

**Document of  
THE WORLD BANK**

**Report No. 36520**

**ARAB REPUBLIC OF EGYPT  
EGYPT PUBLIC LAND MANAGEMENT STRATEGY**

**VOLUME I: POLICY NOTE**

June 15, 2006

**Finance, Private Sector and Infrastructure Group  
Middle East and North Africa**

## Currency Equivalents

(Exchange Rate Effective April 26, 2006)

Currency Unit = LE (Egyptian Pound)

LE 1 = US\$ 0.17

US\$ 1 = LE 5.751

## Abbreviations and Acronyms

ARA	Agrarian Reform Authority
EEAA	Egyptian Environmental Affairs Agency
ESA	Egyptian Survey Authority
GOE	Government of Egypt
GAFI	General Authority for Free Zones and Investment
GAID	General Authority for Industrial Development
GARPAD	General Authority for Reconstruction Projects and Agricultural Development
GOPP	General Organization for Physical Planning
HCSLM	Higher Committee for State Land Management
ICA	Investment Climate Assessment
IDSC	Information and Decision Support Center
MALR	Ministry of Agriculture and Land Reclamation
MHUUD	Ministry of Housing, Utilities and Urban Development
MOIT	Ministry of Industry and Trade
MOI	Ministry of Investment
MIWR	Ministry of Irrigation and Water Resources
MODMP	Ministry of Defense and Military Production
MOT	Ministry of Tourism
NCPSLU	National Center for Planning State Land Uses
NUCA	New Urban Communities Authority
PDG	Policy Development Group
REDA	Regional Economic Development Authority
REPD	Real Estate Publicity Department
RETD	Real Estate Tax Department
SEZ	Special Economic Zone
SEZA	Special Economic Zone Authority
SLA	State Land Authority
SLIS	State Land Information System
SLM	State Land Management
TDA	Tourism Development Authority
WDSVDHC	West Delta and South Valley Development Holding Company

Vice President:	Christiaan Poortman
Country Director:	Emmanuel Mbi
Sector Director:	Hossein Razavi
Sector Manager:	Hedi Larbi
Task Team Leader:	Stephen Karam
Task Manager:	Sameh Wahba

## Arabic Terms

<i>Amlak Amiriya/Amlak al Dawla</i>	Literally State Assets, means land in State or public-ownership
<i>Arady Bour</i>	Neglected or abandoned/uncultivated agricultural lands
<i>Arady Gheir Mokhassassa</i>	State land that has not (yet) been designated a land use and thus was not assigned to a controlling authority (i.e. within the State's public domain)
<i>Arady Mokhassassa</i>	State land which has been designated a specific land use and assigned a controlling authority (i.e. could be State's public or private domain)
<i>Ash'waiyat</i>	Literally haphazard or disorganized, refers to slums and informal and/or squatter settlements
<i>Cordon</i>	French word, refers in Arabic to the boundary of local government's administrative jurisdiction
<i>Daribet Al Akarat</i>	Tax on real estate (residential and non-residential) in urban areas
<i>Daribet Al Atyan</i>	Tax on agricultural lands
<i>Daribet Al Malahy</i>	Tax on entertainment activities
<i>Feddan</i>	Unit of measurement of agricultural land, equal 4,200square meters
<i>Haiez</i>	Urban planning and development boundary
<i>Haq Intifaa</i>	Right of use/usufruct
<i>Hiyaza</i>	Adverse possession
<i>Jihaz Himayat Amlak Al Dawla</i>	State Asset Protection Agency, under the Governorates
<i>Kashf al mokalafat</i>	Real Estate Tax Department's agricultural and urban land and property tax registry
<i>Kashf Tahdid</i>	Cadastral Information Form
<i>Mulk horr</i>	Land in private ownership
<i>Saha Tawqi'e</i>	Procedure undertaken in court to authenticate land/property transfer deeds, often used to confer some form of legality on informal transactions of land and property and perceived by some as a proxy to registration
<i>Saha wa Nafaz</i>	Low-cost procedure undertaken in court as a proxy to registration, in which the claimant upon purchasing land/property uses the transfer deed to dispute the right of the seller to the property in question, and which leads the court to examine the chain of ownership (lasts several years)
<i>Sejel ainee</i>	Parcel-based deed registration (system) or parcel-based deed register
<i>Shahr akary</i>	Real Estate Publicity (i.e. Land and Property) Registry
<i>Sejel shakhsee</i>	Person-based deed registration (system) or person-based deed register
<i>Takhssiss</i>	Literally allocation of land; refers to conditional transfer of land ownership subject to certain conditions (retaining the land use unchanged, paying price installments)
<i>Waqf (plural Awqaf)</i>	Trust/endowment, land held in trust for religious or charitable purposes, and administered by the Ministry of Awqaf
<i>Zimam</i>	Boundaries of cultivated and uncultivated agricultural lands that have been historically surveyed by the Egyptian Survey Authority and included in the RETD's land and property tax registry and which are subject to the agricultural land or property tax

### **Acknowledgements**

This assignment was undertaken by a team comprising Sameh Wahba (Urban Specialist, Task Manager/Principal Author), Mostafa Madbouly (Land and Housing Consultant), Bahaa Aly El Dean (Land Law and Policy Consultant), John Bruce (Land and Property Law Consultant), Wael Zakout (Lead Operations Officer, ECSSD), Stephen Karam (Senior Urban Economist, Task Team Leader), and Robin Rajack (Senior Urban Development Specialist, TUDUR). Volume one of this Policy Note was written by Sameh Wahba, with contributions from Bahaa Aly El Dean, John Bruce, Mostafa Madbouly, and Wael Zakout. Volume two—background notes on access to land by investment sector—was written by Mostafa Madbouly (tourism, agriculture and land reclamation, and real estate development) and Sameh Wahba (industrial/manufacturing development). The team was ably assisted by Amira Fouad Zaky, who helped organize and prepare for the high-level policy workshop, and Karim Violeta Gigler, who provided editorial support for the production of the Policy Note. The team received valuable inputs and guidance from Sahar Nasr (Senior Financial Economist) and Zoubida Allaoua (Sector Manager, Finance and Private Sector Development).

The team would like to recognize the significant leadership role of the Prime Minister of Egypt, HE Dr Ahmed Nazief, who shared his development vision and provided critical guidance for the formulation of the roadmap for reform. The team would also like to recognize the significant leadership role of the Minister of Investment, H.E. Dr Mahmoud Mohieldin, who requested this Policy Note and hosted the February 2006 high level policy workshop that brought together key policymakers to discuss public land management reform in the aim of improving the investment climate, and who provided significant guidance throughout the process. The Chairman of the General Authority for Free Zones and Investment, Dr. Ziad Bahaa El Din, provided critical insights that helped refine the focus of the Policy Note and roadmap, and led the coordination with the different authorities prior to and subsequent to the workshop.

The team would especially like to express its debt of gratitude to the many senior government officials and members of the private sector who graciously provided their time, documentation, data, and expert feedback and guidance in the process of preparing this Policy Note, in particular HE the Minister of Housing, Utilities and Urban Development, HE the Minister of Agriculture and Land Reclamation, HE the Minister of Planning and Local Development, the heads of the National Center for Planning State Land Uses (NCPSLU), General Authority for Reconstruction Projects and Agricultural Development (GARPAD), General Authority for Industrial Development (GAID), Tourism Development Authority (TDA), General Organization for Physical Planning (GOPP), and the deputy head of the New Urban Communities Authority (NUCA). Without such ownership and genuine commitment to this work, the team would not have been able to complete this Policy Note.

Peer Reviewers, including Omar Razzaz (Country Manager, MNCLB), Gershon Feder (Research Manager, DECRG) and Keith Bell (Senior Land Administration Specialist, ECSSD), as well as Andrew Stone (Senior Private Sector Development Specialist), provided valuable and timely feedback and comments to strengthen the Policy Note. Emmanuel Mbi (Country Director for Egypt, Yemen and Djibouti) chaired the Review Meeting and provided follow up guidance to the team. The Policy Note was issued under the guidance of MNSIF Sector Management, including Hedi Larbi (Sector Manager, Urban and Transport) and Hossein Razavi (Sector Director).

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS</b> .....	<b>I</b>
<b>LIST OF FIGURES</b> .....	<b>III</b>
<b>LIST OF TABLES</b> .....	<b>III</b>
<b>LIST OF BOXES</b> .....	<b>III</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>IV</b>
<b>CHAPTER 1. INTRODUCTION</b> .....	<b>1</b>
1.1 INTRODUCTION AND KEY ISSUES .....	1
1.2 GOVERNMENT COMMITMENT AND ONGOING LAND SECTOR REFORMS .....	4
1.3 OBJECTIVE.....	6
1.4 SCOPE OF WORK, CONTENTS AND METHODOLOGY .....	6
1.5 LIMITATIONS AND NEXT STEPS.....	10
<b>CHAPTER 2. PUBLIC LAND MANAGEMENT IN EGYPT: EXISTING SITUATION AND KEY CHALLENGES</b> .....	<b>11</b>
2.1 FORMS OF LAND OWNERSHIP IN EGYPT.....	11
2.2 INSTITUTIONAL FRAMEWORK GOVERNING PUBLIC LAND MANAGEMENT IN EGYPT .....	12
2.2.1 <i>Entities empowered to control and dispose of public land in Egypt</i> .....	12
2.2.2 <i>Additional entities influencing the decision to allocate public land in Egypt</i> .....	15
2.3 KEY ISSUES AND CHALLENGES OF PUBLIC LAND MANAGEMENT IN EGYPT.....	15
2.4 SECTOR-SPECIFIC ISSUES AND CHALLENGES: ACCESS TO PUBLIC LAND FOR INDUSTRIAL, REAL ESTATE DEVELOPMENT, TOURISM, AND AGRICULTURAL INVESTMENT PROJECTS .....	22
2.5 GOVERNMENT EFFORTS TO REFORM PUBLIC LAND MANAGEMENT IN EGYPT .....	32
2.5.1 <i>The establishment and role of the NCPSLU</i> .....	33
2.5.2 <i>The Establishment and role of General Authority for Industrial Development (GAID)</i> .....	37
<b>CHAPTER 3. REFORMING PUBLIC LAND MANAGEMENT IN EGYPT: DIFFERENT OPTIONS AND LESSONS LEARNT FROM INTERNATIONAL EXPERIENCE</b> .....	<b>41</b>
3.1 APPROACHES TO PUBLIC LAND MANAGEMENT REFORM .....	41
3.2 THREE OPTIONS FOR REFORMING PUBLIC LAND MANAGEMENT.....	43
3.2.1 <i>The first scenario (short-term): Retention and improvement of the status quo</i> .....	44
3.2.2 <i>The Second Scenario (medium-term): Consolidation and Rationalization of control over public land</i> .....	46
3.2.3 <i>The Third Scenario (long-term): Decentralization of control over public land</i> .....	48
3.3. COMPARATIVE ASSESSMENT OF THE THREE SCENARIOS.....	49
3.4. PROPOSED PROCESS FOR PUBLIC LAND POLICY AND LEGAL REFORM BASED ON LESSONS LEARNT FROM INTERNATIONAL EXPERIENCE.....	51
3.4.1 <i>A Public Land Policy Development Process</i> .....	53
3.4.2 <i>Legal reforms related to public land asset management</i> .....	54
<b>CHAPTER 4. REFORMING PUBLIC LAND MANAGEMENT IN EGYPT: THE WAY FORWARD AND CONCLUDING REMARKS</b> .....	<b>66</b>
4.1 THE WAY FORWARD .....	66
4.1.1 <i>Roadmap for Public Land Management reform in Egypt to improve the investment climate</i> .....	67
4.1.2 <i>Action Plan to Implement the Roadmap and Milestones</i> .....	72
4.1.3 <i>Risks and Mitigation Measures</i> .....	74
4.2 CONCLUDING REMARKS .....	75
<b>ANNEXES</b> .....	<b>77</b>

ANNEX 1. LEGAL FRAMEWORK GOVERNING PUBLIC LAND MANAGEMENT IN EGYPT .....	78
ANNEX 2. OVERVIEW OF KEY LAND AND PROPERTY REGISTRATION AND TAXATION ISSUES .....	90
ANNEX 3. THREE SCENARIOS TO IMPROVE THE MANAGEMENT OF PUBLIC LANDS .....	97
ANNEX 4. LIST OF HIGH LEVEL POLICY WORKSHOP ATTENDANTS AND PERSONS MET .....	106
<b>BIBLIOGRAPHY .....</b>	<b>108</b>

## LIST OF FIGURES

Figure 1.1 Access to land as a constraint to business development: international comparisons .....	1
Figure 1.2 Firms changing perceptions/expectations on general constraints to the business climate between 2004 and 2005 .....	2
Figure 2.1 Complex institutional landscape governing control over public land .....	16
Figure 2.2 A typical profile of control over public land in an Egyptian City .....	20
Figure 2.3 Combined de jure and de facto hierarchy of control over public desert land outside of the <i>Zimam</i> .....	21
Figure 2.4 Government of Egypt public land management reform plan .....	32
Figure 2.5 Egypt Investment Opportunities Map until 2017 .....	35
Figure 3.1 Alternatives for reform .....	44
Figure 3.2 First scenario (short-term): retaining and improving the status quo .....	45
Figure 3.3 Second scenario (medium-term): consolidation and rationalization of control over public land .....	47
Figure 3.4 Third scenario (long-term): decentralization of control over public land .....	49
Figure 4.1 Proposed adaptation of recent reform measures initiated by the Government of Egypt .....	72

## LIST OF TABLES

Table 2.1 Public land controlled by the five main sectoral entities .....	17
Table 2.2 Key issues related to access to and development of public land for different investment sectors .....	26
Table 3.1 Comparative assessment of the three scenarios .....	50

