

Reform Land Registration Strategy and Draft Action Plan

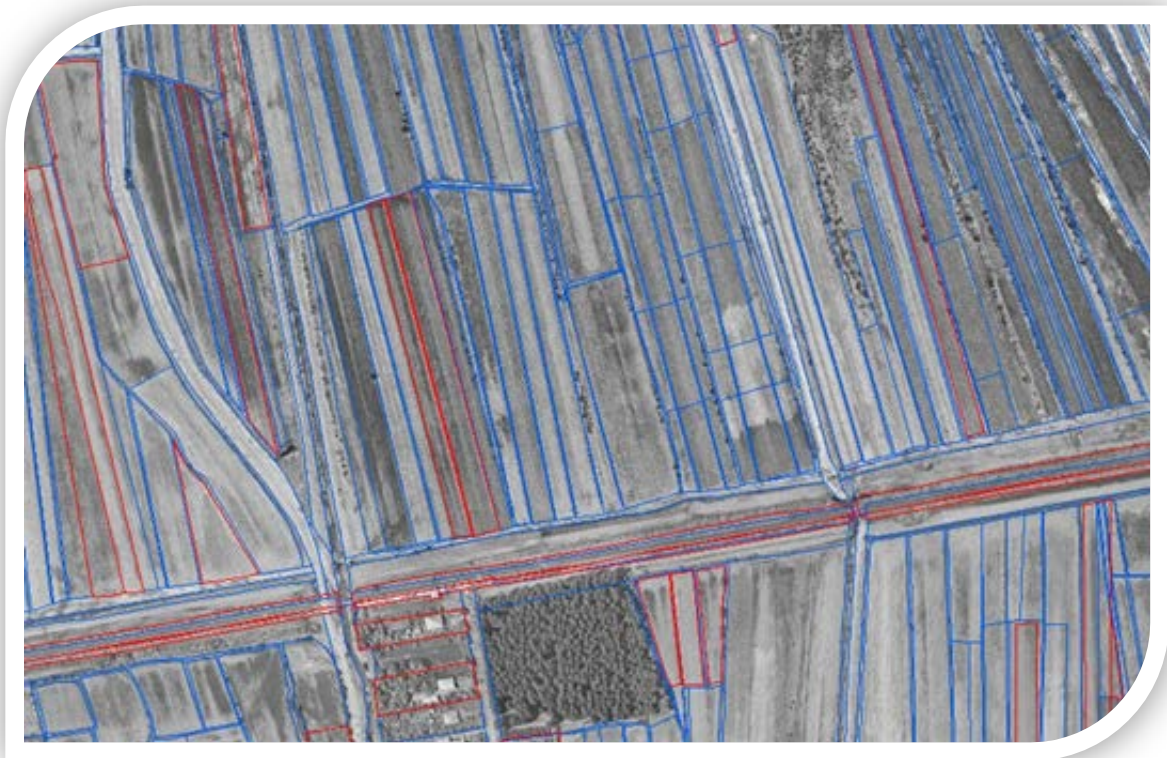


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Acronyms

HA	Hectare
MoAg	Ministry of Agriculture
MoJ	Ministry of Justice
NAPR	National Property Registration Agency
NGOs	Non-Governmental Organizations
PM	Prime Minister
PMO	Project Management Office
PR	Public Relations

Executive Summary

The 1992 Order No. 48 of the cabinet of ministers of Georgia, “On the Reform of Agricultural Land in the Republic of Georgia,” kick-started the agrarian reform aimed at the massive distribution of state land to citizens of the country ripped by civil war and substantial economic problems. This decision was forced upon the government by a desperate need to mitigate social problems and avoid further escalation of conflicts as probably the only solution available. Almost the entire population received some land, a combination of arable and perennial cropland, consisting of small parcels, or so called “reform land”. The reform lacked a clear vision as to what the end result of the process should have been, the understanding of the costs and benefits of the reform, the designation of entities directly responsible for the reform, as well as the necessary capacity of and coordination between the state agencies to register the land plots and complete the process successfully. As a result, this minimized the overall potential of land emerging as a driver of rural economic development. Instead, the reform led to an extreme land fragmentation and an emergence of small-scale subsistence farmers, thereby prohibiting an effective commercial use of a large part of privatized agricultural land.

Even today, two decades since the original reform took place, it is still problematic to determine the total area of the lands in private or state hands due to the initial lack of registering and absence of consistent land registration policies, even after the introduction of a sophisticated technology enabled land cadaster system in 2007 and “KOR” surveying methodology. Currently, it is not only impossible to determine the exact locations and boundaries of the small land parcels that were given during the land reform process, but even the maps of the original large land plots that were subdivided into small land parcels are mostly unavailable. According to expert estimates, only 20 percent of reform land, including household plots has been fully registered to date.

As Georgia embarked in 2013 to implement comprehensive agricultural sector reforms, the policy-makers identified the lack of land registration and clear demarcation between private or state land ownership as a key constraint to achieving its economic development objective. As a result, a working group under the Ministries of Agriculture, Justice, Economic and Sustainable Development, and Environment and Natural Resources Protection was tasked to develop a land registration strategy for the reform land and associated action plan as a potential blueprint for a national land registration initiative. The working group assessed the magnitude of the challenge, analyzed available land registration data and procedures at the central and local government levels, considered the role of technology and existing centralized cadastral system versus an alternate decentralized system, and assessed legal framework to derive three key strategies of completing the land registration process: Status Quo, Conditional Amnesty and Historical Legal Precedents. Based on the guiding principles of legality and legitimacy, equity and fairness, and overall comprehensiveness of the process, including the availability of existing technology, the third “Historical Legal Precedents” strategy has been selected for policy-makers’ consideration.

The recommended land registration strategy is based on historical legal precedents that establish rights of ownership and eligible land plot size, and adds respective amendments to deal effectively with inheritance issues and other legal issues. This strategy addresses the land registration needs of all types of owners who received land as part of the original agrarian reform process (including, for example, the owners who factually possess more land than originally allotted as part of the agrarian reform, or those who do not possess any of the documentation substantiating their ownership of the reform lands). Unregistered land acquired through other means, such as conversion of state leased lands into private ownership, household plots, as well as land of the Autonomous Republic of Adjara and some high mountainous regions that were not part of the agrarian reform process, is not addressed

by this strategy. Instead, this strategy will resolve the reform land ownership issue that impacts the largest share of agricultural land and number of beneficiaries, and provide the foundation from which the registration of the adjacent land may subsequently be addressed.

The strategy proposes the creation of an Inter-Ministerial Commission, made up of ministers from relevant line ministries that share significant responsibilities for the day-to-day implementation. The Commission should report directly to the Prime Minister. The Commission will establish a Project Management Office (PMO), reporting to the Commission, to carry out the initial planning, budgeting and staffing, public outreach campaign, implementation, and completion of the reform process.

