey and GPS</i>	<i>Pastrana</i>	<i>Comparison and costing. Key for design of Phase II.</i>  <i>Evaluation should occur before the demobilisation of the Survey Control Adviser.</i>	<i>October 2002</i> <i>Evaluate 2002</i>
<b>25</b>	<i>CIM by orthophoto</i>		<i>Comparison and costing. Key for design of Phase II.</i>  <b>Photomaps not available until 2003.</b>	<i>2003</i>
	<i>Free patents for unsurveyed land</i>	<i>Santa Fe</i>	<i>Test the use of private survey contractors in a free patent pilot activity.</i>  <b>The procurement process may take 4 months and so the pilot may not commence until 2003.</b>	<i>Commence 2003</i>
	<i>CIM by satellite imagery</i>		<i>Comparison and costing. Key for design of Phase II.</i>  <b>Images not available until 2003.</b>	<i>2003</i>
	<i>Comparing ground survey with satellite imagery</i>		<i>Comparison and costing. Key for design of Phase II.</i>  <b>Images not available until 2003.</b>	<i>2003</i>
	<i>Comparing survey with orthophoto mapping</i>		<i>Comparison and costing. Key for design of Phase II.</i>  <b>Photomaps not available until 2003.</b>	<i>2003</i>

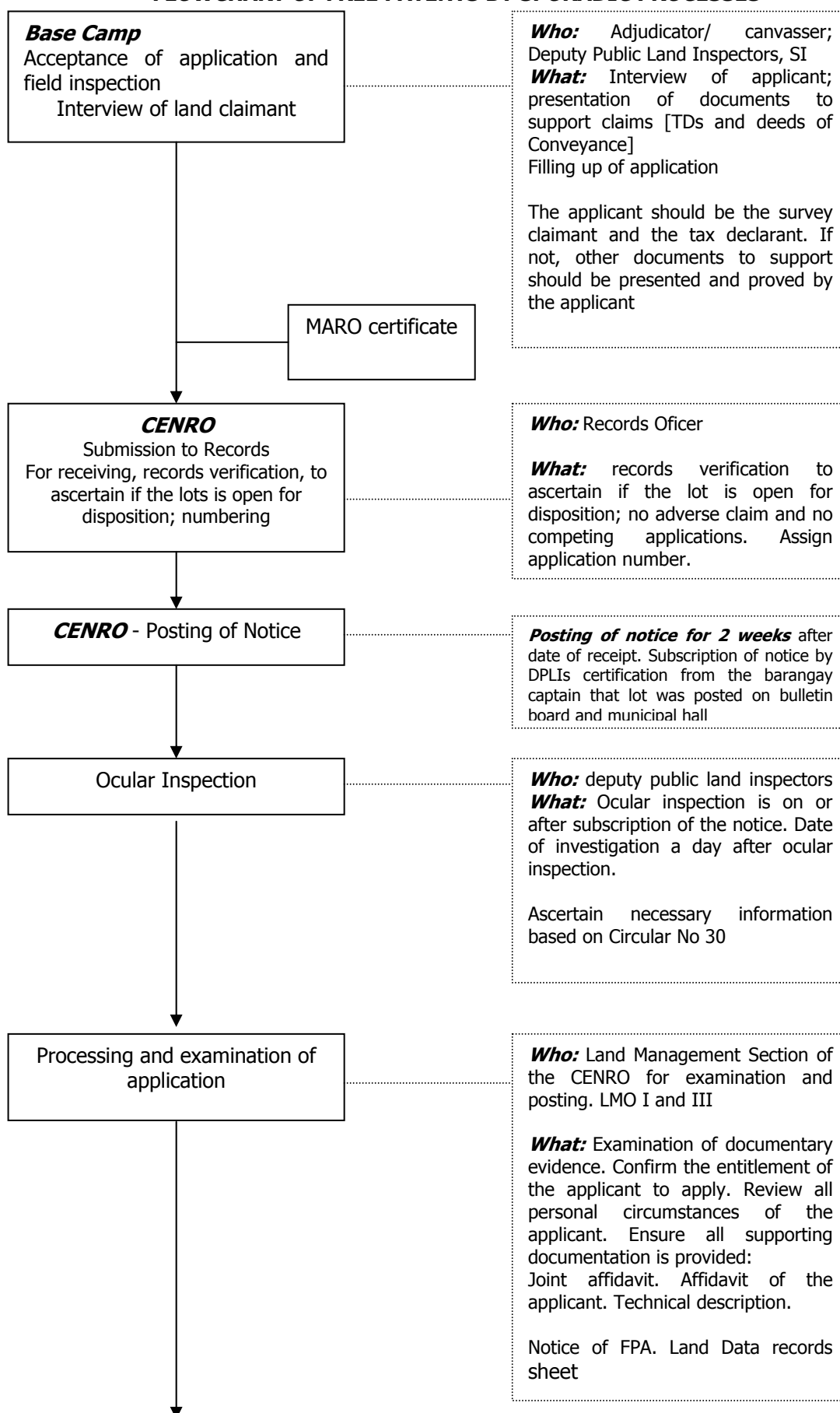
<b>Activity</b>	<b>Pilot</b>	<b>Location</b>	<b>Aspect to investigate Issues</b>	<b>Timing</b>
	<i>Free Patent with CRS conducted by NGO</i>		<i>Test new approach in CRS delivery</i>	<i>2003</i>
	<i>Sporadic free patent</i>		<i>Design method. Generate regulation</i>	<i>2003</i>
	<i>Free patents using maximum contract staff for all field activities</i>		<i>Develop expansion model and staffing model.</i>	<i>2003</i>
	<i>Investigate the ROD and dealings driven conversion of titles – issuing a provisional title</i>		<i>An examination of a possible method for compulsorily converting unregistered land to registered land by issuing provisional titles for registered deeds.</i>	<i>2003</i>
<b>34</b>	<i>Gearing up of production processes</i>		<i>Test the expansion model and staffing model</i>	<i>2003</i>
	<i>Free Patent training</i>		<i>Set up Alang Alang as a training base to give on-the-job training in support of the expansion programme.</i>	<i>2003</i>
	<i>Training to provide staffing platform for gearing up – identification of all procurement, staffing, training and mobilisation issues</i>		<i>Use existing pilots to train staff from other locations to prepare for the expansion of the project.</i>	<i>2003</i>