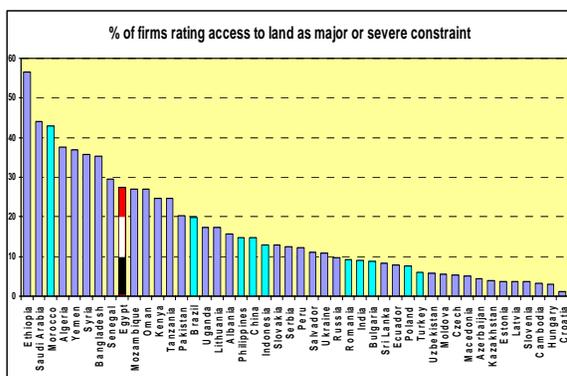
## LIST OF BOXES

Box 3.1 Cambodia's State Land Inventory Process .....	55
Box 3.2 China: Decentralization of Public Land Administration .....	58
Box 3.3 Botswana: Land Boards in Decentralized Land Administration .....	59
Box 3.4 Decentralization of land use planning and public land management in Albania .....	60
Box 3.5 Public Land Management in the Philippines .....	61
Box 3.6 Reforming Land Administration and Public Land Management in Turkey .....	61
Box 3.7 Decentralization of land use planning and investment land allocation in Indonesia .....	62
Box 3.8 Land Readjustment and Urban Redevelopment .....	64

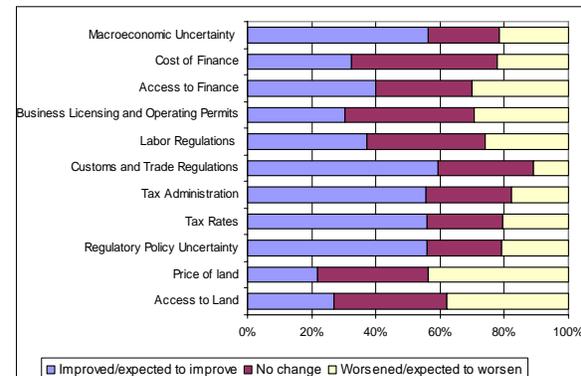
## EXECUTIVE SUMMARY

i. As with other countries, land in Egypt is a critical resource for economic growth and development. Yet, access to public land—the large majority of land available for development in Egypt—for investment (including non-commercial) purposes represents today one of the most critical development challenges facing the Government of Egypt. Two consecutive surveys undertaken in 2004 and 2005 as part of the Egypt Investment Climate Assessment (ICA) Study have shown that: (i) 27.4% of firms find “access to land” for investment purposes to be a severe constraint to business development, which ranks Egypt far worse than many countries with which it competes in attracting investment; and (ii) while there have been significant improvements in the investment climate between 2004 and 2005 through reduction of taxes, customs, and regulatory and macro-economic uncertainty, access to land and the price of land represent the only constraints that firms perceive to have worsened in a climate of reform.

**Access to land as a constraint to doing business**



**Firm perception of investment climate changes, 2005**



ii. Egypt differs from most countries in that the overwhelming majority of the population is concentrated on a small portion of its national territory (about 5%), while the remainder is desert land that is publicly owned and for the most part undeveloped. In its efforts to enable better exploitation of this unutilized land and expand the settled area, Egypt has in the last few decades relied on a sectoral development model. Under this approach, independent sectoral authorities affiliated with the ministries of agriculture, tourism, industry and housing are each assigned control over large areas of public land outside of the so-called *Zimam* (the boundary of historically surveyed agricultural lands). This has created a set of segmented and isolated land markets that distinguish Egypt’s public land management model from that of most other countries, one in which supply-driven forces tend to dominate.

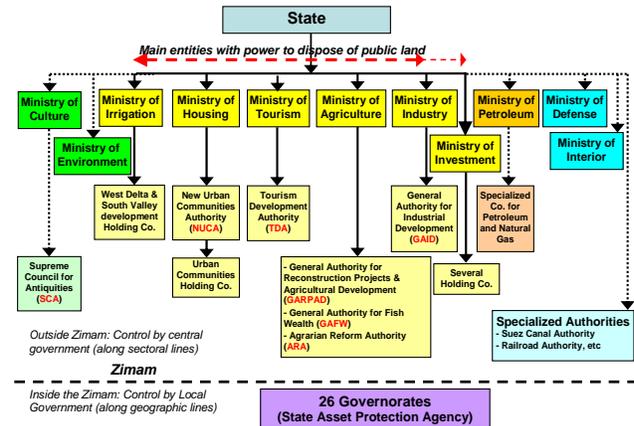
iii. Between them, the five main sectoral authorities and holding companies responsible for agriculture and land reclamation, housing and new urban communities, tourism, and industrial development control over five million *Feddans* (2.1 million hectares) of public land in Egypt. This amounts to 2.5% of Egypt’s territory and is equivalent to about half of the settled land area that currently accommodates Egypt’s 72 million inhabitants. This is clearly a significant amount of land. Moreover, much of this land has not yet been disposed of for investment purposes. For instance, about 1.4 million *Feddans* of agricultural land—580,000 hectares—have not yet been allocated to investors. And of the 2 million *Feddans*—84,000 hectares—that have been allocated to investors, the land reclamation infrastructure has been completed for over 800,000 *Feddans*—336,000 hectares—and work is underway in the remaining. As for industrial land (the focus of the ICA study), more than 24,000 *Feddans*—10,080 hectares—have been provided with services

and are currently ready for allocation, representing two-thirds of the total area (35,500 *Feddans* or 14,910 hectares) that has been distributed over the past 25 years. With this much industrial land available for distribution, it is therefore paradoxical that 27% of surveyed firms emphasized that they face problems in accessing land for industrial investment.

### Public land controlled by main sectoral authorities

	Total land controlled (Feddan)	Total land available for distribution (Feddan)	Total land allocated (Feddan)
<b>Industrial land (GAID)</b>			
Inland industrial estates (Governorates)	54,398	17,260	7,457
New town industrial estates (NUCA)*	39,638	7,053	28,109
<b>Tourism land (TDA)</b>	137,619	NA	NA
<b>Agricultural land reclamation (GARPAD)</b>	3,400,000	1,400,000	2,000,000
Agricultural land reclamation (West Delta & South Valley Dev Holding Co)	650,000	NA	NA
New urban community land (NUCA) *	600,000 **	NA	NA
<b>Total</b>	4,881,615 **	NA	NA

### Institutional landscape of public land management



iv. The problem is thus not one of limited supply of public land for investment. Instead, it is the scarcity of well-located, properly serviced and adequately priced land that is adapted to the needs of investors, which in turn is the result of a dysfunctional public land management system. In effect, decades of reliance on the sectoral development model have resulted in a complex and fragmented institutional landscape for public land management, characterized by an unusual split between: (a) multiple central government authorities controlling public land outside of the *Zimam*, divided along sectoral lines and (b) local governments controlling public land within the *Zimam*, divided along geographic lines. This unusual situation is the result of the accumulation of layers of legislation over the past four decades, with as many as 45 directly and indirectly related laws and decrees that are not harmonized and are often conflicting. This institutional and legal disarray reflects the absence of a coherent land policy framework and a failure to revisit past policies in light of today’s challenges and competitiveness demands. The problem is further compounded by a multitude of differentiated, non-transparent, complex and arbitrary procedures related to public land allocation, pricing and development controls, the lack of a coherent public land information system and the inability of investors and non-investors to figure out which authorities control public land and where is public land available, as well as ineffective land use planning with little gauge of demand and without consideration of the opportunity cost of land.

v. Additional challenges to the public land management system include reliance on a boundary, the *Zimam*, to delimit control over public land despite having no relevance to urban development patterns. Outside of the *Zimam*, the hierarchy of *de jure* control over unallocated public land follows a one-size-fits-all approach (defense, followed by agriculture and land reclamation, and new urban settlements) that does not reflect the opportunity cost of land. Inside the *Zimam*, there is a mismatch between local governments’ responsibility for service delivery within their jurisdiction and the much more limited public land stock that they are authorized to manage, whether with the objective of generating revenues with which to finance service delivery or simply to ensure that allocation decisions reflect their local development strategies and plans.

vi. Recognizing the magnitude of this challenge and its negative effect on the investment climate, the Ministry of Investment requested the World Bank’s assistance in preparing a strategy

for public land management reform to improve the investment climate, in consultation with key government stakeholders. As part of this effort, the Minister of Investment hosted on February 26, 2006, a high level policy workshop in collaboration with the World Bank, which was chaired by the Prime Minister of Egypt and attended by over forty participants including eight Ministers and senior government officials and heads of authorities concerned with the land sector. The objective of the workshop was to present preliminary findings of the study and discuss different options to reform the existing policy, institutional and legal frameworks governing public land management in Egypt in light of lessons from relevant international experience.

vii. The workshop highlighted the many challenges facing public land management in Egypt, especially the underlying structural problem in the institutional framework for public land management (the threshold issue throughout the process), the fragmented legislation and the lack of a coherent policy framework, all of which need to be addressed to improve the investment climate. By contrast, the general global trends in developed countries and emerging economies are movement from sectoral to more holistic models of land management and from central to decentralized land management. There is increased delegation to local governments of strategic/land use planning functions, as well as control over the management and allocation of public land, with the responsibilities for setting up national policies and regulations, and monitoring resting with central government (this is the case in Turkey, Indonesia, Philippines, China, Albania, Botswana, at varying levels of development). Different approaches to reform were discussed including: (i) retaining and improving the status quo; (ii) consolidating the fragmented control over public land within one entity; and (iii) decentralizing public land management. *For Egypt, the question is not a matter of which institutional framework to adopt, but at what pace it should move towards a more integrated and eventually decentralized model of public land management, as well as land use planning.*

viii. A general consensus was established among policymakers on the need for public land management reform. The Prime Minister emphasized the urgent need to improve existing public land management practices to address one of the key constraints to doing business, and stressed Government's commitment to put in place a rationalized and integrated model of public land management. The Prime Minister noted that a role for the Ministry of Finance as custodian of public land as in Turkey and other countries, and in the long run the decentralization of public land management to local authorities in parallel with government's overall decentralization policy and capacity building efforts would be favorably considered as part of the reform program. Noting the time it would take to implement such reforms, the Prime Minister also requested that immediate improvements to the existing public land management system be developed as part of the overall roadmap for reform, which Government can immediately act upon to address existing investor concerns while the medium and long-term reforms are being implemented.

ix. Within the scope of the Prime Minister's guidance and policy direction, a staged process for public land management reform was prepared in consultation with key stakeholders, as well as a roadmap and action plan. The staged reform process is as follows:

- The first stage—*short term*—focuses on rationalizing the existing institutional structure managing/controlling public lands by reducing the inefficiencies of the sectoral model and consolidating and harmonizing the fragmented and incoherent laws and regulations, through measures to be carried out over a one-year period. These include issuing a short-term moratorium on further allocations of public land to sectoral authorities until an independent audit of their currently controlled public land stock and management performance is completed, and putting in place two commissions for public land management policy formulation and consolidation of the fragmented legal framework.

Such measures would build on the reforms that Government has implemented or planned, including:

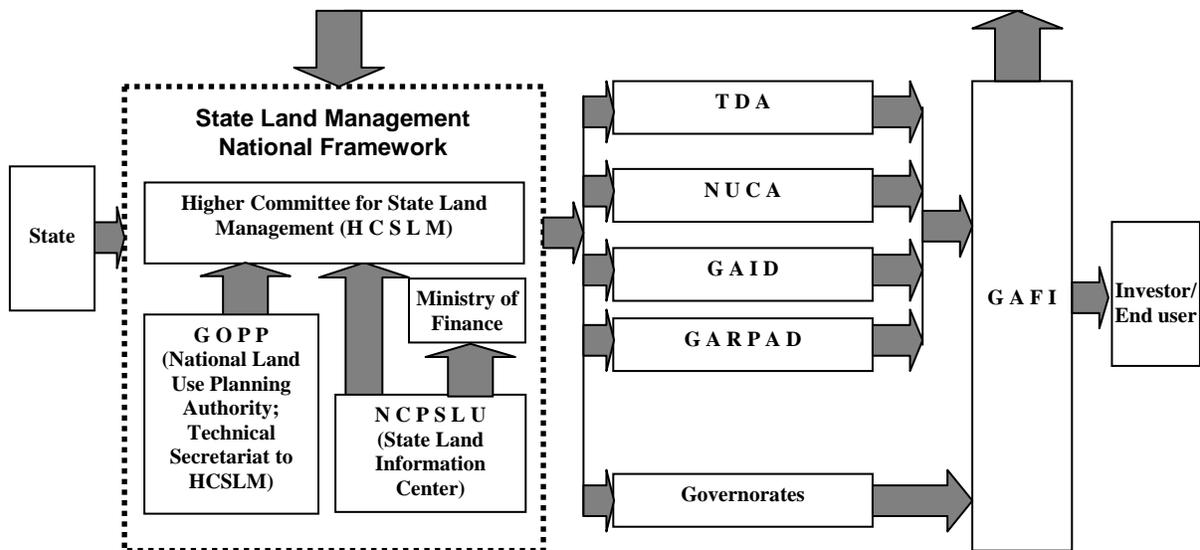
- Establishing the National Center for Planning the State Land Uses (NCPSLU) to prepare a State Land Information System (SLIS), which would constitute the basis for rationalizing the supply of public land from the State to the different authorities and line ministries, which has thus far been fraught with competition for control public land without taking into account market demand and lack of inter-agency coordination;
  - Establishing the General Authority for Industrial Development (GAID) to consolidate fragmented control over industrial land and regulate industrial estate development, operating alongside the three other main sectoral authorities: the General Authority for Reconstruction Projects and Agricultural Development (GARPAD), the Tourism Development Authority (TDA), and the New Urban Communities Authority (NUCA); and
  - Continuing to encourage market driven identification of private sector investment needs including of access to public land by rolling out the successful pilot one-stop shop services at General Authority for Free Zones and Investment (GAFI).
- The second stage—*over the medium term*—focuses on rationalizing control over public land within a consolidated non-sectoral entity that would assume the role of custodian of public land, acting as a State land assets bank. This role would be played by the Ministry of Finance, which would administer all new allocations of public land whether to sectoral or decentralized authorities (who in turn would allocate land to end users/investors). The governing policies, regulations and guidelines for public land management and allocation would be set by a higher policy-making body to ensure transparency and efficiency of allocation, satisfaction of central and local needs for public land, and a balance between the objectives of growth, equity/social development and environmental sustainability. A Higher Committee for State Land Management (HCSLM), chaired by the Prime Minister and with membership of concerned sectoral and non-sectoral line ministers, would assume this role, overseeing policy-making and implementation of reforms. Technical support to the Ministry of Finance and HCSLM in their public land management roles would be provided, respectively, by NCPSLU and the General Organization for Physical Planning (GOPP). NCPSLU and GOPP would need to be institutionally realigned and their capacity and resources strengthened to, respectively, develop and maintain a State Land Information System that supports the Ministry of Finance’s role in public land asset management and undertake the HCSLM’s technical secretariat functions including review of applications for delegated control of public land management and development of national spatial strategies.
  - The third stage—*gradually implemented over the medium-to-long term*—focuses on the gradual shift towards a decentralized model for public land management by empowering Governorates to manage and dispose of the public land stock which they would need for growth and economic development within their jurisdiction. This land stock would be determined based on locally prepared development strategies and land use plans, in accordance with policies and guidelines set at the national level. This decentralized approach, with central government oversight, is in line with global experience/best practices and is best suited to ensure that land use planning and allocation decisions reflect local needs and priorities. However, it requires substantial legal, institutional and fiscal reforms as well as significant building of local governments’ capacity over time to assume the lead role in public land management. It also requires appropriate monitoring

and oversight mechanisms. This can only be achieved in the long run, as part of government's overall decentralization policy. However, where local capacity exists, as in Cairo and Alexandria, devolution of such responsibilities could start on a pilot basis in the short/medium-term upon the preparation of local development strategies/land use plans.