The existing legal framework needs to be revised to enable the reform process. The law amendments should enable the surveying of all reform land and registering the parcels under different statuses of ownership based on the eligible documents showing the proof of ownership. At least five regulations and laws should be amended, including The Law of Georgia on Public Registry adopted in 2008 that introduces the mandatory electronic registration, to provide a legal foundation for the reform.

The land registration initiative of reform land is probably the largest reform initiative implemented by the Government of Georgia in recent years, involving and touching the lives of almost the whole population of Georgia. This requires intensive communication, public outreach and education to achieve general understanding and buy-in from all parties. The public outreach and education campaign will focus on the transparency of the goals of the reform, communicating the process to the public, and proactively communicate achieved results and any potential challenges as they arise during the reform implementation.

While this reform is centrally managed and implemented, all local governments will need to be fully engaged in the implementation process. Comprehensive trainings and capacity building of both Tbilisi-based and regional personnel involved in the reform process is needed so that they are equipped with the necessary skills to develop and implement new processes arising from amended legislation, new forms of registration, new mechanisms for verification of ownership rights, adjusted surveying standards and a public outreach and education campaign.

The program is estimated to take 36 months and will be implemented in three phases: (i) preparatory, (ii) pilot project and (iii) full scale implementation. During Phase I, the necessary legal foundation will be prepared, including establishment of Inter-Ministerial Commission and the PMO. The PMO will elaborate detailed action plan and budget. Phase II will be dedicated to testing the methodology in a target region and conduct staff trainings. During the pilot, the reform implementation methodology and techniques will be adjusted according to lessons learned and the full scale registration (Phase III) will be rolled out accordingly. An estimated total temporary staff – including all implementing ministries, agencies, and local government officials – could reach up to 400 persons nationally. The preliminary budget estimate for the reform amounts to around USD 34.5 million.

1. Background

1.1. Historical Background of Agrarian Land Privatization and Registration Process

The Order No. 48 in 1992 of the cabinet of ministers of Georgia, “On the Reform of Agricultural Land in the Republic of Georgia,” kick-started the agrarian reform aimed at the wide-spread distribution of state land to citizens of the country ripped by civil war and substantial economic problems. This decision was forced upon the government by a desperate need to mitigate social problems and avoid further escalation of conflicts as probably the only solution available. Almost the entire population received some land, a combination of arable and perennial cropland, consisting of small parcels. The reform lacked a clear vision as to what the end result of the process should have been, the understanding of the costs and benefits of the reform, the designation of entities directly responsible for the reform, as well as the necessary capacity of and coordination between the state agencies to register the land plots and complete the process successfully. From the very beginning the government failed to ensure mechanisms for guaranteeing the property rights, including the land plot’s clear boundaries, of individual beneficiaries. Instead, the reform created an extreme land fragmentation with unrecorded and unregistered ownership. It also failed to address the major infrastructure needs such as maintenance of irrigation systems, secondary and tertiary roads, and windbreaks.

As a result of the reform, the state transferred an estimated 744,000 hectares (ha) of land to the population (“reform land” thereafter)¹ comprised of 437,000 ha arable land, 181,000 ha orchards and land for perennial crops, 42,000 hay lands, and 84,000 pasture lands. At that time this represented 62 percent of all cropland and around 5 percent of meadows and pastures. The state retained the substantial portion of total land resources for the so called “second phase” of the land privatization process. Upon implementation of the law on Law on State-Owned Agricultural Land Privatization in 2005 an estimated remaining 460,000 ha under the state ownership was slated for privatization.² Subsequently, the state continued the process of land privatization through auctioning existing land and selling the leased land until 2012.

The allocation of the reform land was based on the individual’s residence (rural area, rural mountainous area, regional centers/towns and urban area) and type of their economic activity (agricultural vs. non-agricultural). As a result, the following allocations were given:

- 1.25 ha for individuals engaged in agriculture and 0.75 ha for those not engaged in agriculture, all living in rural areas;
- 0.75 ha for individuals engaged in agriculture and 0.5 ha for those not engaged in agriculture, all living in regional centers and towns.
- Up to 5 ha for individuals either engaged or not in agriculture, and living in mountainous areas.

¹ For the purposes of this document, the allocation of 760,000 ha of land is referred to as “reform land”.

² The recommended Land Registration Strategy does not address any registration issues related to the leased and subsequently purchased – but not properly registered – land plots. Those owners will follow currently established land registration process under existing legislation.

- Additionally, urban residents were given parcels in villages could receive up to 0.15 ha in zones adjacent to urban areas, up to 0.25 ha in lowlands and up to 1 ha in mountainous regions.

According to the law of Georgia on “Ownership of Agricultural Land” adopted on March 22nd, 1996, households that were unable to receive lands over the period between 1992 and 1995 were allowed to receive the parcels during one year. Thereafter, this deadline was again extended to January 1st, 1999. The land distribution was to be carried out either at once or gradually based on the capacity of each local cadaster service. The monitoring and implementation of the allocation of land were initially implemented by the local authorities, and by 2007, the overall responsibility and registration process was fully transferred to a newly established National Property Registration Agency (NAPR) and its regional offices.

In comparison to the plot sizes of the reform land, leased parcels were significantly larger in size and less fragmented. Subsequently, the government continued selling the previously leased-out lands and auctioning the remaining portion of the available state land to derive the current landholding pattern in the country.

The land reform design and prolonged land registration process created significant challenges:

- The reform led to an extreme fragmentation of land, thereby prohibiting an effective commercial use of a large part of privatized agricultural land.
- Today, it is problematic to determine the total land area in private vs. state ownership due to the initial lack of proper registration and recording, as well as absence of consistent policies, regulations, and procedures. Without an establishment of a clear demarcation line between the reform land and the land retained by the state, as well as reorganization of the cadastral system, creation of a land market as a prerequisite of agricultural sector development lacks a solid foundation.
- The agricultural land itself is not categorized in terms of use. It is impossible to formally distinguish household plots, such as gardens adjacent to household home, from the reform land, and extract information as to whether a certain plot is arable, perennial, or pastureland.
- The quality of the survey is a sole responsibility of the prospective land owner that often leads to poor quality of information provided. The surveyors, which have been operating in the field, lack high-quality equipment and the necessary skills to ensure consistent and high quality results.
- As a result of inconsistent and inadequate land registration data and procedures, it is not only impossible to determine the exact locations and boundaries of the small land parcels that were given during the land reform process, but even the maps of the original large land plots that were subdivided into small land parcels are largely unavailable.³

³ The lack of maps creates additional challenge for the recommended Land Registration Strategy.