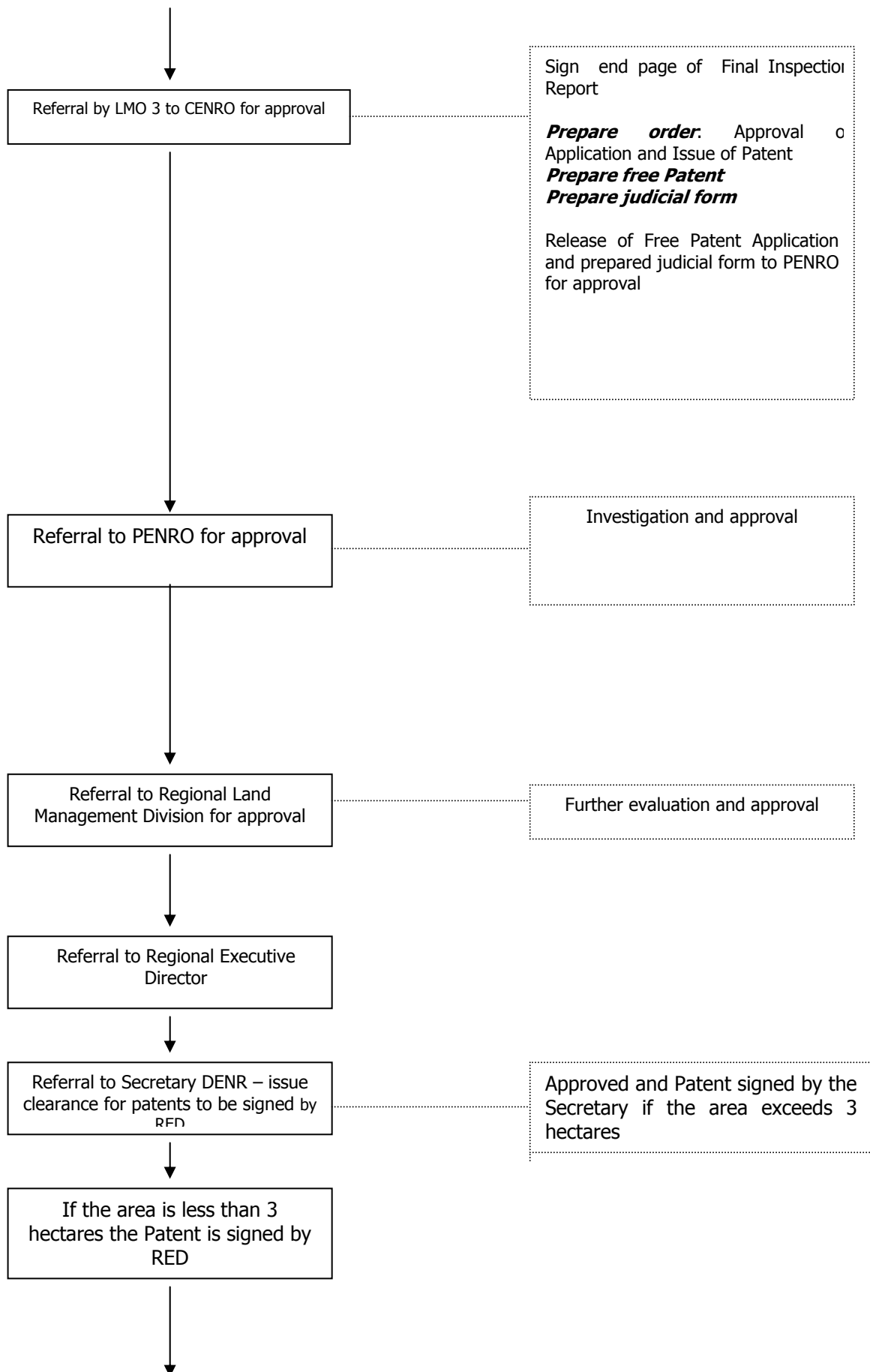
**Attachment 7**  
**PROPOSED FREE PATENT FLOWCHART [for systematic proceedings]**