x. The importance of formulating a **comprehensive public land policy framework** (which should be immediately launched by a commission to be formed and overseen by HCSLM) cannot be understated, especially since investor demand and the allocative efficiency of the market today play only a limited role in determining where investment takes place. Thus, there is a need for a clear and comprehensive public land policy that reasserts the role of the market in public land allocation and then puts in place a rational framework of planning and incentives that reflect current needs and priorities. This policy framework would balance the government's objectives of (i) achieving efficiency, equity and environmental sustainability, (ii) emphasizing market-based allocation of public land, and (iii) adopting a demand-driven approach to land use planning. It will also assist in formulating *the incentives' structure that is needed to bring about efficient management of public land assets* as well as the *performance monitoring/evaluation mechanisms, and accountability measures*. Finally, given that the fundamental role of the public sector is to create the enabling environment to attract private investment/interest in developing the land and real estate markets, the improvement of public land asset management will need to take place within an *integrated and comprehensive effort to build the market regulatory foundations that are needed for the land market to function efficiently*, which will also require addressing such challenges as reforming the dysfunctional systems for land and property registration and taxation.

xi. The following diagram integrates the proposed institutional framework governing public land asset management with the recently completed/planned reform measures by the Government. The following section presents the detailed roadmap for reform and an action plan and timetable for implementation.

**Proposed adaptation of recent reform measures initiated by the Government of Egypt**



## **Roadmap for public land management reform in Egypt to improve the investment climate:**

xii. ***Principles underlying the roadmap for public land management reform:*** There is a pressing need to address the structural deficiencies of the existing public land management system in Egypt, which have resulted from the accumulation of many old policies and laws that are no longer suited to today's requirements for competitiveness and whose combined effect has made access to public land for investment purposes a major constraint to doing business in Egypt today. It is particularly critical to revisit the sectoral public land management model with the aim, in the short term, of improving its functioning through more rational use of the significant public land stock currently controlled by sectoral authorities (five million *Feddans*, of which much remains unallocated or undeveloped) to ensure an efficient land allocation and development process, and better coordination among these authorities. In the medium and long-term, addressing this structural problem requires moving towards a rationalized and integrated model of public land management, in parallel with gradual decentralization of public land management and land use planning. This will necessitate consolidation and harmonization of the fragmented legal framework governing public land management, as well as significant efforts to standardize to the extent possible public land disposition and pricing methods, simplify the land allocation process, and ensure efficient allocation and utilization of public land assets.

xiii. ***Key elements of the roadmap:*** The proposed roadmap to reform public land management in Egypt in the aim of improving the investment climate comprises the following measures:

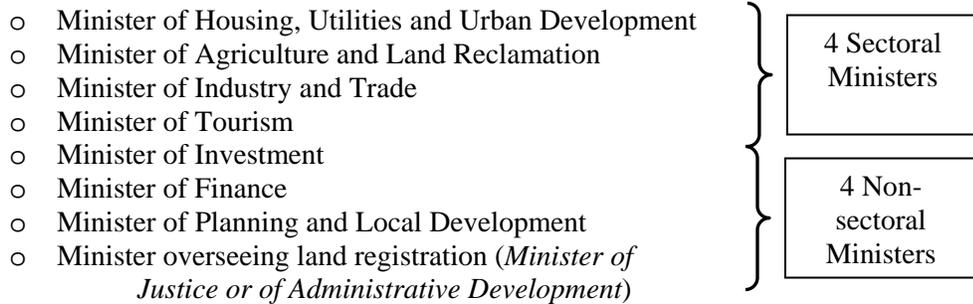
### xiv. **Concerning State Land and its Allocation:**

- Issue a Presidential or Prime Ministerial Decree to stop further allocation of public land to all sectoral authorities in the short term.
- Issue a Prime Ministerial Decree requiring the preparation of a detailed inventory for all public land under the custody of each sectoral authority, differentiated according to status of allocation and development. This inventory should be prepared within 3-6 months and supported with all available maps. The public land inventory and management record of each sectoral authority would be audited by independent private auditors with established track record, supported by a qualified government entity to handle such undertakings (e.g. Cabinet's Information and Decision Support Center—IDSC). A copy of the inventory and maps would also be made available to the NCPSLU to continue the process of mapping all public lands.
- Transfer control over all public land assets that have not yet been assigned a controlling entity or a land use as well as all public land assets under sectoral authorities' control but which have not yet been developed or allocated to investors to the Ministry of Finance. The Ministry of Finance would henceforth act as the custodian of State land assets and would be advised regarding its mandate by a land information support entity (NCPSLU). All deeds of State land would be deposited at the Ministry of Finance. The Ministry of Finance would administer/oversee the public land allocation process based on the policies and regulations set/approved by the Higher Committee on State Land Management (discussed later).
- New (wholesale) allocations of State land whether to sectoral authorities or Governorates with a proven capacity to efficiently manage and dispose of State land—in a first stage Cairo and Alexandria—or SEZ/geographic authorities (which in turn would allocate to end users) would be authorized based on their submission of development plans and feasibility studies that enable a decision-making process that reflects the opportunity cost

of land, investment demands and trends as identified by GAFI, as well as the State’s social development policy objectives as defined by the Government.

xv. **Concerning the Policy and Institutional Framework for State Land Management (SLM):**

- To ensure an integrated approach to public land management (especially land allocation and development) and effective coordination among the concerned government entities, a HCSLM would be established, based on the existing Ministerial land committee. The HCSLM would be headed by the Prime Minister and would include the following eight Ministers:



The Committee would assume the following mandate:

- Reviewing and approving all new (wholesale) allocations of State land for investment purposes, based on the principle of competition between the different authorities. Entities eligible to apply to HCSLM to obtain delegated control over public land include sectoral ministries/authorities, Governorates (at first Cairo and Alexandria), and geographic entities (e.g. SEZA). Requests must be supported by feasibility studies, development strategies, and land use plans that are aligned with Governorate/local development/land use plans.
- Approving periodically the release of further tranches of State land to sectoral authorities and Governorates upon review of their past performance in SLM;
- Reviewing and approving requests for (re)classification of State land as part of the State’s public domain or private domain, in coordination with the Ministries of Defense and Environment;
- Reviewing and approving requests for transferring control over State land among sectoral ministries/authorities and governorates;
- Resolving disputes related to control over public land among different sectoral authorities and Governorates, as well as with the *Awqaf* Ministry;
- Setting up a commission to establish systematic and transparent procedures for State land allocation and pricing for different uses, as well as monitoring and evaluation systems, and approving the final outcomes for enactment into laws/decrees;
- Supervising the completion of the inventory of State Lands allocated to all sectoral ministries/authorities and Governorates; and
- Setting up a commission to draft a new State Land Asset Management law consolidating existing fragmented legislation, and approving a draft for presentation to the Parliament.

- The HCSLM requires a competent Technical Secretariat that would review development strategies, land use plans and feasibility studies supporting requests for delegated control over public land, as well as prepare national spatial strategies and regulations in consultation with key stakeholders to address the needs for investment, affordable housing and other social policy objectives, and enable the preparation of local development strategies and land use plans. The most qualified entity to play this role is the Ministry of Housing's GOPP, which is the national regulator of urban and land use planning. For it to efficiently assume its planning regulation and support role and effectively coordinate with all concerned ministries and authorities and serve as an impartial advisor to HCSLM, it is proposed to re-affiliate GOPP with the Prime Minister's Office, as it has been during the early 1980s in its better performance years. Its current affiliation with a line ministry with a specific sectoral interest in land use planning decisions (housing and urban development) is in contradiction with a land use planning mandate that serves all sectoral interests (agriculture, environment, tourism, industry, etc) and which should impartially arbitrate between competing land uses. As part of its role, the Technical Secretariat would provide HCSLM with an annual consolidated report on the state of Public Land Management and Development.
- There is a critical need for a “bookkeeping entity” that would establish, regularly update and maintain a Public Land Information System that includes a complete record of Public Lands, whether already allocated or not yet allocated, users and contract information. Given the magnitude of this undertaking, the mandate of the NCPSLU should be focused on this task so that it evolves into a State Land Information Center. Additional NCPSLU responsibilities would include: ensuring that State land is registered in the Land Registry; keeping all deeds and official records related to State land; overseeing the protection of unallocated State land from encroachment in coordination with local governments and putting in place the necessary performance incentives for this critical task; and providing information about State land to HCSLM, GAFI and different users. The Presidential Decree that established NCPSLU affiliated it with the Prime Minister and gave it a board of directors that includes representatives of all land-related ministries and authorities. Yet, the Board today is chaired by the Minister of Agriculture and Land Reclamation, and thus appears affiliated to a sectoral ministry. This has not enabled the Center to effectively fulfill its cross-sectoral role. As such, it is suggested that the NCPSLU Board be instead chaired by the Minister of Finance as the (non-sectoral) Ministry proposed to assume responsibility over State land asset management.

xvi. **Concerning the legal/regulatory framework:**

- Consolidating and harmonizing all laws and decrees governing control over, allocation and development of public land into a unified SLM law. For this purpose, the HCSLM would appoint one or two Commissions to revise public land management policies and legislation. The Policy Commission would propose recommendations to reform public land management policies and harmonize/unify land allocation and pricing procedures based on consultations with key stakeholders, including the private sector. The Legal Commission would review all existing laws and decrees related to public land management and would prepare a draft of the new unified law based on the policies approved by HCSLM.

## **Action Plan to Implement the Roadmap and Milestones:**

xvii. The action plan to implement the roadmap is divided into three stages: immediate actions expected to take place by the end of 2006, measures to be implemented during 2007, and long-term measures to be implemented over the next five or so years.

### xviii. First stage: Immediate measures to be implemented by December 2006

- Issue a Prime Ministerial Decree stopping further allocation of public land to sectoral entities.
- Establish by way of a Prime Ministerial Decree the HCSLM by revising the membership of the Ministerial Committee on Land to assume the abovementioned mandate.
- Re-affiliate GOPP to the Prime Minister's Office and add to its mandate its role as the technical secretariat for the HCSLM.
- Issue a Prime Ministerial Decree appointing the Minister of Finance as Chairman of the Board of NCPSLU and revising its mandate to focus on its State Land Information Center function.
- Finalize the audit of all public land under the control of sectoral authorities by independent auditors (with support of IDSC).
- HCSLM appoints a Commission to formulate recommendations to revise public land management policies and harmonized/unified land allocation and pricing procedures to improve the investment climate.
- HCSLM appoints a Commission to review all existing laws and decrees related to public land management and prepare a draft of the new SLM Law through a consultative process with key stakeholders.

xix. These reforms could be covered in one Prime Ministerial Decree on State Land Inventory and Management, or alternatively a Presidential Decree. A small working group, including the Prime Minister's Office and GAFI (and possibly the Ministry of Finance and GOPP), would prepare the draft Decree. Article 1 of the decree would state the SLM policy principles (emphasizing that the aim is to ensure that State Land Assets are managed in an efficient, sustainable, equitable and transparent manner, in the objective of encouraging investment and ensuring equal opportunity of access to public land to socio-economically disadvantaged groups). The decree would proceed in following articles to establish HCSLM and state its mandate, re-affiliate GOPP to the Prime Minister's Office and introduce its role as Technical Secretariat to HCSLM, appoint the Minister of Finance as Chairman of the Board of NCPSLU, and launch the main HCSLM activities: State Land inventory and audit of State Land under the sectoral authorities, harmonization/unification of public land allocation and pricing procedures, and review/consolidation of SLM legislation in one unified Law.

### xx. Second state: Measures to be implemented during 2007

- Issue a Prime Ministerial Decree transferring all unallocated land from sectoral authorities to the Ministry of Finance (Treasury). Three options are available: (i) All unused State Land allocated to the sectoral ministries/authorities is returned to the Treasury as of the date of signature of the decree; (ii) All unused state land allocated to the sectoral ministries/authorities is transferred to the Treasury as of a later date

(say January 1, 2008 to allow these entities time to revise sectoral plans and strategies and identify short-term needs of public land, which requires appropriate checks-and-balances to monitor performance given the higher risks of mismanagement during the transition period); or (iii) Authorize sectoral ministries/authorities to retain a specific amount of public land needed for already approved activities per the date of signature of the decree and transfer all other unused public land to the Treasury. The State Land Information Center would keep records of State land and oversee appropriate measures to safeguard State land assets against encroachment.