1.2. An Overview of the Magnitude of the Land Registration Issue in Georgia

1.2.1. An Estimated Size of Unregistered Land

Based on expert assessments and surveys, approximately 20 percent of agricultural land, including household plots, transferred under the reform has been fully registered to date. Therefore, the most reasonable volume of registered reform land likely falls within the range of 15 to 20 percent, or an estimated 120,000-160,000 ha of arable and perennial croplands.

1.2.2. Current Process and Costs Associated with Land Registration

A large segment of the population currently possesses the necessary historical documentation that current legislation acknowledges as a prerequisite for a title. However, due to the inaccuracy of boundaries and lack of clear coordinates for land parcels on the historical documentation, the beneficiary is required to conduct a new survey of a parcel to officially register with the NAPR. To complete the formal process of registration, the beneficiary - until the end of 2011 - had to pay a fee of GEL51 per registration (currently, NAPR does not obligate the owners to pay this fee for the primary registration) of a parcel and an estimated GEL200-250 for surveying one hectare of land, or an average registration costs of around 300 GEL per hectare.

The situation is more complicated in case where an individual does not have any legal documents to support the 'factual' use of land. This is regulated by different sets of laws and procedures. In such a case, obtaining of a title is lengthy and significantly more bureaucratic procedures apply as the individual's ownership interest overlaps with the interests of the state. If a potential beneficiary is capable of claiming the title based on regulations governing unlawful possession, the same land registration procedures referred in the paragraph above applies again. The prevalence of unlawful possession of land is hard to establish, although it is more likely in the areas with relatively well-endowed arable land resources.

1.2.3. Potential for Disputes of Current Land Registration Process

Civil society organizations have documented several hundred cases of conflicts between the individual landowners and the state in several regions. This might appear negligible when compared to an approximately 800,000 initial beneficiaries of the land reform. Nevertheless, the conflicts pinpoint to a potential escalation of problems if the issue remains unresolved. Given the current sporadic, first-come-first-serve nature of the land registration process, the number of formal disputes might increase as more land is registered, and especially in light of the government's policies for promoting investments and large infrastructure projects. In addition, lack of quality control when registering property rights and incidence of overages and overlaps create opportunities for disputes between the individual holders.

1.2.4. Lack of Transparency and Development Opportunities

Large unregistered plots of land hamper overall transparency that is necessary to promote free, arms-length transactions to take place. It is currently very costly to an outsider interested in land acquisition to make an informed investment decision. This, in turn, adversely affects qualified demand, limits competition and further depresses land price and quality (due to limited re-investment into land given unclear ownership). On the other hand, this situation encourages abusive practices by individuals at the community level to informally amass land for speculative purposes. In general, lack of transparency is negatively linked to rural development as it discourages those with commercial interests to invest in the land. In this context, it does not come as a surprise that Georgian agriculture severely lacks new technologies and its overall productivity is declining.

1.3. Lessons Learned From Land Registration Process to Date

There are several useful lessons learned that can be derived from the land registration process to date and applied toward the development of a comprehensive land registration strategy.

1.3.1. *Lack of Vision, Coordination, and Overall Capacity*

The reform lacked a clear vision as to what the end result of the process should have been, what were the costs and benefits of the reform and who were the entities directly responsible for the reform, as well as what was the necessary level of coordination between the state agencies to complete the process successfully. Similarly, lack of a clear government strategy to address land registration also made the involvement of different international donor agencies sometimes conflicting (due to use of different methodologies in different regions) and uncoordinated. Even today, the overall goals and desired end-result, as well as necessity of land registration program are not fully understood by all the stakeholders in the public sector, private sector and the civil society.

The human resource, legal and technical capacities were also poorly prepared to meet the requirements that a land reform program requires – especially when compared to other countries in the region that underwent a similar process. The uniform approach to the land reform implementation was lacking. This resulted in a differing degree of completion and quality of registered plots from region to region. At the municipal level, different sets of documentation continue to be used for establishment of a lawful possession in municipalities with relatively similar agricultural development and land distribution patterns.

1.3.2. *Inconsistent and Ad Hoc Decision-Making Related to Land Reform Process*

In general, the land reform in Georgia in 1992 was prepared and implemented conceptually poorly. The existence of the ownership right, as a legal category, as well as the availability of information, as a public good, necessarily produces the need for property rights protection by an independent arbiter. This function can effectively be performed only by the state. However, a consistent and strategic approach to land registration has never been employed during the past 20 years. Even in the most recent past, the land registration initiatives (such as the 2012 campaign) were of sporadic, disjointed nature only contributing to further complication of the existing problems. Subsequently, the donor assistance substantially improved the situation, despite some of the donor coordination weaknesses.

1.3.3. *Unclear Organizational Structure and Weak Technical Capacity*

The land reform, including the registration process has never been considered as a time-bound project or reform initiative in Georgia. The primary goal of such a project should have been the creation of rigorously protected system of property rights leading to an inclusion of agricultural land into the economic lifecycle. From the earlier stages several independent entities were involved in creation and storage of the relevant registration information, although the State Land Management Department had been established as well. The process lacked a clear governance structure, including an inter-governmental coordination and oversight.

The uneven skills and equipment of varied quality by the private surveyors resulted in inconsistent quality of registered land plots. When compared to actual land possession, the current cadastral data includes cadastral drawings that are lacking exact coordinates, and contain plot overlays and plot overages.

1.3.4 Key Assumptions for Future Land Registration Reform

Deriving from the lessons learned of the initial land reform and new requirements and challenges that emerged during the 20 years of the reform implementation, the following assumptions are needed in order to ensure success of any future land registration program:

- It is necessary to apply a *double entry principle* that allows for parallel and simultaneous keeping of the property rights-related information by the private owners and the state.
- The state must first establish and protect the property rights for the private sector. This will then allow the state to simultaneously establish the boundaries of the state-owned property.
- Given the complexity, scale, and organizational competency requirements of the land registration initiative, it needs to be implemented by a specially designated government body solely responsible for the land registration issue.
- A comprehensive information campaign to the general public explaining the benefits of the land registration program should be undertaken in order to improve the awareness of general public, obtain broad-based support to the reform and mitigate potential resistance from the rural groups opposing the idea of transparent holding of agricultural land.
- The program should be designed and overseen under the jurisdiction of the highest-level central government authorities, with the implementation support by the local government authorities.
- The reform should attempt to minimize the overall costs and burden for the beneficiaries by providing free surveying and registration services since it is the only way to uniformly and efficiently finish the process.
- In order to address land overage and overlaps, alternative dispute resolution system options need to be established to facilitate efficient and low-cost resolution of disputes instead of resorting to courts (although the individual maintains his/her right to resolve issues via court). The incidence of such disputes might rise significantly if potentials for disputes are not assessed on a region by region basis, relevant mitigation measures are not designed and implemented, and if the land registration program is not implemented in a comprehensive and centralized manner.
- In order to accomplish the registration process timely and quickly, enhancement of hardware and software capacities of the NAPR is needed.

