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From: The development partner coordination group on the land sector in Kenya  
Chair: Lars Reuterswård, UN-HABITAT  
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**Subject: Joint Statements of Development Partners for the Kenya Consultative Group Meeting**

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## **Contribution from the land sector**

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### **1. Opening remarks**

#### ***1.1. Congratulations to the government***

International development partners congratulate the Government of Kenya (GoK) for the publication of the “Report of the Commission of Inquiry into the Land Law System of Kenya” (henceforth “Njonjo Commission”) in early 2003 and the consultative process that led to its finalisation. The GoK is also congratulated for including civil society representatives in the Commission to investigate land grabbing that was set up in June 2003. Ministry of Lands and Settlement (MoLS) is encouraged to continue the wide-ranging dialogue with national stakeholders and international development partners that has increased significantly in recent months. In addition, international development partners commend the MoLS for the preparation of a Strategic Plan and believe that it will provide a valuable foundation for future dialogue with national stakeholders and international partners. As a result, the Ministry is encouraged to share this document with all stakeholders.

#### ***1.2. Importance of the sector to economic growth and poverty reduction***

The land sector lies at the heart of the development equation in Kenya, contributing significantly to both economic growth and poverty reduction. Its importance was clearly recognized by the people of Kenya in the initial PRSP consultation process, and subsequently in the Economic Recovery Strategy. Secure land rights are critical to increasing productive investments in urban and rural Kenya, to encouraging the sound and sustainable management of land and natural resources. Similarly, secure access to land and other natural resources in urban and rural areas allows people, especially the poor, to both contribute and benefit from processes of economic growth and transformation. Secure land access is important in both rural and urban contexts. Secure access to land is a major issue for many of the 70% of the population who depend on agriculture for their livelihoods, as it is their key asset to maintain their livelihoods. Economic development is also very much dependent on the sustainable management of cities and other urban areas. Nairobi for example, accounts for 40% of the national GDP and is therefore central to national economic growth in the country. It is estimated that 50-60% of the population of Nairobi lives in informal settlements. The slum areas not only provide informal housing facilities, but they also anchor the local informal economy, which supplies inhabitants with a vital source of income. Secondary cities in Kenya have similar characteristics.

#### ***1.3. General statement on the partners’ willingness to support the government in its efforts in the sector.***

Development partners interested in the land sector in Kenya acknowledge the critical importance of land to poverty alleviation and reducing inequalities. They are willing to

work with the Government and support its efforts to institute pro-poor reforms in the sector, but urge the GoK to develop a clear set of priorities for the development of the sector.<sup>1</sup>

## **2. Recent positive developments affecting the sector**

### ***2.1. Policy reforms***

Three developments strongly influence the emergence of a coherent and comprehensive strategy for the land sector in Kenya. Firstly, Chapter 11 of the Draft Constitution Bill submitted by Constitution of Kenya Review Commission (CKRC) covers “Land and Property” and proposes far reaching changes to the current constitutional provisions on land and property. Secondly, the report of the “Njonjo Commission” outlines a number of important new policy principles and institutional changes for the land sector. Together, the draft Constitution and the Njonjo Commission report provide a firm basis for further discussion on policy principles in the sector. Thirdly, the “Kenya Economic Recovery Strategy for Wealth and Employment Creation – 2003-2007” (ERS) commits the GoK to develop a clear time bound action plan for implementing the recommendations of the Njonjo Commission.

### ***2.2. Institutional changes***

Development partners note the dissolution of the Land Control Boards and Dispute Tribunals, and their reconstitution using new guidelines for land boards to improve efficiency and accountability to communities.

### ***2.3. Innovative programs***

Debt for nature - the substitution of public debt for conservation areas, was introduced in the 1990s. The Finnish Government has swapped public debt owed by the GoK to the Government of Finland in order to make land available for the urban poor.

### ***2.4. Outputs and outcomes, where available.***

While a number of development partners have been supporting programmes and projects in the land sector for a number of years, a comprehensive sector wide programme has not yet been put in place. More effective outcomes could be envisaged if such a sectoral framework were in place to ensure coordination and integration of activities.

## **3. Key challenges facing the sector**

### ***3.1. Gap between the current situation and the targets for the sector***

In the absence of clear targets for the land sector, the Millennium Development Goals are used to set targets for the land sector. The targets, based on the Millennium Development Goals 1 and 7, are:

- to halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day; and halve the proportion of people who suffer from hunger;
- to have achieved a significant improvement in the lives of at least 100 million slum dwellers.

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<sup>1</sup>During the last meetings the following development partners have participated: DFID, FAO, Finnish Embassy, French Embassy, GTZ, IFAD, JICA, Sida (including NALEP), UNDP, UNEP, UN-HABITAT, US AID and the World Bank.