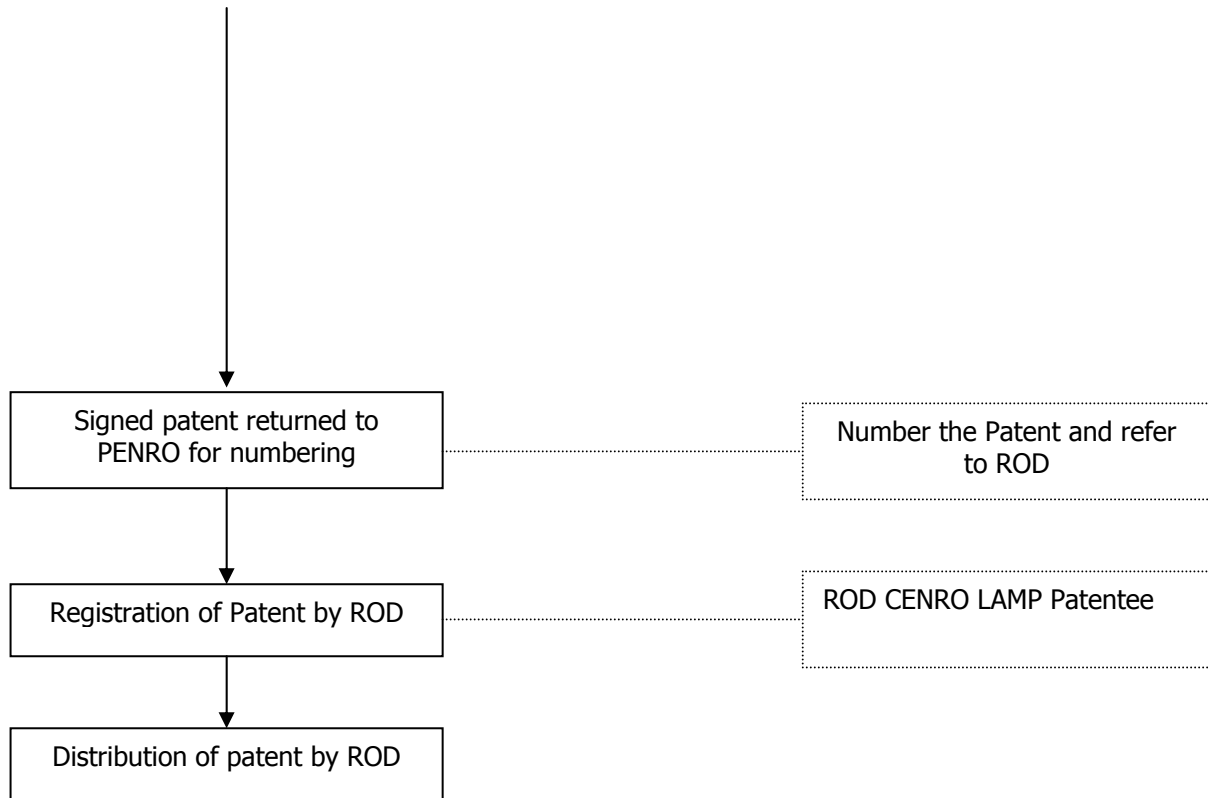




**FLOWCHART OF FREE PATENTS BY SPORADIC PROCESSES**



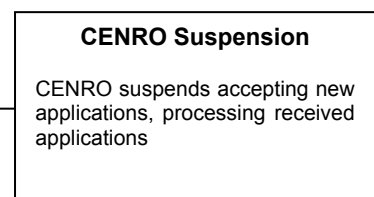