2. Land Registration as a Prerequisite for Agricultural Development in Georgia

The proposed land registration reform must be understood as a necessary although not sufficient prerequisite for the agricultural development. The program should be followed by complementary measures by the government to achieve a desirable result of attainment of competitiveness of Georgian agriculture and job creation.

2.1. Protection of Rights of Agricultural Land Ownership

Lack of formal registration of the agricultural land creates problems to the agricultural development through a variety of channels:

- Tenuous property rights and poorly defined boundaries might disorient the state in its privatization efforts of agricultural land and result in its collision with local communities.
- Lack of protection of rights and transparency negatively affects the ability of new investors to invest in land or agricultural sector and discourages the existing users to seriously invest in improvements.
- Poorly defined property rights and inconsistent demarcation complicates generation of fiscal revenues for the government and encourages tax evasion, shadow market development and discourages land users complying with laws and regulations.
- Poorly protected rights of ownership might result in misuse of common resources and infrastructure necessary for agricultural development.

2.2. Access to Finance

Poorly defined property rights and unclear boundaries prevent serious financial resources to flow to agriculture and prevent entrepreneur farmers to engage in agriculture on a long term basis. The land titling initiatives undertaken in various parts of the globe demonstrate a sizeable and positive impact on the ability of farmers to use land as collateral. Using land as collateral is directly linked with substantial investments in productivity of land and switching to higher value crops. Lack of formal finance to relatively smaller-sized land parcels prevents emergence of high-value added agriculture where Georgia could have a competitive edge.

2.3. Land Market Development

Currently in Georgia land is very rarely used as collateral. The informal or shadow activities in land market – such as land sales, inheritance etc. - do take place but they cannot result in substantial improvement of quality of operations due to the very nature of informal transactions. In order to have a functioning land market it is necessary to have a critical mass of registered and well-protected land parcels to allow demand and supply forces operate in a transparent way and allocate resources to their best productive uses. Without well-functioning land market the necessary innovative processes and transfer of technology will not take place.

2.4. Economic and Legal Consolidation of Land

Once the property rights are defined, the price of land will encourage entrepreneur farmers to use it more intensively for more productive means. More secure title to land substantially improves the possibility of a meaningful economic land consolidation, which can be defined as using land belonging to various holders by one holder or a group of holders for profit-seeking purposes. In this case, the ownership of the land does not necessarily transfer hands. On the contrary, legal consolidation is meant to be a unification of several titles under the one. Given the current fragmentation of parcels, an undertaking of a large-scale legal consolidation project is likely infeasible and impractical from the economic standpoint.⁴

⁴ This strategy does not propose to use legal consolidation as means to agricultural development due to its costliness and unclear advantage over economic consolidation.

2.5. Implementation of Rural and Other Development Policies

The formalization of the titling process, creation of a fully-functioning cadastral system under NAPR and hence, the development of the land market allows the government to form and implement better informed long-term agricultural and rural development policies. Finalization of cadastral system generates detailed information about farming patterns in certain regions, tendencies of development, and constraints impeding realization of Georgia’s competitive advantages. Access to descriptive and detailed statistics about individual holders and regions enables the government to design policies aimed at creation of “clusters of growth” – mechanisms through which the most competitive production practices, investments, and infrastructure projects are promoted.

3. Land Registration Strategy

3.1. Definition of the Scope of Land Registration Program

The scope of the program is limited to the reform land that includes the land plots that were transferred into private ownership from 1992 to 1999. This approach identifies the scope of the program and therefore excludes the Autonomous Republic of Adjara, high mountainous regions and leased and sold lands after 1999 that were never part of the reform process. A separate program and specific legal approach to land title and registration issues in these regions should be designed and implemented in parallel to reform land initiative or immediately following its completion.

3.2. Alternative Reform Land Registration Strategies

Three different approaches, or strategies, emerged from the analysis of the challenge and four-month dialogue with relevant government ministries, members of parliament, NGOs, local government, and private sector stakeholders, including farmers. Although all three strategies share some common characteristics (e.g., proof of ownership and general conformity to the Agrarian Law of 1996), each relies on fundamentally different principles. Each strategy has its advantages and disadvantages as described below.

3.2.1. Strategy I: “Status Quo”

The first registration strategy is based on the current, “status quo”, land registration process that relies almost entirely on legal historical precedents to establish ownership rights and the size of land parcels. This strategy requires the NAPR to control the registration process and is totally technically dependent on cadastral technology introduced in 2007 (eight years after the land distribution programs ended). Later, this strategy was reinforced by the issuance of The Law of Georgia on Public Registry in 2008 that states that land not registered in the centralized cadastral system/map cannot be formally considered as privately owned property in Georgia. This strategy has resulted in little land registration activities.

Advantages:

- A technology-enabled cadastral system is in place and if used properly can provide for a transparent management of land ownership.
- No additional cost for this strategy.

Disadvantages:

- Mapping conducted from 1996 to 1999 are considered unusable and cannot be used for titling or registration purposes. Therefore, resurveying of individual plots of land distributed during the land reform programs in the 1990s is required.

- Landowners are subject to high costs of surveying and registration process of around GEL 300/ha.
- In some cases, the local records of ownership have been lost or destroyed since the land distribution program began 20 years ago.
- Land sales or transfer, inheritance, and other factual changes in land tenancy cannot be easily addressed.
- While there is no additional cost for this strategy, the estimated timeframe to register all reform land can span the timeframe of another generation.

3.2.2. *Strategy II: “Conditional Amnesty”*

This strategy is based on “Conditional Amnesty and Peaceful Occupation”, whereby elements of the existing laws and regulation pertaining to ownership rights are retained and based on the maximum allowable land – between 0.25 ha to 5 ha – as established in the reform legislation. However, this strategy would also rely on the existence of alternative documentation, reliance on local authorities, local citizens’ certifications of boundaries and citizens’ rights of ownership.

This strategy allows for utilization of existing maps (digitized) or new maps that are acceptable to local authorities and neighboring landowners. In case landowners have no documentation available that complies with existing laws on ownership, their peaceful occupation of the land for 3 or more years, supported by the certifications from local government officials and bordering neighbors may be recognized as criteria to claim ownership. According to the strategy the registration process is separated from the cadastral mapping. The verification of the property right and, therefore, the registration function is assigned to the local government.

Advantages:

- This strategy may require substantially less time to implement, therefore will be less costly.
- It is a grassroots approach in its orientation and, therefore, may be more acceptable to rural citizens and local government officials.
- By establishing local authority as the body certifying ownership and delinking the registration process from the cadastral map, ownership rights can be established quickly and more time can be allocated to uploading maps into the cadastral map without the need for massive increases in NAPR personnel and equipment.