- Parliament reviews and approves the new SLM law.
- HCSLM high-level decision-making and the Treasury's administration of public land allocation to the eligible sectoral or geographic entities follows the new approved law and harmonized/unified procedures on SLM to achieve efficiency, transparency and equity of allocation as per the government's economic and social development policies.
- GOPP to assume its role as Technical Secretariat of HCSLM with support from the NCPSLU in reviewing authorities' requests for delegated control over public land, revising the national spatial/land use planning strategy in consultation with GAFI and other stakeholders, monitoring public land management performance of sectoral and geographic authorities and reviewing their annual reports and producing a consolidated annual report on the state of public land management, and ensuring with NCPSLU access to public land information and coordination between all entities.
- NCPSLU finalizes a first benchmark of the SLIS (e.g. scale of 1:250,000, cross-checking the 2017 Egypt Investment Map against actual ownership/control of public land by the different entities) and launches the State Land Registration process in the Land Registry
- GAFI rolls out its One Stop Shop Investor Service Centers in the Governorates
- GAFI and GOPP provide technical assistance to governorates in formulating their investment/local economic development strategies and land use plans.

xxi. Third stage: Long-term measures to be implemented during 2008-2013:

- NCPSLU finalizes the State Land Information System with detailed maps (e.g. scale of 1:20,000 ensuring that all State Lands have been registered in the Land Registry)
- Other Governorates finalize their medium/long term development and investment strategies and land use plans detailing their needs for public land to address their requests to HCSLM

### Action Plan and Time Schedule for Implementation of Proposed Roadmap of Reform

	Proposed Activities and Actions	Time Schedule																		
		2006			2007			2008			2009			2010						
1	Issue Prime Minister (PM) Decree stopping further allocation of public land to sectoral authorities	■																		
2	Establish through PM Decree the Higher Committee for State Land Management (HCSLM) to assume the proposed mandate	■																		
3	HCSLM appoints commission to set the detailed land management reform policies and harmonized/unified procedures		■																	
4	Complete the audit process for all public land under the custody of sectoral bodies by independent auditors (supported by IDSC)	■	■	■																
5	Re-affiliate GOPP to the PM's Office with an expanded mandate to include the role of technical secretariat to the HCSLM			■																
6	Issue PM Decree appointing Minister of Finance as NCPSLU Board Chairman and focusing its mandate as State Land Information Center			■																
7	HCSLM appoints commission to review existing laws and decrees and propose a draft unified State Land Management (SLM) Law	■	■	■																
8	Issue PM Decree transferring all unallocated land from sectoral entities to the Ministry of Finance (Treasury)				■															
9	Parliament reviews and approves the new SLM law					■	■													
10	HCSLM delegates to <i>Cairo and Alexandria Governorates</i> control over public land needed to implement their long term investment strategies and plans			■	■	■														
11	HCSLM/Treasury allocates public land in accordance with new law and unified procedures to sectoral or geographic entities on competitive basis																			Ongoing
12	Sectoral and geographic authorities apply to HCSLM for public land allocation on competitive basis with supportive plans/studies. <i>Other Governorates</i> finalize medium/long-term investment/land use strategies/plans with public land needs																			Ongoing
13	GOPP assumes expanded mandate of revising national spatial strategy and monitoring public land management performance with NCPSLU																			Ongoing
14	GAFI rolls out the OSS in Governorates and with GOPP assists in developing local investment/economic development and land use plans																			Ongoing
15	NCPSLU finalizes State Land Information System with detailed maps	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	Ongoing

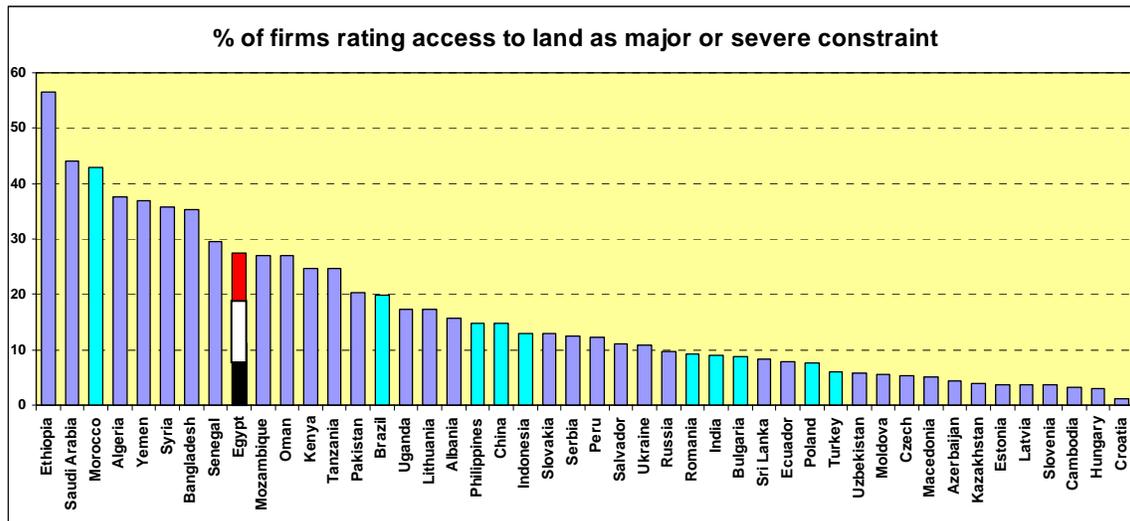


## CHAPTER 1. INTRODUCTION

### 1.1 Introduction and key issues

1. *Access to land is one of the most severe constraints to doing business in Egypt.* Access to land in Egypt's cities and urban expansion areas for investment as well as for residential non-investment purposes represents one of the most critical development challenges facing the Government of Egypt (GOE), with many negative implications on growth, as well as on poverty alleviation. The ICA study, undertaken by the World Bank in 2004, highlighted the problem of access to well-serviced and well-located investment land as one of the key constraints to doing business in Egypt, severely curtailing investment and growth. Of 1,000 Egyptian industrial firms surveyed, 27.4% classified access to land as a major or severe constraint to their development<sup>1</sup>, which ranks Egypt among the highest countries where ICA surveys were conducted in terms of difficulty of access to land and far worse than many of the countries with which it competes to attract investment (see figure 1.1).

**Figure 1.1 Access to land as a constraint to business development: international comparisons**



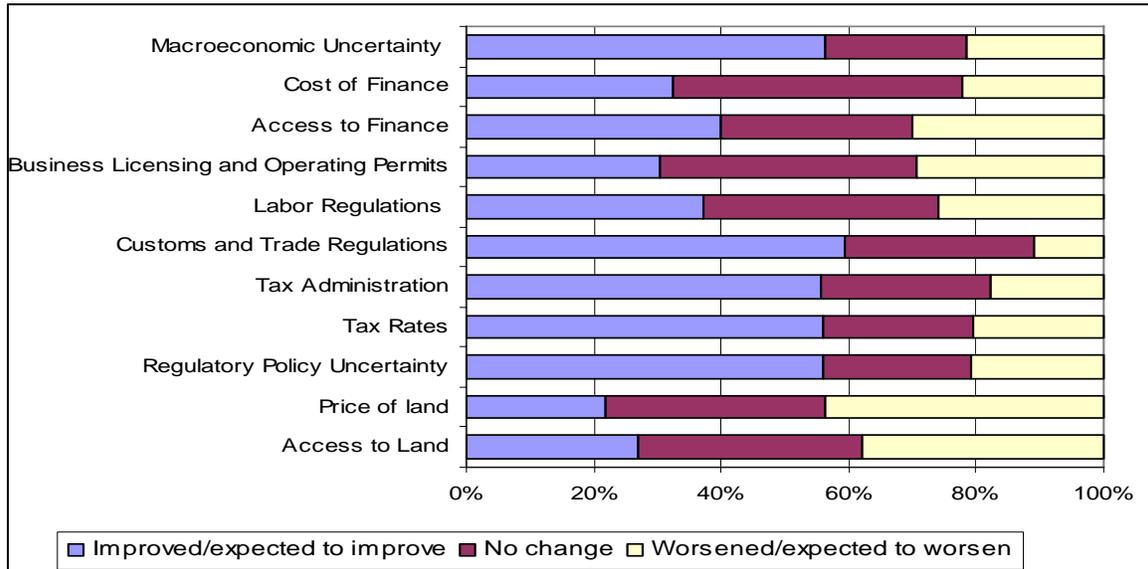
Source: World Bank, *Investment Climate Surveys, various years (Egypt 2005, data from 2004)*

2. *Despite significant improvements to the investment climate between 2004 and 2005, access to land is actually perceived to have worsened.* Since the appointment of a new reform-minded cabinet in July 2004, the GOE has implemented several reforms related to some of the major constraints to the investment climate. These reforms have all reflected positively in the follow up ICA survey undertaken in 2005. On aggregate, firms perceived significant positive changes or expected improvements in the areas of customs and trade regulations, tax rates and tax administration, and macro-economic and regulatory policy uncertainty and, to a lesser extent, on

<sup>1</sup> While access to land ranks lower than some other investment constraints in the ICA survey such as taxes, it is highly significant because surveyed firms are already established. This implies that the problem must be even more acute for new investors since: (i) the sample excludes investment projects that were aborted as a result of inability to access land; and (ii) long-established firms without expansion plans or ongoing land-related disputes may underrate what was a real constraint at the time of establishment due to lack of institutional memory or change of management.

issues of labor regulations, access to and cost of finance, and business licensing and permitting process. By contrast, access to land and the price of land are the only major constraints to the investment climate that firms perceive to have worsened between 2004 and 2005 and which are forecasted to continue deterioration in a climate of reform (see figure 1.2).

**Figure 1.2 Firms changing perceptions/expectations on general constraints to the business climate between 2004 and 2005**



Source: World Bank, *Egypt Investment Climate Survey 2004 and Follow-up Survey 2005*

3. **Why is public land asset management in Egypt important?** The management of public or State-owned land assets<sup>2</sup> in Egypt is a particularly important issue and a pressing priority for the GOE. This is because, unlike other countries, the overwhelming majority of Egypt's population is concentrated on a small portion of its national territory (about 5%), whereas the remainder is pre-dominantly desert land that is publicly owned and remains for the most part undeveloped. The country's arid nature accounts for the fact that, historically, the State through investment in infrastructure has played the lead role in bringing this land into use. To do so, Egypt has in the last few decades relied on a sectoral development model. Independent sectoral authorities affiliated with the ministries of agriculture, irrigation, tourism, housing and most recently industry were each assigned control over large areas of public land outside of the so-called *Zimam* (the boundary of historically surveyed agricultural lands that are subject to the land tax). This created a set of segmented and isolated land markets that distinguish Egypt's public land management model from that of most other countries. Between them, the five sectoral

<sup>2</sup> Public Land Asset Management is a government function consisting of: (i) identification of the Public Land asset (encompassing its legal definition, identification and inventorying); and (ii) husbandry of the asset in the public interest, including conservation and good husbandry of the asset, and assignment of the asset to public and private users. This includes preservation of the Public Land Asset against encroachment and speculation, land use planning, the valuation and disposition of public land assets including alienation of ownership to private actors in accordance with law and regulations, and leveraging these assets to achieve the State's development policy objectives. The use of the term "asset" here emphasizes that Public Land is as much an asset of the State as its bank accounts, to be managed carefully and wisely.

authorities<sup>3</sup> responsible for the development of industry, tourism, housing and new urban communities, and agriculture and land reclamation control over five million *Feddans*<sup>4</sup> of public land (2.1 million hectares), equivalent to 2.5% of Egypt's territory and about half of the land area that currently accommodates Egypt's 72 million inhabitants (this will be discussed later in detail).

4. ***Main challenges affecting public land asset management in Egypt.*** The outcome of such historical development is a complex and fragmented institutional landscape for public land management in Egypt, characterized by an unusual split between: (i) multiple central government authorities divided along sectoral lines and controlling public land outside of the *Zimam* and (ii) local governments divided along geographic lines and controlling public land within the *Zimam*. This unusual situation is the result of the accumulation of layers of legislation over the past four decades, with close to 45 directly and indirectly related laws and decrees that are not harmonized and are often conflicting. This complex institutional and legal patchwork reflects the absence of a coherent land policy framework and public land management strategies for disposing, pricing and leveraging such assets to achieve the government's policy objectives, as well as a failure to revisit past policies in light of today's challenges and competitiveness demands. The problem is further compounded by a multitude of differentiated, unclear and seemingly arbitrary procedures related to public land allocation, pricing and development controls, the lack of a coherent public land information system and the inability of investors and non-investors to figure out which authorities control public land and where public land is available, as well as ineffective land use planning with little gauge of demand and the opportunity cost of land.

5. Additional challenges include reliance on a boundary delimiting control over public land (the *Zimam*), which has no relevance to urban growth and development patterns. Outside of the *Zimam*, the hierarchy of *de jure* control over unallocated public land as set by Law follows a one-size-fits-all approach—defense for national security purposes, followed by agriculture and land reclamation, and then new urban settlements—that does not reflect the opportunity cost of land. Within the *Zimam*, there is a mismatch between local governments' mandate of service delivery within their jurisdiction and the much smaller public land area that they are authorized to manage, whether the objective is to generate revenues with which to finance services or simply to ensure that the allocation decisions of public land outside of their control reflect their local development plans.

6. ***Key land sector issues in Egypt.*** The inefficient public land management process is by no means the only challenge facing the land sector in Egypt. It is true that the scale of public land in Egypt means that public land asset management bulks very large in the general land policy picture. But there are also several other land administration problems, including:

- **Dysfunctional land and property registration system in urban areas:** As a result of an outdated and fragmented legal framework, two different land and property registration systems co-exist today in Egypt: (i) in urban areas and village built up areas, a person-based deed registration system governed by Law No. 144 of 1946, in which is recorded

---

<sup>3</sup> These are: (i) MALR's GARPAD, created in 1975, controls 3.4 million Feddans for agricultural land reclamation); (ii) MHUUD's NUCA, created in 1979, controls 600,000 Feddans for new town development excluding land covered by Prime Minister Decree No.540-1980); (iii) MOT's TDA (TDA, set up in 1991, controls 137,000 Feddans in coastal areas for tourism development); (iv) MOIT's General Authority for Industrial Development (GAID, created in 2005, set to consolidate control over 94,000 Feddans in industrial estates formerly managed by NUCA and the governorates); and (v) MIWR' West Delta and South Valley Development Holding Co. (set up in 2002, controls 650,000 Feddans for land reclamation and development outside of the "old Nile valley" in Toshka and Al Salam projects).

<sup>4</sup> A Feddan is a unit of measurement of agricultural land that roughly equals 4,200m<sup>2</sup>.

less than 5-10% of urban land and property and; (ii) in rural areas (agricultural fields only), a title registration system governed by Law No. 142 of 1964, in which is recorded 70-80% of all agricultural lands but which suffers from lack of updating (some argue that it is in effect a parcel-based deed registration rather than a titling system because field adjudication was very poorly implemented). Use of the registry is especially affected by loopholes in the existing regulatory framework, which have enabled the emergence over time of competing low-cost proxies to registration through the courts' system. These are two prevailing court procedures known as *Saha wa Nafaz* for disputing past ownership chains and *Saha Tawqie* for deed authentication. There have been some improvements over recent years, especially to reduce the cost of registration, and the need for reform has gained significant momentum in Government since July 2004. Nonetheless, there are still multiple disincentives to registration and problems including: (i) a very cumbersome and complex process, full of loopholes and prone to rent-seeking; (ii) a structural flaw in the form of the institutional split between the two government entities in charge of the technical and legal aspects of registration (respectively the Ministry of Irrigation and Water Resources' (MIWR) Egyptian Survey Authority—ESA—and the Ministry of Justice's Real Estate Publicity Department—REPD); (iii) lack of a provision in the deed registration Law No. 114 of 1946 on the legal conclusiveness of the act of registration and the fact that courts have in the past ruled against registered deeds; and (iv) the massive volume of pending cases disputes in the courts system related to land and property rights disputes, reported to be about 19 million cases (See Annex 2).

