

Concept Paper



Land Lease One Stop Window

**Concept Paper under the Economic Regeneration Programme
as part of the
National Agriculture Development Framework**

Ministry of Agriculture, Irrigation and Livestock

April 2009

LAND LEASE ONE STOP WINDOW

A Proposal to Increase Land Available for Investment

I. BACKGROUND: LIMITED ACCESS TO LAND IS A MAJOR ECONOMIC CONSTRAINT

Obtaining land to use for commercial purposes remains one of the most significant constraints limiting the prospects for economic growth in Afghanistan. Potential investors face considerable uncertainty concerning the availability of suitable land and its cost and the time that would be required to secure its services when it is identified. Surveys in recent years have consistently shown that access to land and electricity are the two most frequently cited obstacles for investors to overcome.¹ The lack of workable mechanisms for making land readily available at market cost significantly discourages existing business from undertaking new investments and effectively prohibits new investors from entering the market. For example, during the past 6 years almost 800² land lease applications received by the Ministry of Agriculture, Irrigation and Livestock (MAIL) from investors interested in setting up livestock and agriculture businesses have not yet been processed. Meanwhile, an estimated 6 to 8 million Ha³ of government land with agricultural vocation remains available and unused. The opportunity cost in terms of employment and economic development not realized, and governmental revenues not collected is significant enough to justify immediate action.

Achieving the Government's goals for equitable economic growth and employment generation, including the rapid development of agriculture and the rural economy and the effective implementation of the Afghanistan National Development Strategy (ANDS), depends crucially on taking immediate steps to make land easily available to encourage increased investment in productive commercial activities. Several governmental policies and laws related to availability of commercial lands have been established in the past years, creating the appropriate legal framework to implement new mechanisms for land lease⁴. We refer principally to the Private Sector Growth and Development Policy, the Land Policy, the Policy for Rehabilitation and Development of Agriculture and Natural Resources Sector of Afghanistan, as well as the recent Land Management Law.

The primary aim of this proposal is to create a mechanism that will significantly increase the amount of land that would be made available for commercial investment and will also contribute substantial additional revenue to the Government. It should be emphasized that this proposal represents an important first step in stimulating economic activity. Longer term actions including strengthening land titling systems, zoning and planning regulation, clarifying property rights, and improve the management of public land for noncommercial activities must be also pursued separately.

¹ See for example "The Investment Climate in Afghanistan", The World Bank and the World Bank's annual Doing Business Surveys.

² Source: MAIL Private Sector Directorate

³ Source: MAIL Land Management Department and MAIL Statistical Department

⁴ The Government's existing strategies and policies relating the land in this context are presented in Appendix

II. PROJECT OVERALL GOAL AND SPECIFIC OBJECTIVE(S)

This proposal will establish the Afghanistan Commercial Land Agency (ACLA), similar in structure to the Afghanistan Investment Support Agency (AISA), as an autonomous agency subject to Government regulations and policies. As a statutory body responsible for leasing commercial public land, the ACLA will operate as a single reference point or one-stop window for investors seeking to obtain access to land for commercial activities. It will have a mandate to consult closely with the President, AISA, line ministries and the National Assembly as well as private sector organizations to ensure that land needed for productive investment is made readily available throughout the country. It will coordinate its activities with ministries and donors to ensure that investment in infrastructure, including irrigation facilities, water and power supplies, and roads, contribute to the maximum extent possible to attracting productive investment.