Disadvantages:

- This strategy would require major legislative and administrative reforms to implement.
- There is a high risk of property rights claims that may lead to Constitutional cases.
- The strategy does not take full account of the current technology available and represents a possible step backward and reliance on other maps than KOR based until such time as the locally registered land eventually transfers into NAPR cadaster system. At that point, there is a risk that the accuracy of the mapping resulting from this approach may not meet the standards required by NAPR.
- While this strategy can effectively legalize large swaths of private ownership at a relatively low cost and within shorter timeframe (since it recognizes a simpler method of determining

proof of ownership), the eventual adoption of electronic cadastral system may only delay the challenge of electronic land registration to the future Georgian generation.

- This strategy may reward illegal behavior, especially where ownership claims exceed the maximum amounts of land authorized by the 1996 legislation.
- It could reduce the arable land ownership by the state and reduce future land privatization revenues.

3.2.3. *Strategy III: “Historical Legal Precedent”*

The third strategy borrows principles from both preceding strategies, such as utilizing historical legal precedents that establish rights of ownership and land plot size, and adds amendments to deal effectively with inheritance issues and lands in excess, as well as enhancing the set of documentation, which serves as a prerequisite to determining the title.

This strategy recognizes the need to establish policies that deal effectively with owners that factually possess more land or less than that allowed under the Agrarian Law of 1996 (i.e., maximum of 1.25 hectares). Additionally, this strategy provides alternatives for those claiming ownership rights but do not possess any of the required documentation, such as recognition of the right of peaceful possession based upon the certifications of local government officials and neighboring landowners. Furthermore, while this strategy continues to be centralized and driven by the modern cadastral and “KOR” surveying systems methodology, it does require the local governments to be engaged in strategy implementation.

Advantages:

- While significant, the legal and regulatory changes necessary to implement this strategy are less than the second strategy and, therefore, easier and faster to implement.
- It will have more solid legal foundation as compared to “Conditional Amnesty” strategy and eliminate the risk of Constitutional cases.
- Key Ministries and Agencies seem to be more aligned with this strategy as it is most consistent with how they currently view their roles, responsibilities, and mandates.

Disadvantages:

- This strategy is still driven by the “KOR” cadastral technology, meaning that all earlier mapping may be useful only as a reference, and that all plots (2.5 million at a minimum) will need to be resurveyed.
- This option will be costly to implement due to not only mapping and surveying requirements, but also due to the increase in NAPR technical staff, training, and equipment required. (Further discussions with NAPR to find more flexible solutions may alleviate this problem).
- Strategy implementation will require an estimate of at least three years to complete.

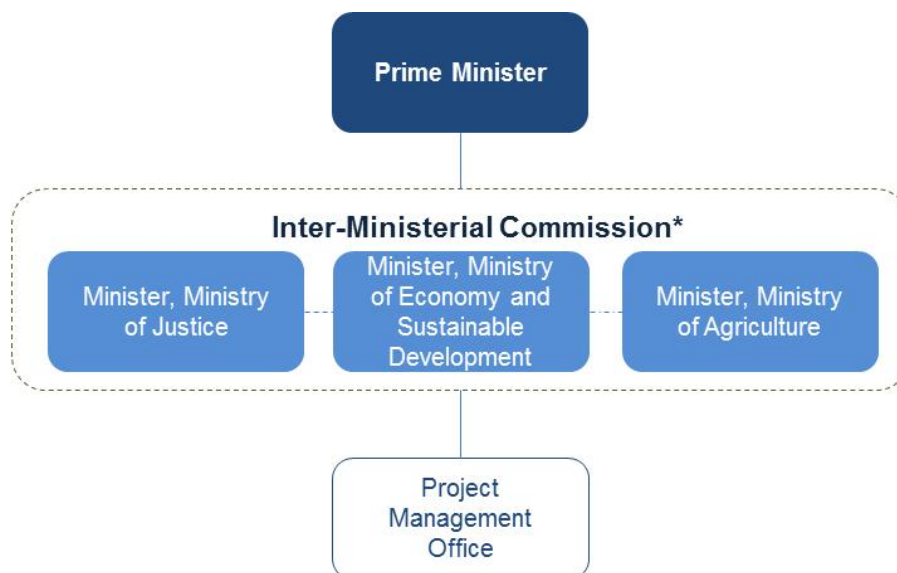
3.3. Proposed Land Registration Strategy: Historical Legal Precedent

This proposed strategy based on historical legal precedent is judged most likely to succeed if adequate funding, leadership and accountability are provided by the government. As described in the introduction, these issues are quite substantial and touch the lives of most, if not all, rural citizens. Failure to resolve this problem now will continue to pose a major obstacle to the growth of the agricultural sector and to effective property ownership rights for the rural population. Additionally,

this strategy will be costly to implement and demands an intensive management approach. To more effectively address issues relating to program management, the following approach is suggested:

- The creation of an Inter-Ministerial Commission, made up of ministers from relevant line ministries that share significant responsibilities for day-to-day program implementation. Commission would be created by an executive decree and should report directly to the Prime Minister (see Figure 1). The scope of such a commission would be limited to budget oversight, monitoring, problem solving, communications, and accountability for the “Reform Land Registration National Program”. The Commission would not be an implementing body; however, each ministry or agency as well as local government entities would carry out their implementation responsibilities in accordance with the action plan.
- There is ample precedence internationally for the creation of such a body. This model has worked successfully in other countries when governments recognized the temporary need for a highly focused approach to management and accountability for a major activity. Additionally, line ministries have many responsibilities that often compete internally or between ministries for resources and authorities. The creation of such a mechanism will mitigate these challenges without eroding the implementation authority of the line ministries.
- The creation of such a commission would clearly signal to the public and to all government officials the leadership’s commitment to the success of the program.
- Once formed the Commission will establish a small Project Management Office (PMO). PMO will report to the Commission and it will carry out the initial planning, budgeting and staffing, public outreach campaign, implementation, and completion of the reform process.

Figure 1. Proposed Governance Structure



* Based on the government decision, other line ministries may participate in the Commission.