- Dysfunctional land and property taxation system: The land and property taxation system in Egypt is dysfunctional, characterized by an excessive tax rate that is related to rental rather than asset value, an outdated tax base registry, a long list of exemptions (including all land and property outside of the *Zimam*, even though new urban communities have witnessed major investments over the past three decades), unrealistically low property value assessments that are only updated once every 10 years, lack of performance incentives to tax collection, and a lack of tax on vacant land that is not put to productive use. The Ministry of Finance is currently preparing a revised legislation to overhaul the entire land and property taxation system (See Annex 2); and
- Ineffective land use planning and development control systems: The land use planning system has traditionally been centralized, supply-driven with little gauge of demand and inefficient, relying on inappropriate legislation and planning standards that do not reflect local conditions and needs, and which limit the efficient utilization of urban land. The Ministry of Housing, Utilities and Urban Development (MHUUD)'s General Organization of Physical Planning (GOPP) has recently completed a draft revised urban planning law as part of a unified building code, which addresses many of the deficiencies of the existing planning system (emphasizing local preparation of master plans and detailed land use plans). The draft is currently under review in Parliament. The existing land development control system is also cumbersome, bureaucratic and ineffective, namely the legislation that results in onerous and inefficient land development controls (and thus add to the land development cost and induce informality), lengthy, complex and costly procedures to obtain land subdivision and building permissions, and a burdensome inspection regime that is prone to rent-seeking.

## **1.2 Government commitment and ongoing land sector reforms**

7. Since July 2004, the newly appointed Cabinet has acknowledged the importance of reforming the land sector and has already taken several important steps in this regard. The GOE

is especially focusing on improving the land and real estate registration system. Enhancing the security of property rights to land and real estate is a key prerequisite to activate the (housing) mortgage finance market, which is a key policy priority of the GOE following its enactment of a new Law (No. 48 of 2001 and its subsequent amendments) governing real estate mortgage finance. For this purpose, a Property Registration Task Force headed by the Minister of State for Administrative Development was established through Prime Ministerial Decree No. 4 of 2004, with a mandate of reforming the property registration system by mainstreaming the *sejel ainee* system (title registration system or as others view it parcel-based deed registration) in urban areas and addressing problems with and disincentives to registration. The Government has taken steps to further reduce the cost of registration, which has dropped from a high of 12% of property value in the early 1990s to a flat service fee of LE1,000 in the most recent change in 2006 (following three earlier reductions to 6%, 4.5% and 3%). One of the main problems that the Task Force was set to resolve is coordination between the Ministry of Justice's REPD (in charge of the legal/adjudication aspect of land registration) and the MIWR' ESA (in charge of the technical/survey aspect of land registration). The Task Force is also focusing its efforts on automating the system in an attempt to reduce the time, cost and steps associated with registration. A first pilot project was implemented in Dokki district in the Greater Cairo Region and other pilot projects are being implemented in other districts of Greater Cairo and the new town of 6<sup>th</sup> of October City. The lessons from these pilots should serve for scaling up the effort. Technical assistance to the GOE's property registration reform program is provided through an ongoing USAID Financial Services Project and a World Bank Housing Finance project currently under preparation.

8. New thinking is also developing on an issue that has typically been a taboo in Egypt's land management policy, namely how to deal with the problem of unauthorized conversion of agricultural lands to urban uses at the periphery of growing cities. Such thinking comes after a belated recognition by policymakers that penalties and other deterrence policies had failed to conserve agricultural land in light of the high price differential between urban and agricultural lands and the difficulty of enforcement. A National Democratic Party's policy document, entitled "Preservation of Agricultural Land and Management of Urban Development in Egypt" that was published in September 2004, introduces new thinking to deal with this issue, including regularizing existing informal development on arable land, and authorizing limited and measured urban expansion on agricultural land where no other alternatives exist.

9. The reform of land use planning regulation and the land development control system is also underway. The GOPP has prepared a revised unified law covering urban planning and building regulations with the aim of reforming the inefficient supply-driven top-down land use planning process and the cumbersome land development controls. The revised law calls for decentralizing the preparation of strategic land use plans with technical assistance. A draft revised and consolidated law is currently under review by Parliament. The Ministry of Finance is also currently preparing a draft legislation to overhaul the inefficient land and property taxation system.

10. Initial steps to reform the dysfunctional system of public land management in Egypt have also taken place since 2001, but the momentum only took place in 2004 with the appointment of a reform-minded Cabinet that found the problem of access to public land as a severe constraint to doing business in Egypt. The National Center for Planning the State Land Uses (NCP SLU), first set up in 2001 to establish a public land information system and coordinate between the many different public land controlling agencies, only became operational in 2004 and produced its first map of national land uses in 2005. Similarly, Presidential Decree No. 350 of 2005 established the General Authority for Industrial Development (GAID) in lieu of the General Organization for Industrialization. In addition to its predecessor's functions, GAID is mandated with: (i) enabling

investors' access to well-serviced and affordable industrial land, (ii) regulating the development process of future industrial estates to ensure that these are well located, adequately serviced, and respond to market demand, and (iii) ensuring appropriate operation, maintenance and management arrangements for existing and planned industrial estates. The General Authority for Free Zones and Investment (GAFI) under the Ministry of Investment (MOI) also witnessed significant improvements as of 2004, including the establishment of one-stop-shop facilities and streamlining procedures to set up new businesses, and is increasingly getting involved in enabling investors to access public land.

11. Yet, much still needs to be done to address the structural problems underlying the public land management system in Egypt in the aim of improving the business environment. The above mentioned reforms are still at an early stage and the newly established entities have encountered several obstacles in pursuit of their mandate, especially NCP SLU. Recognizing the magnitude of the challenges ahead and the significant negative effect of poor public land management on the business environment, the Minister of Investment requested World Bank assistance in preparing a strategy for public land management reform to improve the investment climate, which would be undertaken in consultation with key government stakeholders. This assignment builds upon the outcomes of the Egypt ICA Study, prepared in 2004-2005.

### **1.3 Objective**

12. The main objective of the Egypt Public Land Management Strategy is to provide the GOE with practical and politically feasible policy recommendations to reform existing public land management policies and practices in the aim of improving the business climate in Egypt. This requires addressing the institutional, legal and procedural obstacles hindering investors (as well as non-investors)' access to public land and preventing the establishment of effective public land management systems. Specifically, these reforms would aim to put in place a coherent and consolidated legal and institutional framework for the management and disposition of public land assets, efficient and transparent processes for pricing and disposing of public land assets, and leveraging them to achieve the government's policy objectives, as well as a streamlined and adapted regulatory framework governing land use planning and development.

13. Combined with the ongoing efforts to improve the urban land and property registration and taxation systems, the long-term objective of this Policy Note is to enhance economic growth by facilitating access to land for investment (as well as for non-investment) purposes through the development of efficient systems for public land management based on clear, transparent and coherent policies and laws and supported by appropriate institutional structures.

### **1.4 Scope of work, contents and methodology**

14. This assignment was requested by the GOE, specifically by the Minister of Investment, in the aim of tackling the main obstacles to doing business in Egypt as identified in the ICA Study. Following the Minister's request, this assignment delivered *inter alia* a series of concise policy notes in a short turnaround period (three weeks on average) covering key policy questions related to the assignment in the aim of assisting the GOE in implementing ongoing and concurrent reform measures. A first note, prepared in September 2005, provided comments on the draft decree establishing the GAID, identifying key issues that need to be addressed in setting up the authority and its modus operandi, and provided relevant examples of best practice legislation from other countries from the Middle East region. A second policy note, prepared in December 2005, proposed different options for public land management reform in light of international

experiences, which served as a basis of discussion in the high level policy workshop organized on February 26, 2006. A third policy note, prepared following the workshop, proposed a roadmap for public land management reform in the aim of improving the investment climate, which was developed in light of the guidance received in the workshop from the Prime Minister and policymakers and in consultation with key stakeholders. The roadmap was endorsed by several key government stakeholders, including the Ministers of housing, utilities and urban development; agriculture and land reclamation; and planning and local development. The aim of these concise policy notes was to offer just-in-time policy and technical advice to assist the GOE in implementing ongoing reforms and planning new initiatives and sustain the policy dialogue with the Government, in parallel with the preparation of the final policy note.

15. The final policy note is presented into two volumes: Volume one with the main policy note, supported by Volume two with background notes on access to public land by investment sector. Volume one examines the overall system for public land management in Egypt and the challenges facing investors seeking to access public land for investment projects, and concludes with a roadmap for public land management reform in the aim of improving the investment climate, which has been prepared in consultation with key government stakeholders. The first section following this introduction examines the regulatory framework governing access to public land, the different entities controlling public land (*de jure* and *de facto*) and the different procedures, influences and terms and conditions for the disposition of public land for investment projects, and the main challenges of land use planning, land information systems. This section examines how the overall system of availing public land to investors works, and its strengths and shortcomings. This section draws on the key issues arising from the sectoral assessments of access to public land (Volume two), including for industrial and manufacturing, tourism, agriculture and land reclamation, and real estate development. The second section proposes different options for improving the public land management system in Egypt in light of key lessons learnt from international experience in land policy reform and improving public land management systems. This section also proposes a process for reforming the policy and legal framework for public land management. The third section concludes with a roadmap for public land management prepared in consultation with key government stakeholders, following on the high-level policy workshop held in February 26, 2006, which was chaired by the Prime Minister of Egypt and attended by 40 key stakeholders including eight ministers, and senior government officials and heads of authorities concerned with the land sector.

16. Volume two provides background notes examining the sectoral issues and challenges facing investors in terms of access to public land and development controls for four investment sectors: (i) industrial/manufacturing (updating the Policy Note prepared in December 2004 for the Egypt ICA); (ii) tourism; (iii) agriculture and land reclamation; and (iv) real estate development (i.e. large mixed used development projects involving a land subdivision process). For each sector, the different legally permissible options available for investors to locate an investment project in Egypt are examined, whether these locations make market sense from the private sector's point of view, and the types of lands and services available in these locations. This section analyzes the different laws, regulations and procedures facing investors seeking to access and develop public land and the entities they interface with, the institutions that directly and indirectly control public land allocation to investors and the land development process, the obstacles and challenges facing investors' efforts to access and develop public land, and the restrictions facing them if any. It also examines the administrative and market methods used to dispose of public land (direct allocation, auctions, request for proposals, etc), the different contractual forms of land disposition (sale, lease, usufruct, conditional transfer of ownership through *Takhssiss*, etc), and the coherence between the legal/institutional framework for control over public land and that responsible for land use planning and development control. The key

sectoral issues are summarized in Volume one, which examines the overall system of public land management in Egypt.

17. The preparation of a strategy for reforming public land management in Egypt in the aim of improving the investment climate relied on the following inputs:

- (i) Policy discussion with key policymakers in Egypt in a high-level policy workshop organized by the Ministry of Investment in collaboration with the World Bank. The workshop was chaired by the Prime Minister of Egypt and was attended by over 40 stakeholders, including eight line ministers, senior government officials and heads of authorities concerned with the land sector.
- (ii) In-depth discussions with concerned line ministers and senior officials heading the main authorities responsible for public land management and disposition, land use planning, and investment facilitation. These discussions aim to map out the existing situation, and identify issues and challenges, past and ongoing improvements, and discuss potential reforms. Some of these discussions were undertaken at an earlier stage, in December 2004, during the preparation of the access to land policy note for the ICA Study, and the large majority were conducted during the period July 2005-March 2006 for the preparation of this assignment. Key stakeholders met include:
  - MOI, and the affiliated GAFI;
  - Ministry of Industry and Trade (MOIT), and the affiliated General Authority for Industrial Development (GAID);
  - MHUUD and the two affiliated authorities: NUCA and General Organization of Physical Planning (GOPP);
  - Ministry of Agriculture and Land Reclamation (MALR) and the affiliated authorities: GARPAD, NCPSLU, and Agrarian Reform Authority (ARA);
  - Ministry of Tourism (MOT), and its affiliated TDA;
  - Ministry of Planning and Local Development, responsible for overseeing local authorities. In addition, extensive discussions were held with senior local government officials, especially in Alexandria and Cairo Governorates, including the executive leadership (Governor and Secretary General) and the State Land Protection Agency (*Amlak*);
  - MIWR, and the affiliated Egyptian Survey Authority (ESA);
  - Ministry of Justice, and the affiliated REPD;
  - Ministry of Finance, and the affiliated Real Estate Tax Department (RETD); and
  - Ministry of State for Administrative Development.
- (iii) Interviews with selected local and international investors operating in Egypt in each of the four investment sectors (industry/manufacturing, tourism, agriculture and land reclamation, and real estate development), to develop an understanding of issues and obstacles facing them in accessing and developing public land;
- (iv) Input from experienced legal and land/urban development consultants in mapping out the legal and institutional frameworks and the key issues in the existing public land management and land development control systems in Egypt;

- (v) Analysis of planning documents, legislative texts, existing land-related studies, and other sources of information available; and
- (vi) Involvement of experienced international experts in public land management and land administration to distill lessons from international experience on good practices and unsuccessful efforts in public land management, and participate in adapting these experiences and lessons to the Egyptian context within the scope of the high-level policy workshop.