Given these targets, the key gaps challenges for the land sector are:

- Insecure tenure, in particular, for the urban and rural poor, for women, for HIV/AIDS-affected households, for pastoralists and other vulnerable groups in both urban and rural areas.
- Poor land administration and highly limited lack of access to land information systems (poor quality records, extended technical processes and lack of transparency and user friendliness).
- Weak and/or ineffective mechanisms for the fair, timely, affordable, transparent and accessible resolution of land disputes at the community and district levels.
- Land fragmentation (80% of small farms have less than 2 ha).
- Weak governance in the land sector.
- Limited harmonisation of different tenure regimes.

All of these reaffirm the importance of developing a clear, comprehensive and coherent land policy (built on a principle of broad based consultation with all key stakeholders) and an efficient, effective and fully resourced institutional framework.

### ***3.2.Policies and institutions that are still in need of reform***

The MoLS has already identified the need for policies relating to land rights, land use and urbanisation. The MoLS needs to lay the foundation for an effectively sequenced reform programme which will lead to the development of a comprehensive strategy for the land sector with clearly defined institutional responsibilities, resources, targets and time-frames.

Additional issues that need to be included in policy frameworks in an integrated fashion include:

- Pro poor approaches, rent, land tax, land management/administration/ information, governance, upgrading and housing, HIV/Aids, equitable access, development of pro-poor land law/s, comprehensive protection of women's land rights, including inheritance rights.

In addition, a number of key institutional reforms and developments would be required:

- strengthen and/or decentralise land administration;
- improve the governance of land;
- improve accessibility and transparency of the technical processes;
- put in place due process mechanisms to enable land conflict management.

The separation of the technical land management function from the land allocation function is a particularly critical institutional reform.

All policy and institutional developments should be broad based and carried out together with all concerned stakeholders.

### ***3.3.Problems with implementing reforms***

Reform of the land sector requires high levels of sensitivity to political, social, cultural and economic factors and must be tied to a realistic time frame. Progress is dependent on appropriate constitutional and legal frameworks, and public consultation and political will. Co-ordinated mechanisms and structures need to be set up for the institutionalisation of public consultation and access to information. Coherent linkages and harmonisation need to be done between national and local level, including a feedback mechanism. Policy formulation and implementation should not be separated.

### ***3.4. Quality of targeting/pro-poor orientation of the public expenditure component***

More work needs to be done to reorient objectives and activities toward pro poor land expenditure.

## **4. Priority actions required to address the challenges**

### ***4.1. Key policy reforms***

Key actions to be taken include:

- Agreement of a clear and interactive process and a realistic timetable for land policy development.
- Institutionalisation of mechanisms for ongoing stakeholder engagement.

### ***4.2. Institutional changes***

The key issues are:

- Promoting a public debate on the institutional changes proposed in the land policy reform processes.
- Linking land issues into the national decentralisation debate.
- Encouraging a logical, comprehensive placement of land functions at different levels of Government.
- Developing citizen centred delivery systems both for tenure and land information.

### ***4.3. Capacity enhancements***

Capacity enhancements identified are human resource development, financial assistance, general institutional strengthening, especially related to mainstreaming pro poor and gender issues. Build capacity by learning lessons about land policy and institutional reform processes elsewhere. Build analytical capacity in relation to the linkages between land and poverty.

### ***4.4. Appropriate roles of the government, the private sector, and civil society in the sector***

The institutionalisation of mechanisms for stakeholder engagement (including private sector, civil society and development partners) will be critical to successful reform processes. The development of these partnerships will be key for ownership and sustainability in implementation.

### ***4.5. Measures to improve planning and targeting of resources, and strengthen accountability and transparency.***

Development partners support the MoLS in its commitment to tackle corruption, and considers it to be a priority area.

### ***4.6. Actions to strengthen systems of monitoring and evaluation***

The key action is for GoK to lead an annual review of the sector wide Strategic Plan with development partners and others.

### ***4.7. Cross-sectoral actions***

Establish institutional mechanisms for collaboration across sectors that impact upon land, involving a wide range of people and institutions to ensure their input into policy and institutional reform processes.

## **5. Development partner harmonisation**

### ***5.1. Actions to enhance coordination between the government and partners and among partners.***

The development partner co-ordination group on land was established in July 2003 and negotiations are still taking place to develop a framework between the group and the Government. This group has identified the need for harmonization amongst its programmes in order to avoid overlapping or divergent approaches amongst development partners within the land sector. The group urges the Government to establish institutional mechanisms and a framework for an ongoing dialogue with development partners.

## **6. Conclusion**

The key conclusions are that:

- Successful development of a comprehensive approach to the land sector will underpin the GoK's efforts to revive growth and promote wealth creation, as well as to reduce poverty and tackle inequalities.
- Broad based institutionalised mechanisms for stakeholder engagement in land sector processes (including private sector, civil society and development partners) need to be established.
- Lessons should be learned and best practices adopted about land policy and institutional reform elsewhere. Development partners can play a key role in this area.
- The focus should remain on the ongoing development of an overarching land policy and land use policy. This should be a Kenyan owned and driven process.