3.3.1. Enabling Legal Framework

The existing legal framework needs to be revised in order to ensure rapid and effective registration of land. The current legislation provides lengthy and costly procedures that may create significant barriers to the systemic registration. The modifications to the law should be geared towards surveying

of all reform land and registering the parcels under different statuses such as ownership or possession based on the type of available title documents. By the end of the registration process every land plot has to be put on an electronic cadastral map and assigned an owner or a possessor. Below follows a summary of illustrative solutions to the key legal and regulatory issues:

- The *list of documents* prescribed by the law as a legitimate source for the verification of land ownership needs to be extended and has to include all possible types of documents (e.g. “Kolhoz Books”).
- The law should define the *basic minimum requirements on requisites available in ownership documents* to deem the ownership valid. Currently, if a document lacks some minor requisites (such as the registration number, photography etc.) it is rejected by the NAPR, thus depriving the legitimate owner from the possibility to register the property.
- In case there is *no title document* (e.g. in Poti, Samtredia and other places where state archives are known to be destroyed) the alternative mechanism should be made available to an owner to prove his/her legitimate rights of ownership. The owner will have to prove the ownership of the land since 1999⁵ (the latest) by means of a testimony of at least three neighbors certified by a village Rtsmunebuli. The size of the land plot should fit the land limits set for that particular village during the land reform.
- The law should establish the limit (15-30%) up to which the *land in excess* will be registered through the simplified procedure. Reportedly in majority of cases the size of the land plots in an actual possession do not correspond to the size of land plots indicated in ownership documents and are usually larger. In order to avoid the cumbersome procedure of legalizing the land plots in excess through the land commissions under the local self-government (which are not operational in most of municipalities) the law should provide the possibility to prove the peaceful possession through the testimony of at least three neighbors certified by a village Rstmunebuli. Up to the established threshold (15-30%) the land should be given for free and registered as ownership.
- The law should provide the possibility to *register* the peacefully possessed land *as a possession* above the threshold (15-30%) and up to 200%. The peaceful possession shall be proved by means of the testimony of at least three neighbors certified by Rtsmunebuli. The possessor will be entitled to register the land in ownership through the Land Commission and upon payment of the fixed price set by the current legislation.
- If the *beneficiary of the land reform has passed away*, the land could be registered as a possession of the heir who actually possesses the land. Actual possession of the land should be certified by the village Rtsmunebuli. Once the heir submits the certificate of inheritance issued by a notary to NAPR the possession will transform into ownership.
- The *dispute resolution* mechanism *should be developed to ensure rapid and effective* resolution of disputes that may potentially arise in the course of the program implementation. It is recommended to establish dispute resolution bodies with local municipalities at the municipality level and involve NGOs of relevant profile (e.g. Young Lawyers Association, Transparency International, etc.) in their activity.

⁵ The land reform was officially completed in February 1, 1999.

The presumed scope of the legislative reform will include but might not be confined within the changes of the following laws and regulations:

- Law on Public Registry and related regulations;
- Law on Notary;
- Organic Law on Local Self-Governance;
- Law on Recognition of Property Rights on Plots of Land being under the Possession (Use) of Physical Persons and Legal Entities of Private Law;
- Order of the President of Georgia N525 of 15 September 2007 on the Approval of the Rules and Procedures of Recognition of Property Rights to Plots of Land being under the Possession (Use) of Physical Persons and Legal Entities of Private Law and the Form of a Certificate of Property Rights

It is also recommended to develop a Manual on Land Registration for the purposes of the program. The manual should provide the detailed instructions for Rtsmunebulis on how to deal with all possible scenarios of ownership and possession; rules and procedures on issuance of the title documents and other certificates mentioned above. The Manual should also provide the instructions for NAPR staff on processing of title documents and cadastral information, as well as to the PMO to run an effective public awareness and education campaign.

In order to ensure an easy access of citizens to the title documents all databases should be archived and temporarily transferred to municipalities or project management municipality level units, whichever is more convenient, throughout the duration of the program. The citizens should receive the copies of the documents free of charge.

3.3.2. Public Awareness and Education Campaign

The land registration reform is the largest initiative for the government in recent years, involving and touching the lives of almost the whole population of Georgia, entailing mobilization of significant resources, and requiring substantial time. It is a complex task and the ultimate goal of the public outreach activities is to achieve broad understanding and acceptance by all parties concerned – those implementing the reform as well as Georgian citizens, the ultimate beneficiaries.

The public outreach strategy will focus on the maximum transparency of the goals of the reform, in order to achieve broad understanding of the benefits and necessity of the land registration by general public, through a two-way communication between the government and the land registration participants. The public awareness campaign should make it clear that the reform is inevitable for improvement of people's lives, and beneficial for all parties, for the whole country and, of course, for the public. It is crucial to communicate the importance of inclusion of agricultural land into the economic lifecycle for economic growth. The strategy uses the combination of the "push" and "pull" approaches: whilst the first one promotes the reform directly within the communities, the second one creates buy-in through media vehicles.

The trained staff of the PMO and Rtsmunebulis have to ensure constant communication of the benefits, policies and procedures of the land registration at the village and municipality level through collective and individual meetings and workshops, whereas respective high-level officials will participate in municipality-level meetings with the population, and make public and media announcements that strengthen the campaign and raise the credibility and trust towards the land registration process. While face-to-face meetings and announcements mainly motivate people to take part in the registration process, media vehicles generate *attention* and *interest*, and form perceptions

of public about the reform. TV, outdoor and press ads, news pitches and talk shows will create sufficient attention and interest, and at the same time, educate the land registration beneficiaries about the actions they should take. As part of the public outreach campaign, print materials will also be produced for educational purposes.

The public outreach strategy will pursue the targeted approach and address all primary and secondary target groups to minimize skepticism towards the land registration approaches, reduce risks related to a smooth flow of the process and ensure understanding of the required steps that should be undertaken by each group. To make the overall plan successful, it is crucial to:

- Identify opinion leaders and supporters within the communities, actively engaging them in the outreach as well as the registration process to act as role models and create positive feedback on the reform;
- Target the neutral groups through the meetings, workshops and social advertising campaigns to stimulate their support;
- Engage into regular communication, possibly via organized debates, with opponents through workshops, town hall meetings and media, to neutralize the negative effect not only on the land registration processes but on the effectiveness of the government as a whole.
- Develop toolkits and materials to facilitate the work of staff implementing the project and educate the general public, talking points/press releases for policy-makers at the ministerial and local government levels, and targeted and simple messages on the benefits and key steps of the reform.
- Establish mechanisms to provide effective communication to beneficiaries via website and a call center for those stakeholders seeking specific information.

Successful internal communication will be a baseline for the effective public outreach campaign. Therefore, the Inter-Ministerial Commission – and the corresponding line ministries – will play a crucial role in ensuring the consistency of public outreach activities, and delivering key messages from the top to the bottom. The targeted messages will be built on key strengths of the land registration strategy. It should also be communicated by the highest-level officials, including the Prime Minister, to the general public. The public outreach plan also addresses the weaknesses, risk management and contingency planning, as well as the interim analysis of public perceptions about the land registration strategy and outcomes.

3.3.3. Training and Capacity Building

Increasing NAPR's and local municipalities' staff capacity will ensure successful implementation of the program. Comprehensive trainings and capacity building of both Tbilisi-based and regional personnel involved in the reform process will be needed so that they are equipped with the necessary skills to develop and implement new processes arising from amended legislation, new forms of registration, new mechanisms for verification of ownership rights, adjusted surveying standards and a public outreach and education campaign. Table 1 on the next page summarizes the target audience for capacity building activities and training areas.