18. In its urban and private sector development programs in Egypt, the World Bank works closely with the two Ministries of Investment, and Housing, Utilities and Urban Development, and coordinates closely with GAFI and GOPP. The World Bank also works in cooperation with other donor agencies active in the urban sector in Egypt, including USAID, CIDA, GTZ, UN-HABITAT, UNDP, and the Cities Alliance Program. Relevant World Bank activities in Egypt related to the Public Land Management Strategy ESW include:

- (i) *Urban Sector Update ESW*: in FY06, the ESW focuses on dynamics of urbanization and competitiveness of urban areas. In FY07, the plan is to formulate an effective affordable housing strategy, building on an assessment of existing mechanisms for affordable housing supply and the outcomes of a concurrent USAID-funded housing demand study (which the World Bank has been requested by the Government to peer review). The improvement of the public land management system in Egypt is critical for an effective Government strategy to enable affordable housing delivery.
- (ii) *Alexandria Growth Pole Project* (USD100 million loan currently under preparation): It was agreed with the GOE to pilot key recommendations stemming from the ICA and the Public Land Management Strategy in Alexandria Governorate. One of the foundations of the project is therefore the transfer of control over public land in the urban expansion areas of Alexandria (defined in locally prepared strategic and land use plans with participation from public, private and civil society stakeholders) from central government authorities to Alexandria Governorate to enable it to implement its strategic development plans. In this regard, the Governor of Alexandria prepared an official request to the Prime Minister, endorsed by key line ministers, to transfer the authority over public land to the Governorate, supported by its city development strategy and strategic spatial plans. One of the project's components also aims to regularize and register land and property informally held by investors in Alexandria. In another component focused on urban upgrading, it is proposed to pilot a cadastral-based title registration system for informal settlements, which would be automated, simplified, and based on field operations from a joint and dedicated team from the Ministry of Justice and Survey Authority. It was agreed with the Ministry of State for Administrative Development (which oversees the GOE's reform program on urban land and property registration) to pilot a streamlined and unified registration system in Alexandria, based on the Ministry's other pilot experiences in Cairo.
- (iii) *Housing Mortgage Finance Project* (US\_\_ million loan currently under preparation): The urban land and property registration system in Egypt requires major reform if the housing mortgage finance market is to be activated. The World Bank and USAID are providing technical assistance to the Government, namely to the Ministries of State for Administrative Development and Justice, and the Egyptian Survey Authority, to mainstream the application of title registration in urban areas and encourage its use.

## 1.5 Limitations and next steps

19. This assignment focuses on public land management in Egypt, one of several interrelated land sector issues that merit in-depth examination. Yet, given that the main objective of this work is to provide the GOE with just-in-time policy advice to accompany the momentum for reforming the public land management system, the assignment had inherently to be limited in scope. First, an assessment of the land market in Egypt (or markets as it became apparent that there were many segmented and isolated land markets), while an important endeavor, is beyond the scope of this study. Second, other important and interrelated land sector issues, namely land registration and taxation, will not be covered in this assignment. Annex 2 provides a brief review note of key issues and challenges related to land and property registration and taxation so as to place public land management issues in context. Yet, in-depth assessment of land and property registration in view of reform is the focus of current USAID-funded technical assistance, and land valuation and taxation should be the topic of a detailed standalone study.

20. Finally, the single most critical element to guide the improvement of the public land management system is for the GOE to formulate an explicit public land management policy with clear objectives related to economic growth, equity and social development, environmental sustainability, and fiscal policy. In the February 2006 high level policy workshop discussions, the institutional organization of Public Land Asset Management was the threshold issue because it is difficult to imagine progress being made on more fundamental issues without simplification of the institutional organization of public land asset management, greater standardization in terms of access to public land, and better inter-agency coordination. These all have organizational and institutional implications.

21. In Egypt, the sectoral model of public land asset management may have had its particular historic purposes, but cumulatively and over time, there seems to have been a loss of a coherent vision of the fundamental policies behind that management. Institutions managing public land adopt quite different and even competitive policies regarding priorities for and terms of access for such land, with excessive reliance on subsidies. Investor demand and the allocative efficiency of the market play only a limited role in determining where investment takes place. There is thus a need for a **clear and comprehensive public land policy** that reasserts the role of the market in public land allocation and then puts in place a rational framework of planning and incentives that reflect current needs and priorities. It must lay out Government's vision and a strategy for achieving it. Such policy framework would balance the government's objectives of efficiency, equity and environmental sustainability, and emphasize market-based allocation of public land assets except for clearly defined policy objectives such as affordable housing and environmental conservation, as well as a demand-driven approach to land use planning. It will also devise the incentives' structure that is needed to bring about efficient management of public land assets as well as the performance monitoring/evaluation mechanisms, and accountability measures.

22. This study is intended to prepare the groundwork for the GOE to launch the process for formulating a public land management policy document, which would include the key policy objectives and principles for effective management of public land assets in Egypt and which would serve as a foundation to guide the process of reforming the fragmented legal framework governing public land management in Egypt. The process for public land asset management policy and legal reform is discussed in detail in this Policy Note.

## CHAPTER 2. PUBLIC LAND MANAGEMENT IN EGYPT: EXISTING SITUATION AND KEY CHALLENGES

### 2.1 Forms of Land Ownership in Egypt

23. There are three main forms of land ownership in Egypt:

- Public or State land (in Arabic *Amlak Amiriya*), which is divided into the State's public domain that cannot be alienated and the State's private domain, which can be alienated generally through sale, lease, *Takhssiss* (i.e. transfer of ownership conditional on meeting certain criteria, such as keeping the land use unchanged and paying the remaining installments of the land price) or through *Haq Intifaa* (i.e. usufruct);
- Private land (in Arabic *Mulk horr*), which may be alienated/transferred freely; and
- *Waqf* land (land held as a trust/endowment for religious or charitable purposes), which is often subject to covenants on transfer or use, and which is typically transferred through leasehold or usufruct.

24. In addition, there are some areas in Sinai and in the northern coast, in Alexandria and Matruh Governorates, with implicitly recognized *customary rights* to land to the benefit of Bedouins. In these areas, someone wishing to acquire land often has to make two payments, first to the Bedouin claimant(s) for the right of use and then to the State to regularize and register their land tenure/ownership and be able to obtain services.

25. It is important to note that the Civil Code (No. 131 of 1948) recognizes *Hiyaza* (i.e. possession of immovable/movable property without ownership) as a legitimate channel to acquire ownership of the property in question through adverse possession, provided that the *Hiyaza* has been "peaceful, unchallenged and uninterrupted" for a period of 15 years.<sup>5</sup> By Law, ownership through adverse possession does not, however, apply to State lands.

26. The large majority of land in Egypt is public or State-owned desert land that is for the most part undeveloped (estimated to be 90-95% of the national territory). Indeed, Egypt differs from other countries in that the overwhelming majority of its population is concentrated on a small portion of its national territory (about 5%) and the remainder is desert land that is publicly owned and for the most part undeveloped. Privately-owned land in Egypt is thus estimated at around 4-5%.<sup>6</sup> In its efforts to enable the development of its public undeveloped desert land, Egypt has in the last few decades relied on a sectoral development model. Control over large areas of publicly-owned desert land was assigned to independent sectoral authorities affiliated with line ministries, which is also another feature distinguishing Egypt's public land management model from most other countries. Between them, the five main sectoral authorities<sup>7</sup> control over

---

<sup>5</sup> The Ministry of Local Administration estimates that 15.7 million Egyptians (22.3% of the population) live in 1,105 informal or squatter settlements, called *ashwa'iyat*, including unlawful urbanization of agricultural lands, unplanned/ unauthorized land subdivisions, and squatting on public or privately-owned lands.

<sup>6</sup> No estimate could be provided of the extent of Waqf land as there are no maps or a inventory of Waqf deeds or reliable information on the extent of such landholdings, which according to several government officials makes it a significant problem of unknown dimension.

<sup>7</sup> These are: (i) MALR's GARPAD, created in 1975, controls 3.4 million Feddans for land reclamation); (ii) MHUUD's NUCA (NUCA, created in 1979, controls 600,000 Feddans for new town development); (iii) MOT's TDA (TDA, set up in 1991, controls 137,000 Feddans of coastal land for tourism development); (iv) MOIT's General Authority for Industrial Development (GAID, created in 2005, set to consolidate

five million *Feddans* of public land (2.1 million hectares), equivalent to 2.5% of Egypt's territory and about half of the land area that currently accommodates Egypt's 72 million inhabitants.

## 2.2 Institutional Framework Governing Public Land Management in Egypt

### 2.2.1 Entities empowered to control and dispose of public land in Egypt

27. Numerous government entities are empowered to control, use and dispose of or alienate public land in Egypt, including for investment purposes. These government entities are divided along sectoral and geographic lines and their control over public land depends on the location and planned land use. Egypt has inherited a complex public land classification system, which by Law governs the entities controlling public land. This system is based on the so-called *Zimam*, which refers to the boundaries of cultivated and uncultivated—in Arabic called *bour*—agricultural lands that have historically been surveyed by the ESA and were included in the RETD's agricultural land and real estate registry—in Arabic called *kashf al mokalafat*, and are subject to the agricultural land or property tax. In governorates with an agricultural hinterland, urban lands within city or village *Cordons* (i.e. municipal administrative boundaries) are encompassed within the *Zimam*. In “desert” governorates with no agricultural hinterland (e.g. Red Sea Governorate), cities and villages' *Cordon* replaces the *Zimam*'s function of public land classification.

28. Overall, public land in Egypt (and control over it) is classified as follows:

- Public land located within the *Zimam*;
- Public land located within two kilometers outside of the *Zimam* (called desert land);
- Public land beyond two kilometers outside of the *Zimam* (also called desert land).

29. **Public land within the *Zimam*:** By Law, public lands located within the *Zimam* or city and village *Cordons*, whichever applies, are controlled by local government—the Governorate—in which these lands are located. This includes both public land located within urban areas or in village built up areas, as well as publicly-owned non-cultivated agricultural land. Some publicly-owned cultivated and uncultivated agricultural lands inside the *Zimam*, especially lands that were subject to the agrarian reform program, fall under the control of the MALR's ARA, which in turn rents them to small farmers. GARPAD assumes technical oversight over Governorate-owned agricultural land.

30. **Public land located within two kilometers outside of the *Zimam*:** Governorates also control desert lands adjacent to city and village boundaries within two kilometers of the *Zimam* (if surrounded by agricultural lands) or within two kilometers of the *Cordon* (if adjacent to desert lands). However, governorates' control over these lands is by Law subordinated to the MALR's GARPAD, if these lands have been designated for reclamation projects (i.e. reclaiming desert land into arable land) in the national land reclamation strategy.

31. **Desert lands:**<sup>8</sup> Desert lands are of two types: those for which a use has been designated and consequently have an authority that controls the land and oversees the development process, whether or not these lands have already been allocated to an end user or investor (called in Arabic

---

control over 94,000 *Feddans* in industrial zones formerly managed by NUCA and the governorates); and (v) MIWR' West Delta and South Valley Development Holding Co. (set up in 2002, controls 650,000 *Feddans* for land reclamation and development outside of the “old Nile valley” in Toshka and Al Salam projects).

<sup>8</sup> Lands resulting from dried up lakes and saline lands are considered as desert lands.

*Arady Mokhassassa*) and those for which no use has yet been identified (called in Arabic *Arady Gheir Mokhassassa*).

32. *Desert lands with a designated land use:* These are the desert lands located beyond two kilometers the *Zimam* and for which a land use has been designated and therefore, control over land has been vested by Presidential decree to the concerned authority. By Law, the hierarchy of control over desert lands traditionally rests with three main entities according to the following descending order:

- First, the Ministry of Defense and Military Production (MODMP) determines strategic areas for military control that may not be alienated or developed, and would be under the Ministry's control. The Ministry also in general influences the public land allocation and development process, including through clearance of land use and subdivision plans and height restrictions);
- Second, the MALR determines the areas to be earmarked for agricultural land reclamation projects in coordination with MODMP. Reclaimable lands are placed under the control of GARPAD; and
- Third, the MHUUD, through the NUCA, is vested control over desert land needed for new urban communities. This includes the 20 new towns that have already been developed including the lands needed for their future extension (five kilometer perimeter) as well as other areas and special purpose developments as will be mentioned later. In addition, the MHUUD's GOPP has identified 44 sites as suitable for new community development in the future, but NUCA reportedly has still not been vested control over these lands.

33. Over the past few decades, control over publicly-owned desert lands outside of the *Zimam* in specific locations with development potential (e.g. investments in real estate development, tourism, land reclamation, industry, etc) has been vested by Presidential Decree to the relevant sectoral authority (whether existing or newly created entity for the purpose of developing the area in question). Such *sectoral land* and *special status areas and projects* include:

- *Coastal lands for Tourism Development:* Control over large parts of the Red Sea Coastline including in Sinai with potential for tourism development (Sharm El Sheikh, Naba', Hurghada, and other areas) was transferred to MOT's TDA, which was established in 1991. Within the designated areas, TDA controls all land between the coast and up to a depth of five kilometers. As for the coastal lands along the Mediterranean Sea, control over land between Alexandria Governorate (km34) and the Libyan border was initially vested with the MHUUD's NUCA through Prime Ministerial Decree No. 540 of 1980 to create a new community (the land covered represents millions of *Feddans*). The decree produced much ambiguity as it unusually relied on a topographical contour line, referring to an elevation of 200m above sea level, to delimit the inland depth of NUCA's control. Given that this contour line was not continuous, this created many problems between NUCA and both Alexandria and Matrouh Governorates, who found all their prime land taken over by NUCA. The 60 kilometer coastline immediately to the west of Alexandria was developed in the 1980s and 1990s by MHUUD's General Authority for the Northern Coast Reconstruction (GANCR), which was criticized by some for allowing the area's overdevelopment. Subsequently, the undeveloped parts of the

Mediterranean Sea coastline, especially in Matruh Governorate, were transferred to the TDA;

- *Toshka and Al Salam irrigation and land reclamation mega-projects*: The MIWR controls desert lands in the two mega-projects launched outside of the traditional Nile Valley with the objective of expanding the settled land area of Egypt. These projects are: (i) Toshka, a total of 540,000 *feddans* in Southeastern Egypt irrigated from Sheikh Zayed canal with water from Lake Nasser, and; (ii) Al Salam, a total of 265,000 *feddans* in Sinai irrigated through Al Salam canal. Land in the Toshka project and other reclamation areas in the Western Sahara is controlled through a holding company under MIWR, called West Delta and South Valley Development Holding Co (WDSVDHC), which was created in 2002. Other ministries also control land in Toshka, including the MOI through the Holding Company for Trade and the MALR;
- *Public Free Zones*: There are 10 public free zones in Egypt (seven established and three under construction), which are controlled and operated by the MOI's GAFI, and are regulated by Investment Law No.8 of 1997;
- *SEZ*: The recently enacted Law No. 83 of 2002 allows for certain areas to be designated by Presidential decree as SEZ, which would be operated by an Authority supervised by the Ministry of Investment (established by Presidential decree and attached to the President of the Council of Ministers). The SEZA would control all lands within the SEZ boundaries. To date, one SEZ has been established in Egypt in the North-West Suez Gulf, around the privately-developed Sokhna seaport, and a second is under establishment in East Port Said. The problem is that development of the North-West Suez Gulf area started before the SEZ Law was passed and the SEZA was created (Suez Governorate had allocated control over public land, estimated at 40 sq km to four industrial land development companies), which means that the one example of an existing SEZ does not really represent the intended model;
- *Land for industrial development*: Initially, industrial estates were developed either inside the *Zimam* (the so-called inland industrial estates developed and managed by Governorates on land that they controlled) or outside of the *Zimam* in new urban communities (developed and managed by NUCA on land that it controlled). In 2005, the GAID was created by Presidential Decree No. 350. GAID was mandated to control all industrial land (including consolidating control over existing industrial estates controlled by the Governorates and NUCA) and oversee the development and management of all existing and new industrial estates, whether inside or outside of the *Zimam*. The transfer of control has not yet taken place, but is expected to take place by mid-2006. GAID will have significant resources at its disposal, through the so-called Industrial Land Fund, to enable the development of industrial land;
- *Suez Canal area*: The areas around the Suez Canal are controlled by the Suez Canal Authority.