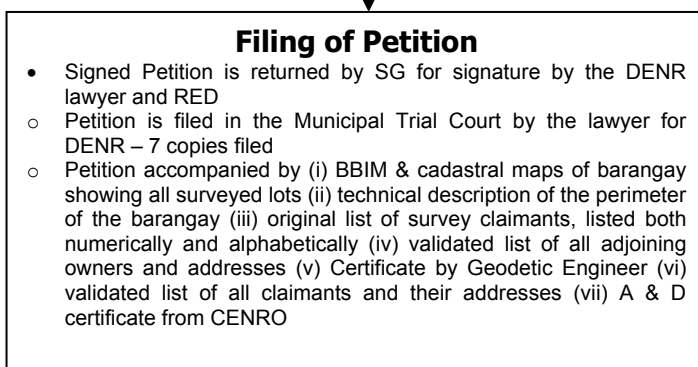
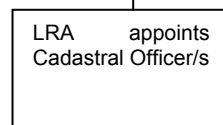
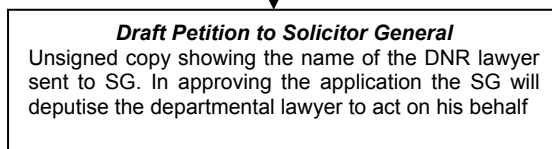
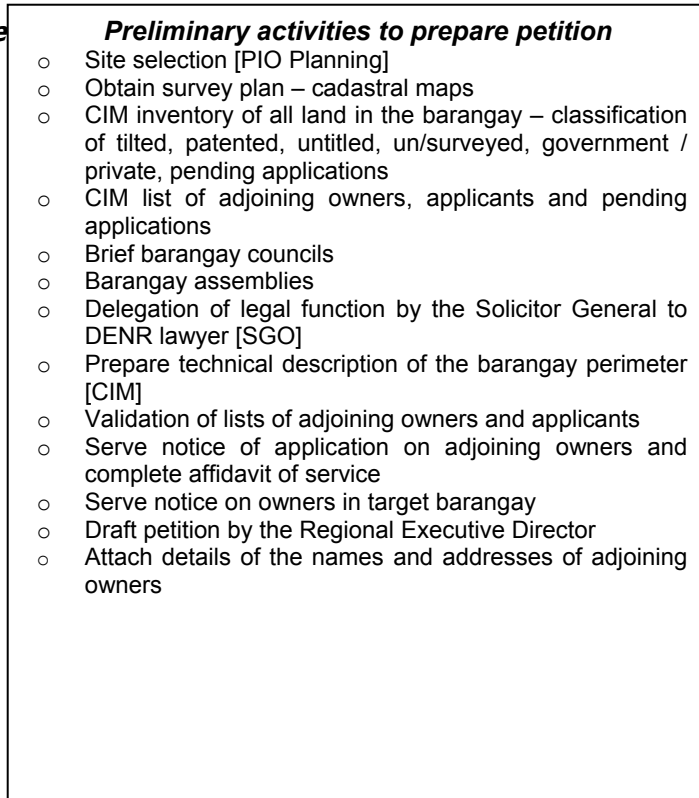