Table 1. Training Areas and Target Audience

Training Area	Target Audience
Rules and procedures of agricultural land registration	<ul style="list-style-type: none"> • NAPR Central and Regional staff responsible for land registration • PMO staff • Village Rstmunebulis
Rules and procedures for issuance of documents proving ownership/possession of the land	<ul style="list-style-type: none"> • Village Rstmunebulis • PMO staff
Surveying rules and procedures	<ul style="list-style-type: none"> • Private surveyors
Project management tools and techniques	<ul style="list-style-type: none"> • PMO staff • NAPR regional staff responsible for land registration
Public outreach	<ul style="list-style-type: none"> • NAPR regional staff responsible for land registration • Village Rstmunebulis • PMO staff • PR offices of involved line ministries • Prime Minister's PM office • Inter-ministerial Commission

3.3.4. Phasing of the Land Registration Reform

The program is estimated to take 36 months and will be implemented in three phases: (i) preparatory, (ii) pilot project and (iii) full scale implementation. During Phase I, the necessary legal foundation will be prepared, including establishment of Inter-Ministerial Commission and the PMO. The PMO in coordination with the line ministries and agencies will establish action plan and budget to procure equipment and materials, and hire and train the necessary project staff.

Phase II will be dedicated to testing the methodology in a target region and conduct staff trainings. During the pilot, the reform implementation methodology and techniques will be adjusted according to lessons learned and the full scale registration (Phase III) will be rolled out accordingly. A preference for the municipalities where the pilot will be carried out should be given to those areas that will participate in the World Bank's irrigation project.

4. Land Registration Action Plan

4.1. Required Resources at the Central and Local Government Level

The PMO, reporting to the Inter-Ministerial Commission, will carry out the planning, budget allocations, general organization, and overall program management. Successful implementation of the process will fall on key governmental implementing agencies, such as NAPR, while local municipalities will assign dedicated staff to the project and receive funding from the program budget. The PMO will employ only a small group of core staff members, led by a PMO Manager, and other staff, such as Budget Manager, Public Awareness Manager, Training Manager, and Legal Advisor. An estimated total temporary staff – including all implementing ministries, agencies, and local government officials – could require up to 400 persons, comprised of both, existing and new staff.

This estimated number of program staff is based on the following assumptions:

- Additional staff of NAPR necessary to handle over three times the number of registrations currently processed on a daily basis.

- At the regional and local level, project implementation teams may have up to 10 regional coordinators and 59 municipality registration teams.
- Each municipality level registration teams will have a six-person staff: one team leader, one NAPR specialist (responsible to receive and check all the registration documents and enter them into the central database for final approval and registration), and four field specialists (responsible for the community mobilization, collection of registration documentation, coordination of land survey as well as intensive communications with local populations).

Municipality level registration teams will closely work with local Rtsmunebulis’ offices and Land Commissions, as well as land surveying contractor firms (see Table 2 below).

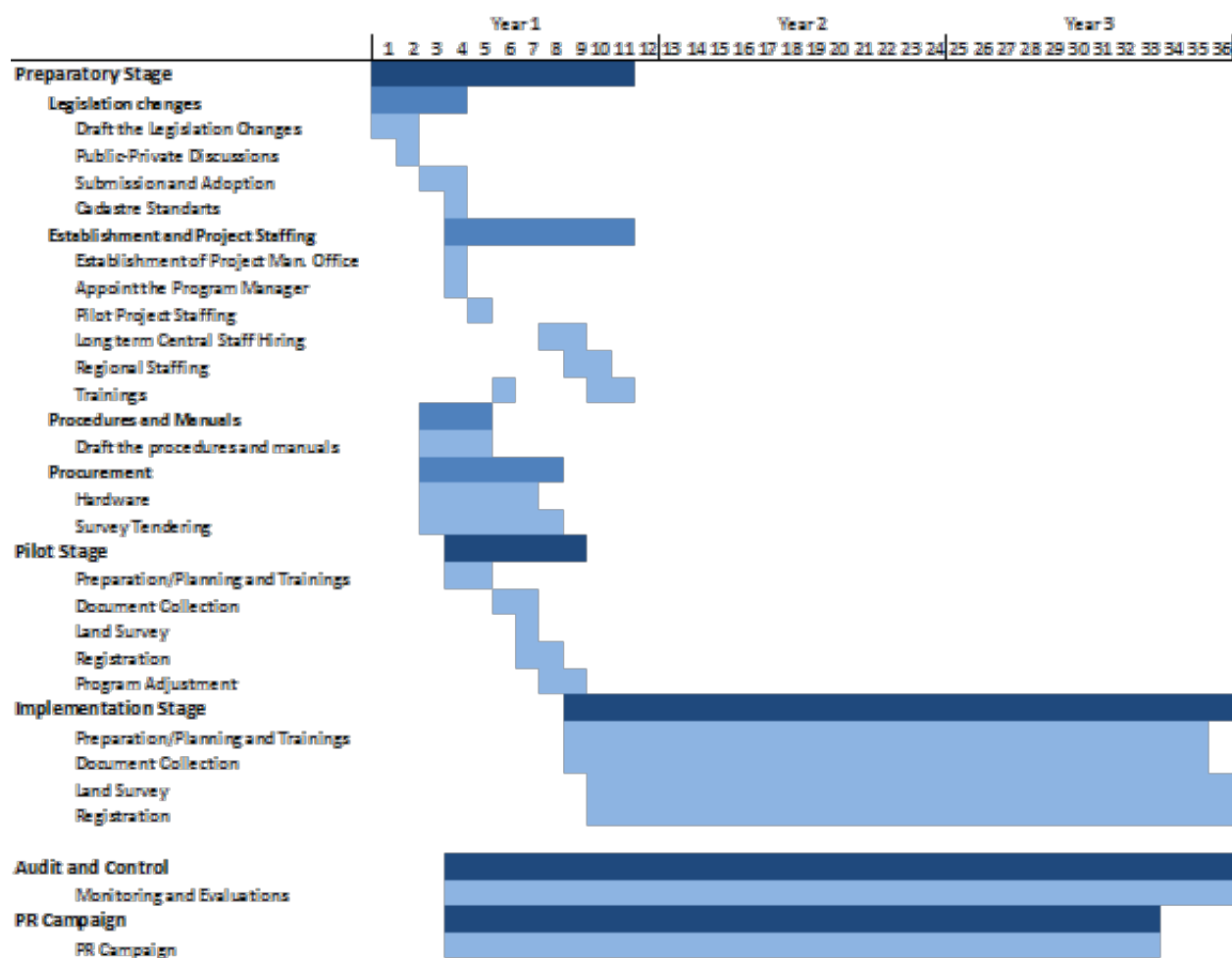
Table 2. Resource Allocation Table

Function	Number of Staff	Agency
Central Unit – Management, Legal, Cadastral and Registration Specialists	40 persons	MoJ/NAPR
Regional Coordinators	10 persons	MoAg
Municipality Registration Team Leaders	59 person	MoAg
Regional Offices – Registration Specialists	59 persons	MoJ/NAPR
Field Specialists	236 persons	Local Government, MoAg, NAPR

4.2. Timeframes and Phasing of Activities

The overall duration of the program is estimated at 36 months (see Figure 2 on the next page). The comprehensive public outreach campaign will be carried out throughout the program implementation.