34. *Desert Lands without a designated land use*: Control over desert lands without a designated land use (and consequently without a decree vesting its control to a given authority) does not rest with any entity. Control over this land can be transferred to any relevant authority by Presidential Decree once a land use has been approved. Given several problems that were uncovered in the past, especially authorities competing to gain access to such land and the lack of

information on such lands, it was decided to establish an independent authority called NCPSLU, which was created by Presidential Decree No.153 of 2001. The mandate of NCPSLU is discussed later in this section.

35. Finally, in some instances, the State may need to expropriate private lands for public use, such as to provide infrastructure. Expropriation is governed by Law No. 10 of 1990, which regulates the circumstances and procedures for the State to exercise the power of eminent domain and also to ensure that landowners receive fair compensation for their expropriated property. Expropriation is undertaken by ESA and compensation is established by a committee formed within ESA and with membership of “all concerned authorities.”

### ***2.2.2 Additional entities influencing the decision to allocate public land in Egypt***

36. The decision to allocate public land for private use including for investment projects (or to undertake a land subdivision process) requires, depending on its location, the approval of several government entities other than the land controlling authority. The most important such entity is MODMP whose clearance is needed in most desert lands and in areas of strategic importance. The military’s clearance often takes a long time (in some cases more than one year). Individual clearances are also sometimes obtained in areas that were previously cleared by the land controlling authority for alienation.

37. In addition, approvals may be needed from the following deconcentrated departments in whose geographic jurisdiction the site is found: Quarries (if in a desert land to ensure that the site has no mineral deposits), Agriculture (if on agricultural lands to ensure whether or not the site is protected against development), Irrigation (to ensure appropriate drainage and irrigation systems are in place if needed), and Antiquities (if the site may be in a zone of archeological significance). Another clearance that would need to be obtained is from the Ministry of Petroleum in areas deemed to be “close” to pipelines, although there does not seem to be a definition of what is a close distance. Finally, the Egyptian Environmental Affairs Agency (EEAA)’s approval must be obtained prior to the decision to allocate a site for a polluting use. EEAA developed a so-called “black list” of polluting industries that require pre-approval.

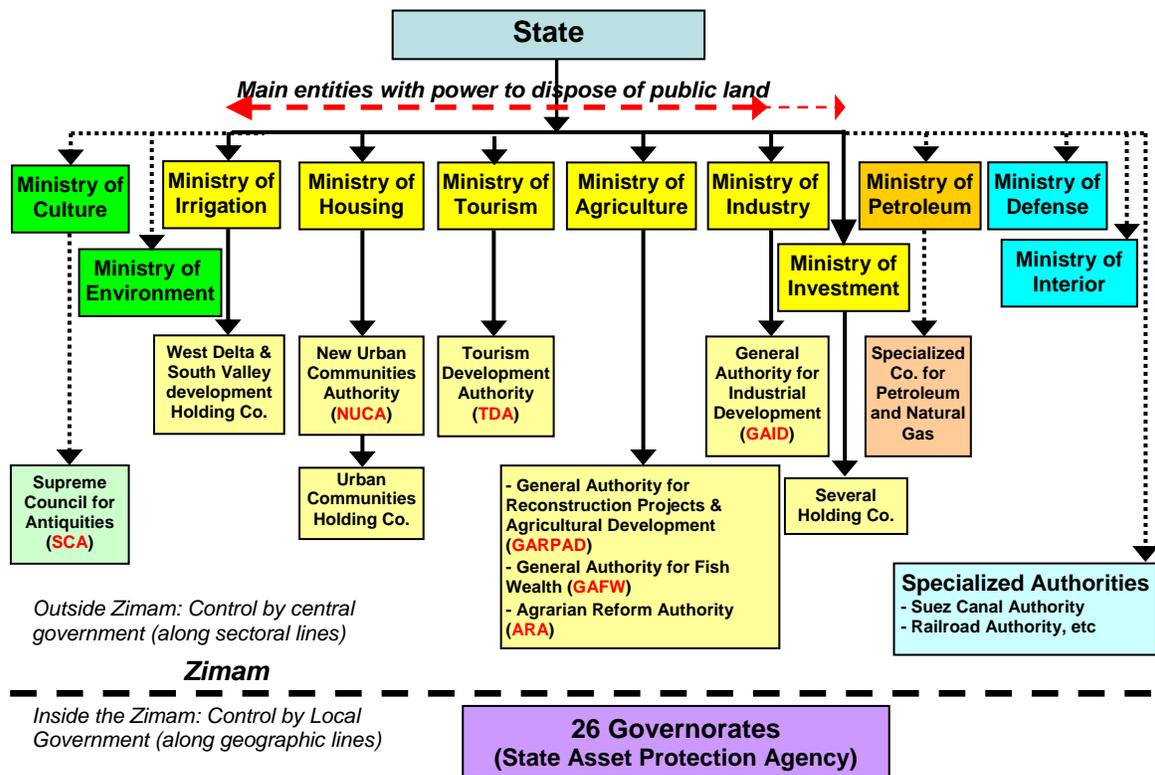
38. Most importantly, there does not seem to be a systematic way of determining in advance which areas require obtaining such approvals (e.g. there are no known maps delineating the areas that require special permissions) and there does not seem to be prequalification rules that advance the required clearances for overall areas. It seems that only the competent authority controlling the land in question (e.g. local government unit, GARPAD, etc) is in a position to determine which approvals would be needed. Finally, it is unclear the extent to which the EEAA may intervene in the land allocation process (to ensure the protection of environmentally sensitive areas) or the extent to which EEAA influences the location of industrial or other developments that are deemed to have a negative environmental effect or intervenes in the land use planning and zoning processes.

## **2.3 Key issues and challenges of public land management in Egypt**

39. Overall, investors seeking to access public land in Egypt face many difficulties, mainly due to a highly fragmented institutional and regulatory framework governing control over and allocation of public land. As a result, access to public land is a complex, costly, time consuming, and confusing process, which makes it one of the key obstacles to achieving an attractive investment climate. The critical dimensions of the problem are:

- i. **Complex institutional landscape complicates access to public land:** Jurisdiction over public land is distributed among many government entities divided along sectoral or geographic lines, depending on location (see Figure 2.1). Outside of the *Zimam*, control over public land is split along sectoral lines among several central government line ministries and affiliated authorities (whether the public land controlled is for their own use as with the Ministries of Defense and Interior, for preservation due to environmental and/or archeological values, or with the power to dispose of such land as with the other ministries and authorities). Inside the *Zimam*, the 26 Governorates, each within its jurisdiction and acting through its State Land Protection Agency branch (known in Arabic as *Jihaz Himayat Amlak Al Dawla*, or simply *Amlak*), control public land with the power to dispose of it. In addition, these entities' decisions to allocate public land to end users/investors often require clearance from many other government entities (e.g. Ministry of Defense, Antiquities, etc), which are determined on an area-by area or case-by-case basis. The current system creates much confusion since the different public land controlling entities often have overlapping mandates, unclear jurisdiction and little horizontal coordination, and there is no information (or access to information if it exists) available to investors/individuals on what entities to deal with and what land belongs to which entity.

**Figure 2.1 Complex institutional landscape governing control over public land**



Five entities alone—TDA, GARPAD, NUCA, GAID (once it has consolidated control over industrial land) and the WDSVDHC—control a huge stock of public land, which they are empowered to dispose of mainly for investment projects (See Table 2.1). It is estimated that these five entities together control some 20,500 sq km of public land (not including the land allocated to NUCA in the Prime Ministerial Decree No.540 of 1980). As an indication of the size of such landholdings, for instance, the public land area that GAID is shortly set

to control—94,000 *Feddans*—could accommodate 2.5 million jobs at an average density of 100 jobs per hectare. Today, only 483,000 jobs have been created in the industrial estates in new urban communities and Governorates. Similarly, the overall land area currently controlled by NUCA for new communities—600,000 *Feddans*—could accommodate as much as 25 million inhabitants at an average gross residential density of 100 persons per hectare (as per the Urban Planning Law stipulations for new settlements). If we only consider the 165,306 *Feddans* earmarked for development (the balance of 424,694 *Feddans* is designated for green belts and buffer zones), then the land area controlled by NUCA could accommodate 7 million inhabitants. Today, only 1.5 million inhabitants live in new communities. If anything, such figures indicate that these five entities control a huge stock of public land and that a large share of this stock still has not been put to productive use (further details are available in the access to public land assessments by sector, in Volume Two of this Policy Note).

**Table 2.1 Public land controlled by the five main sectoral entities**

	<b>Total land area controlled (<i>Feddans</i>)</b>	<b>Total land available for distribution (<i>Feddans</i>)</b>	<b>Total land allocated (<i>Feddans</i>)</b>	<b>Percent of licensed projects operating</b>
<b>Industrial land (GAID)</b>				
Inland industrial estates (Governorates)	54,398	17,260	7,457	43% of 2,304 projects
New town industrial estates (NUCA)*	39,638	7,053	28,109	27% of 6,840 projects
<b>Tourism land (TDA)</b>	137,619	NA	NA	NA
<b>Agricultural land reclamation (GARPAD)</b>	3,400,000	1,400,000	2,000,000	NA
<b>Agricultural land reclamation (West Delta &amp; South Valley Dev Holding Co)</b>	650,000	NA	NA	NA
<b>New urban community land (NUCA) *</b>	600,000 **	NA	NA	NA
<b>Total</b>	4,881,615 **	NA	NA	NA

\* Excluding millions of *Feddans* of public land under Prime Ministerial Decree No.540-1980

\*\* Only some 170,000 *Feddans* are for development. The rest are surrounding green belts for agricultural land reclamation managed by NUCA

Source: Compiled from the different public authorities and available statistics (see Volume Two for details)

- ii. **Highly fragmented legal framework governing public land management:** This complex institutional landscape is the result of an accumulation of many layers of legislation over the past four decades, and especially since the sectoral model of public land management was put to use during the 1970s. According to the Ministry of Justice, there are currently some 40 laws and decrees which directly or indirectly influence the management of public lands in Egypt (See Annex 1 for a list of these laws and a synopsis of the key legislative texts). This fragmented legal framework is not harmonized and sometimes conflicting. It is therefore particularly important to rationalize and harmonize the legal framework governing public land management in Egypt, preferably through consolidation into one unified law. It is critical that such a law starts with coherent definitions of what are public or State-owned lands, the State’s public and private domain, and the legal mechanisms for classification/reclassification as public or private domain. Currently, the two applicable laws are Law No.143 of 1981 governing “publicly-owned desert lands that are part of the

State's private domain" and Law No. 7 of 1991 with "some rulings related to the State's private domain". Both laws assign the responsibility of identifying desert lands which may not be alienated (and are thus part of the State's public domain) to the MODMP, although without mention of whether this is the only entity responsible for defining the State's public domain. In addition, both laws do not address the status of the desert lands which have not been designated as part of the different sectoral strategies (agriculture and land reclamation, tourism, housing and new urban communities, etc).

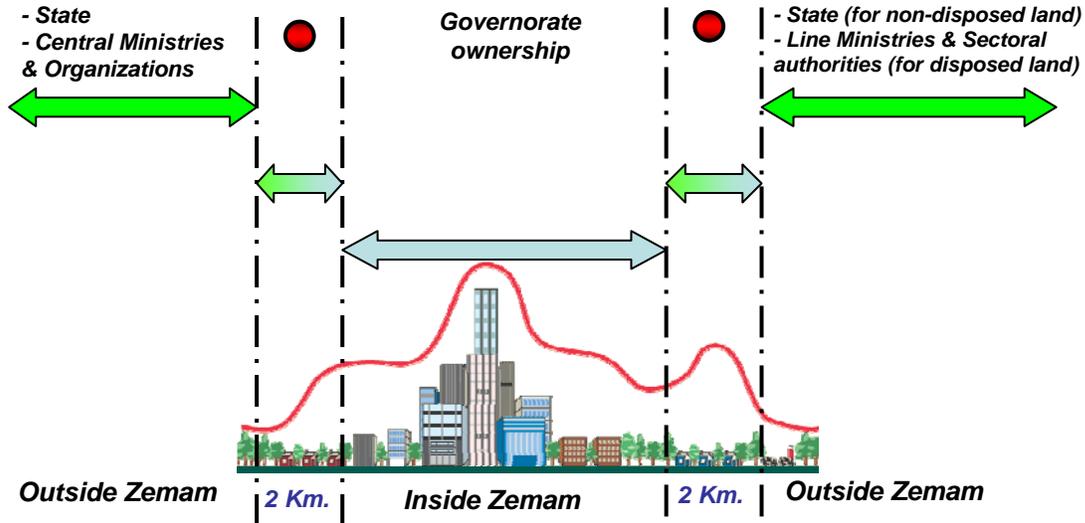
- iii. ***Lack of coherent land policy framework***: The public land management challenge in Egypt is exacerbated by the accumulation of layers of legislation reflecting old policies, which have not been updated or revised to reflect today's needs and demands for competitiveness. In effect, there is no national coherent land policy framework or a strategy governing the management of public land assets in Egypt with clearly formulated policy objectives and procedures for the disposition and valuation of public lands, and for leveraging such assets to achieve the Government's policies for investment attraction and economic growth, equity and social development, and fiscal and environmental sustainability considerations.
- iv. ***Limited reliance on market-based allocation mechanisms***: Most public land outside of the *Zimam* is allocated using administrative, non-market-based channels at State-determined prices that are often unrelated to the opportunity cost of land or even to recovery of service delivery costs. The typical method is direct allocation administered by the competent land controlling authority to individual or corporate investors in response to advertisements or submitting unsolicited requests for land. Land is allocated at pre-determined sale or rental rates set by the authority's board of directors based on input from valuation committees or specific government pricing policies designed to encourage investors through provision of below-market public land. For instance, in 2005, the average price per square meter (sqm) of serviced industrial land in new urban communities located in Lower Egypt (the northern part of the country) was further reduced from the below-market and below-cost-recovery rates of LE 140 and LE 90, depending on location, to LE 95 and LE 70 respectively. In 10<sup>th</sup> of Ramadan and 6<sup>th</sup> of October new towns, the current applicable price of serviced industrial land of LE 95 per sqm is contrasted against a market price of about LE 400-500 per sqm and an average infrastructure service delivery cost of around LE 180 per sqm. The Government offers further incentives to encourage investors to locate in Upper Egypt by granting industrial land for free on the understanding that investors will pay for their own services. Such limited reliance on market-based disposition mechanisms such as auctions means that public land is often not allocated to its most productive use and does not take into account its opportunity cost.
- v. ***Ineffective land use planning***: Authority over land use planning in State-owned desert land is unclear. Two national entities—the GOPP under the MHUUD, and the NCPSLU, affiliated with the Council of Ministers but whose Board of Directors is headed the Minister of Agriculture and Land Reclamation—have overlapping land use planning mandates (this is discussed in detail in a later section). Such overlapping mandate is expected to create significant confusion, which has not yet manifested itself since NCPSLU only started operating in mid-2005 focusing on mapping and the land information system, and thus has not yet assumed its full mandate. The current de facto division of functions between these two entities should be preserved. Indeed, their inherent strengths suggest GOPP should retain the land use planning function whereas the newly created NCPSLU would focus on the "land information system" role. In addition, the affiliation of both entities with sectoral ministries may also be perceived as a bias to agriculture or housing/urban development, whereas the planning authority's role is to objectively arbitrate