The ACLA will have the following responsibilities:

- Maintain a public land inventory database with detail information about mapping location, size, land category and description, price and availability of services. Supported information technology investments and streamlined procedures, the land offer information will be broadly publicized both nationally and internationally. ACLA will work gradually to increase the available land inventory for leasing until the majority of government lands available for lease are included in the program⁵. The land lease inventory will be completed over a period of 10 years. During this time the land will be measured and registered according to accepted cadastral norms and standards. The President will receive periodically proposals from ACLA detailing new amounts and geographical distribution of land to be included in the inventory for approval.
- Offer a comprehensive land-lease solution, by delivering a public service in a cost-effective, timely manner that promotes transparency, competition and accountability. All land lease applications will be processed in a timely manner and the current land lease process involving, when succeeding, more than 20 steps and 4 months will be streamlined.
- Assume management responsibility for making state owned land available for commercial purposes (including agriculture, industry and services investments). It will supervise the compliance of the lease contracts and will collect the lease revenues. ACLA will be responsible for ensuring that lease contracts are within acceptable environmental, zoning and planning regulations and activities on leased lands are legal. For this reason, private subletting of lease contracts could not be allowed but option to contract transferring to a third private part, with knowledge and compliance of ACLA standards, will be guarantee for the investor.

⁵ Between 6 and 8 million Ha is the amount of governmental lands estimated with agricultural vocation, including cultivated and arid lands. Other estimated governmental lands (50 million Ha of range lands, forests, mountains and rivers) will not be part of the land to be offer for leasing. Source (Minister of Agriculture, Irrigation and Livestock)

III. PROJECT OUTPUTS AND ASSOCIATED ACTIVITIES

1. Afghan Commercial Land Authority.

- Infrastructure and equipment activities to set up office facilities.
- Governance activities to set up the High Commission, ensuring appropriate orientation of the members and operational procedures.
- Capacity building activities related to the establishment of a new entity will be implemented to:
 - a. Set up the core operational policies and system including personnel, operations, finance, logistics, monitoring and evaluation and communications.
 - b. Recruitment and orientation of new personnel

2. Land Use Zoning Policy. This output will require technical activities to be conducted by legal and land expert professionals in order to create a policy proposal to present to the President of Afghanistan.

3. Lease procedure re-engineer

- Land lease new procedure definition
- Land Lease Regulation establishment
- GIS mapping capacities establishment
- Virtual platform establishment for the virtual management of the procedure

4. First package of land to be lease.

- Identification of initial demand of land
- Land mapping
- Property rights clarification
- Land zoning clarification
- Water rights definition
- Land information documentation
- Report to be approved by the President
- Land Lease contracts negotiation and signature

IV. PROPOSED IMPLEMENTATION STRATEGY

ACLA Organization

The ACLA establishment will require additional legal framework to transfer competences from the MAIL, who currently has legal authority for managing and leasing governmental lands, to the ACLA. Additional regulation will be established to define the ACLA statutory body and to develop specific lease regulation under the umbrella of the Land Management Law.

An inter-ministerial body will govern the ACLA, providing strategic direction for the agency and being responsible for ensuring the effective implementation of the governmental policy and law provisions (High Commission for Commercial Land)

As a second level in the governance structure of ACLA, a CEO will have the responsibility of the execution of the High Commission's directives and decisions. It is anticipated that 6 key organizational units will be managed by a third governance level, under the direction of the CEO. These organizational units are Land Inventory, Land Lease Service, Operations, Communications, Monitoring and Evaluation, and Quality Control. The central ACLA team will range between 50 and 100 staff, with small operative units at provincial level.

The High Commission for Commercial Land (HCCL)

The High Commission for Commercial Land (HCCL) will report regularly to the President and the Government Coordinating Committee (GCC) on its activities, including the submission of annual reports on (i) annual leasing activities by general type of activity, by province, by income and type of investors, (ii) detailed plans for the type and amounts of land expected to be offered for lease for the upcoming year.

The HCCL will be comprised of the seven voting members plus the ACLA CEO, non-voting member, acting as a Secretary.