Figure 2. Land Registration Implementation Plan



4.3. Land Registration Process

Field survey will be conducted by the private surveying companies selected through the tendering process. There will be at least two survey firms assigned to each municipality to allow for two parallel work streams in each rayon during the whole project duration.

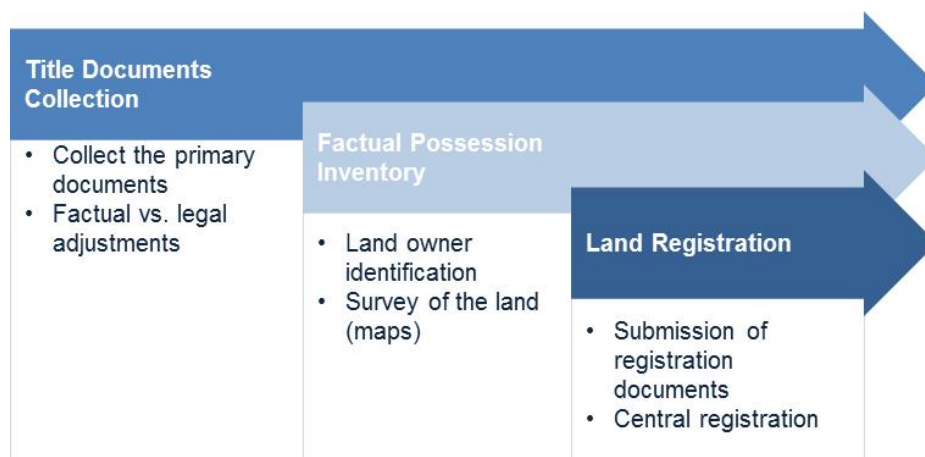
The registration process will be implemented by six-person teams: one team leader/manager – planning and managing the entire process; four Field Specialists – each assigned to one village to mobilize people, collect the documentation and coordinate the surveyors; and one NAPR Specialist to handle actual registration.

Field Specialists start the public mobilization and the public outreach campaign in each village around two to three weeks before the survey company starts the survey process. The main objective of this activity is to plan the work of the village survey and land registration process as well as to ensure the readiness and availability of the citizens of the village for the smooth implementation of the process. When the village is ready, the survey company starts surveying (an average of six weeks per village). The Field Specialist continues working with surveyors and coordinates the process.

At the same time Field Specialist starts adjusting the documentation to factual possession revealed by the survey. Once surveying is completed the Field Specialist continues adjustments and starts submission of the batches of registration documentation to NAPR Specialist for further processing. After the completion of the registration process in the first village, the Field Specialist moves to the next village, where the second Field Specialist has already conducted the preparatory work.

At the final stage and after an updated mapping data and registration documentation is submitted to the NAPR cadastral system, NAPR’s central office will review the information, check the consistency and the quality of the submitted information and make an official registration and issue the electronic certificate (Public Registry Record). Figure 3 below presents proposed registration process phases. The whole process is estimated to take approximately nine weeks.

Figure 3. Registration Process Phases



4.4. Estimated Cost of the Reform

The estimated preliminary cost of the project is USD 34.5 million. There are several options how this cost can be covered, ranging from full coverage by the government, to cost-share by beneficiaries, and other contributions, such as international donor agencies. For example, the estimated budget assumes that beneficiaries pay none of the titling or registration costs. Therefore if beneficiaries pay all or some of the cost, especially in case of registering factually owned “excess” land, the reform cost can be partially financed by the beneficiaries. Also, if the number of plot surveys is reduced by using old maps the cost will be reduced accordingly. The Budget Table (see Table 3 on the next page) shows the tentative budget in USD.

Table 3. Land Registration Budget Estimate

Project Budget \$ 34,543,849

Survey

	Number	Price USD	Cost	MoA	MoJ/NAPR	Contractor
GPS Rovers	199	\$ 13,000	\$ 2,584,288			\$ 2,584,288
Metal Field Markers	250000	\$ 7	\$ 1,750,000			\$ 1,750,000
Computers	199	\$ 600	\$ 119,275			\$ 119,275
Survey Workers	398	\$ 24,000	\$ 9,541,985			\$ 9,541,985
Survey Overhead (Admin+Transport)	30%		\$ 4,198,664			\$ 4,198,664
Total			\$ 18,194,211			\$ 18,194,211

Project Organization

	Number	Price USD	Cost	MoA	MoJ/NAPR	Contractor
Regional Staff	354	21000	\$ 7,434,000	\$ 6,195,000	\$ 1,239,000	
Central Staff	50	60000	\$ 3,000,000	\$ 600,000	\$ 2,400,000	
Regional Computers	177	700	\$ 123,900	\$ 103,250	\$ 20,650	
Central Office Computers	50	1000	\$ 50,000	\$ 10,000	\$ 40,000	
Other Equipment	1	50000	\$ 50,000	\$ 41,667	\$ 8,333	
Total			\$ 10,657,900	\$ 6,949,917	\$ 3,707,983	

PR Budget

	Number	Price USD	Cost	MoA	MoJ/NAPR	Contractor
Research and Surveys			\$70,000	\$ 70,000		
PR Campaign Costs			\$3,493,938	\$ 3,493,938		
PR Trainings and Workshops			\$16,800	\$ 16,800		
Total			\$ 3,580,738	\$ 3,580,738		

Other Costs

	Number	Price USD	Cost	MoA	MoJ/NAPR	Contractor
Trainings and Preparation	59	\$ 5,000	\$ 295,000	\$ 295,000		
Transportation Expenses	1416	\$ 1,000	\$ 1,416,000	\$ 1,416,000		
Project Preparation and Pilot			\$ 50,000	\$ 50,000		
PMP, Research and Studies			\$ 50,000	\$ 50,000		
Technical Expert Support			\$ 300,000	\$ 300,000		
Total			\$ 2,111,000	\$ 2,111,000		

Total Project Budget			\$ 34,543,849	\$ 12,641,654	\$ 3,707,983	\$ 18,194,211
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