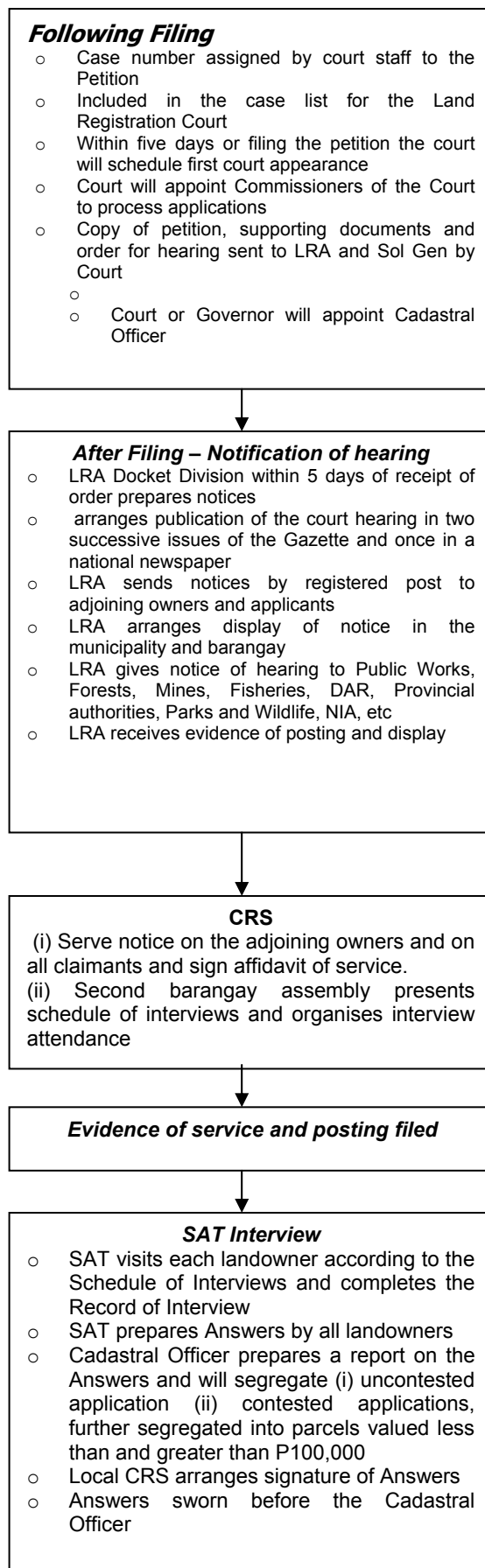
**Attachment 8**

**Flowcharts for Judicial Titling**

**Judicial Titling Over  
- surveyed**



Surveyed  
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