1. Minister of Agriculture, Irrigation and Livestock (Chair)
2. Minister of Finance
3. Ministry of Urban Development
4. Ministry of Economy
5. Minister of Commerce and Industry
6. Minister of Energy and Water
7. CEO of AISA
8. CEO of ACLA (ex officio, Secretary)

The HCCL will play a leading role in the establishment of a Policy on Land Use Planning and Zoning. The increase in land being made available for commercial activities raises important issues with regard to land use. The Government seeks to ensure that the country's land is employed efficiently, including avoiding inappropriate uses (e.g., mixing residential and industrial uses) and ensuring that adequate land is made available for agricultural activities. The Government will also ensure that adequate land is made available for public noncommercial purposes (e.g., for roads, parks, religious, educational and government facilities).

The HCCL will be responsible for the development and presentation to the President of a comprehensive Land Use Planning Policy based on a system of the establishment of zoning restrictions on land use. This Policy will be developed in consultation with ministries, the IDLG, Provincial Governors, Municipal Mayors, civil society and private sector stakeholders. The Policy will include the establishment of provincial and municipal bodies enabled to recommend to the HCCL changes in land use and zoning restrictions. This

Policy will be presented to the President and Cabinet for approval within one year of the establishment of the HCCL.

ACLA Financial Projections

An initial investment to establish the ACLA will be required during the first year. This initial investment will be used to hire and train staff, pay salaries, set up offices, procure furniture and equipment, establish internal policies and operating policies. Additional medium term⁶ investments to create the land inventory will be required to finance field surveys, property right clearance processes, water rights definition, measurement and mapping of the different land plots, and so forth. These initial investments are estimated to be in the range of USD 10-20 million. Support from the international community is anticipated during this first phase of operations of ACLA.

The ACLA will operate based on an annual budget pre-approved by the Board. ACLA will collect all the revenues from the land lease contracts and will transfer to the Minister of Finance the income exceeding the ACLA operational cost. It is anticipated that the ACLA could achieve financial sustainability in its operations and will start generating new revenues for the Government between the third and the fourth year⁷. This entails that ACLA would need partial financial support to cover its operational expenses during that period. Support from the international community is anticipated during this first phase of operations of ACLA to partially cover operations costs for the first 3 to 4 years.

The Government of Afghanistan has collected less than USD 500,000 annually in land leases for the past two fiscal years⁸. Based on early estimates the ACLA may be able to generate 100 to 300 times the current revenue level once the first million Ha of land is added to the inventory and leased for commercial purposes. This amounts to an annual revenue figure of USD 50 to 150 million. ACLA operational expenses are projected to be around 2-5% of the annual revenue. Once ACLA is operational it will be a major contributor to the annual budget of the Government of Afghanistan.

International Technical Assistance

Eastern European and Central Asian states in transition are facing common challenges when restructuring the ownership regulations of agricultural lands. Despite land reforms implemented during the last decade, a considerable amount of agricultural land is still owned by the state (e.g. around 11 million Ha in Ukraine, 276 million Ha in Russia, 85 million Ha in Kazakhstan, 112 million Ha in Mongolia). There are, however, some promising approaches for effectively managing state-owned agricultural lands that can be applied in Afghanistan. These approaches can be considered lessons learned by countries such as Poland, Macedonia, Korea, Cambodia, Nepal, Nigeria, and New Zealand, and provide an

⁶ Up to 10 years

⁷ The land Management Law establishes in its article number 67 the right of the tenant to invest in rehabilitation and construction of irrigation facilities in the land plot without paying lease fees for a negotiated period up to 4 years.

⁸ Source: MAIL Land Management Department and MAIL Finance Department

opportunity for Afghanistan to fast track its own processes by adapting international benchmark analysis and technical assistance transferred from these countries.

V. INPUTS REQUIRED

For a phase I of the project (first 2 years)

TECHNICAL ASSISTANCE AND STAFF	\$ 1,000,000
TRAINING	\$ 200,000
EQUIPMENT	\$ 1,000,000
TRAVEL	\$ 300,000
OPERATIONAL SUPPORT	\$ 500,000
	\$ 3,000,000