between competing land uses. Interestingly, the NCPSLU is by Law affiliated to the Prime Minister, but the latter's decision at the time of NCPSLU establishment in 2001 to delegate his authority to the Deputy Prime Minister (a position which then was filled by the Minister of Agriculture) produced a de facto situation wherein the Minister of Agriculture heads the NCPSLU Board of Directors. In addition, GOPP was also affiliated to the Prime Minister when it was first created in 1979, but it was later re-affiliated with the Ministry of Housing. Finally, planning still largely follows a supply-driven approach with little reference to demand and market dynamics, although recently, new dynamic approaches are being piloted (e.g. participatory City Development Strategy) and may be mainstreamed into a revised urban planning law.

- vi. ***Lack of integrated public land information system:*** There is no accurate up-to-date public land inventory/registry nor is such information available in the land and property registry (the existing system is dysfunctional, especially in urban areas where it is based on a person-based deed registration system which is estimated to capture only 5-10% of urban land and property). One serious implication is that control over vacant public land, especially at the urban fringe, is commonly disputed among many entities including the *Amlak* of the Governorate in which the land is located, the Ministry of Housing's NUCA, the Ministry of Agriculture's GARPAD and ARA, the *Awqaf* Ministry, the MOI through the State-owned enterprises' and holding companies' landholdings, etc, without appropriate records or with conflicting documents including multiple allocations of the same areas. Information on public land is also scattered, mostly in incomplete form, among the many public land controlling entities and where such information is available, it is usually not accessible to investors or shared with other public entities. The NCPSLU, which was set up to resolve this problem, has only started operating in 2005, and its work thus far only focuses on the inter-agency land information problem and only at a somewhat abstract national territory level. The first map that it produced was at a scale of 1:1,000,000 which provides very limited operational information. Its attempt to refine the public land information system to the 1:250,000 scale level has been frustrated by limited cooperation from most public land controlling sectoral authorities, which reportedly have not yet shared their maps requested 9 months earlier. Even if inter-agency cooperation were not an issue, given the current level of resources, NCPSLU will need another 2-3 years before the public land information system reaches a more appropriate working scale of, say, 1:20,000, which could be shared with and usable by GAFI and other authorities. As for investors seeking to obtain public land from, say, NUCA for real estate development or industrial uses, they are often "given" a parcel in the new urban community of their choice selected through an administrative decision (depending on what land is currently serviced, is available and is to be disposed of first), rather than being able to select from a map of available sites the most suitable land parcel for their project.
- vii. ***Use of unrealistic archaic boundary (Zimam) to delimit control over public land:*** The choice of the *Zimam* as the legal boundary delimiting the extent of Governorates' control over public land is unrealistic since the historically surveyed agricultural perimeter does not have any bearing on or relation with the reality of cities and built up areas (see Figure 2.2). Within the *Zimam* in governorates with agricultural hinterland or in desert governorates without *Zimam*, the reliance on city and village *Cordons* (which define the administrative jurisdictions) to delimit local government control over public land is equally problematic since *Cordons* are not updated regularly to reflect the reality of cities' growth (the city and village *Cordons* currently en force date from 1981 and 1985, and many cities in the Delta region have long expanded past their *Cordons* and sometimes past the *Zimam*). The most relevant boundary of all is the so-called *Haiez*, or urban planning/development boundary

(which gets updated with every master plan revision), but it is not relied upon and has no legal power relative to public land management or service delivery.

**Figure 2.2 A typical profile of control over public land in an Egyptian City**



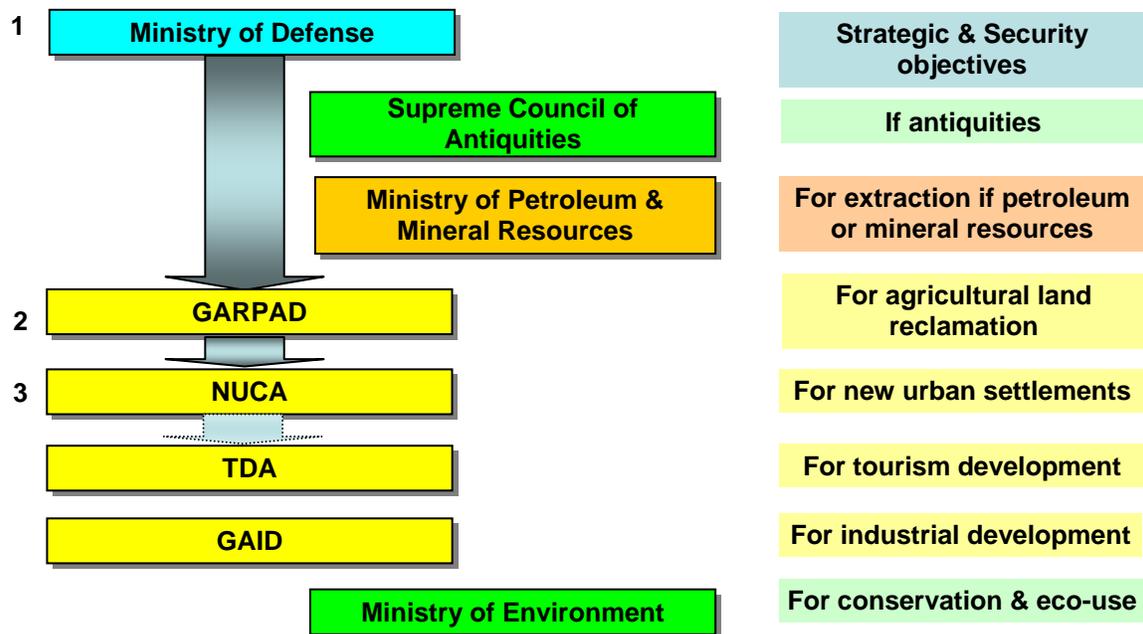
● **Under Governorate control unless if sectoral authorities have development plans**

- viii. *Outside of the Zمام, uncoordinated sectoral policies and plans among public land controlling entities:* Overall, the joint effect of a lack of an overarching policy framework and limited inter-agency coordination between the sectoral public land controlling agencies resulted in an ineffective and inefficient management of public land assets. Presidential Decree No. 152 of 2001 defined with the publicly-owned desert lands the strategic areas of military importance that may not be alienated, while Presidential Decree No. 154 of 2001 enacted a national land use map, entitled “investment opportunities in Egypt until 2017,” which identified the main landholdings of the different sectoral ministries and authorities to be used until 2017. A closer look at the map reveals that the sectoral strategies and plans underlying it do not necessarily take into account the opportunity cost of land nor do they stem from an overarching coherent economic development strategy. Often, their aim is to maximize the concerned agency’s control over public land, especially prime land along the coasts or near the *Zمام*. A case in a point is Prime Minister Decree No. 540 of 1980, which handed control over at least 300-400km of public and prime coastal land between Alexandria and the Libyan border to NUCA to establish a new urban community (this was later incrementally revised). In addition, the sectoral strategies and plans at the base of assigning control over public land among the different entities are rarely updated to reflect changing regional and local dynamics or the reality on the ground (e.g. land/site surveys). Indeed, there is no regulatory or oversight mechanism that would require a public land controlling entity to periodically reassess its strategy and accordingly readjust its public landholdings. One case mentioned by the Minister of agriculture and land reclamation is illustrative. An investor acquired 26,000 *Feddans* of public desert land for reclamation and cultivation, at a nominal price of LE200 per *feddan* (LE0.05 or USD0.01 per sqm). It was later discovered by GARPAD that the land in question was located at 150m above sea level, which meant that irrigation and cultivation were uneconomical. Yet, the site’s altitude and proximity to Greater Cairo led the investor to convert it into a real estate development project with luxury single family villas. In such a case, had there been a

mechanism to convert control over such land from the MALR to, say, the MHUUD or the Governorates and thus price the land at an urban rather than an agricultural rate, at least LE 1 billion (based on LE 7 or USD1.2 per sqm) would not have been lost to the Treasury.

- ix. *Outside of the Zimam, one-size-fits-all hierarchy for control over unallocated public land among sectoral agencies does not follow an economic rationale:* The *de jure* hierarchy of control over all publicly-owned desert land follows an across-the-board sequence that gives the upper hand to the MOMDP (to delimit strategic areas of military importance which may not be alienated), with the MALR in second place (to identify land areas falling under the national land reclamation strategy, which would be placed under GARPAD), and then the MHUUD in third place (to identify land needed for new urban communities, which would be controlled by NUCA). Relying on an across-the-board hierarchy (security, agricultural land reclamation, and new settlements) does not follow an economic rationale to ensure that any given site is allocated to its most productive use. Instead, it reflects the different ministries' political clout and an outdated set of national planning priorities that no longer appears valid today. Figure 2.3 illustrates the *de jure* hierarchy of control over public land (codified in to Law No. 143 of 1981, article 2; Law No. 7 of 1991 added to the list land for tourism development, to be controlled by the TDA, although without positioning it in the hierarchy) combined with the *de facto* position of entities such as the Supreme Council of Antiquities (preserving land with archeological values), Ministry of Petroleum and Mineral Resources (for extraction purposes), the newly created GAID (for industrial land), and the Ministry of Environment (preserving environmentally sensitive land).

**Figure 2.3 Combined de jure and de facto hierarchy of control over public desert land outside of the *Zimam***



- x. *Within the Zimam, mismatch between responsibilities of Governorates and the economic development tools at their disposal:* Governorates are mandate to deliver services within their entire jurisdiction, yet they only control public land within the already built up areas inside the *Zimam*, within city *Cordons*. This has two important negative implications: (a) Governorates are unable to influence the public land allocation decisions in urban

expansion areas of cities within their jurisdiction, and the sectoral authorities' decisions do not necessarily take into account the Governorates' local development strategies and land use plans; and (b) Governorates are unable to generate revenues from the sale/lease of the valuable public land at the peri-urban fringe, with which they could finance service delivery. With such limited decision-making power and revenues at their disposal, Governorates cannot be expected to effectively fulfill their service delivery mandate. While it may be argued that not all local governments have the capacity to undertake land use planning and manage public land and the development process, some Governorates such as Cairo and Alexandria have the requisite capacities that would enable them to effectively undertake strategic and land use planning and efficiently manage the public land allocation process.

- xi. *Within the Zimam, dysfunctional public land management practices by Governorates' State Land Protection Agencies:* A typical complain by investors is the inefficient public land management practices of the *Amlak*. Several inefficient public land management practices have been observed. First, it is not uncommon that the *Amlak* decide on uses of public land in urban expansion areas in the absence of updated master plans and prepare rudimentary plans detailing specific land uses without input from the Governorate urban planning department. Such decisions are often haphazard and their main aim is to maximize local revenues from land sales. Second, the *Amlak* often adopt ineffective land valuation practices. The *Amlak*-appointed technical valuation committee typically prices public land following a rudimentary and flawed comparable methodology which typically does not take into account the size and development potential of the land. In addition, a widespread *Amlak* approach to prices is to err on the high or excessive side, knowing that its decision would eventually be struck down by the High Land Price Appeals Committee. This places the final responsibility over pricing with the Committee's head—the Governor or Secretary General, thereby safeguarding staff from accusations of graft. The outcome, however, is a time consuming and rather discretionary process that creates a major bottleneck to investment. Third, there are no systematic public land allocation methods used by the *Amlak*, which rely on a mix of public auctions, sole sourcing and un-transparent allocations. Fourth, the allocation of public land for investment projects, as well as the regularization of land and property held informally by investors, follows complex procedures that involve three agencies—*Amlak*, ESA, and REPD—and which are typically prone to rent-seeking. In one instance in Alexandria, a large majority of investors working in the Merghem industrial area, which has developed informally since the 1970s and is estimated to have 23,000 jobs, have been trying for over two decades to regularize their land and property investment without success. Overall, the *Amlak* are often criticized by investors for not operating with the mindset of enabling investment.

#### **2.4 Sector-specific issues and challenges: Access to public land for industrial, real estate development, tourism, and agricultural investment projects**

40. An in-depth sectoral assessment was undertaken, which examined access to public land for investment purposes in each of the following four sectors: (i) industry/manufacturing; (ii) real estate development (i.e. large residential and mixed-used development projects requiring land subdivision); (iii) tourism; and (iv) agriculture. Volume Two of this Policy Note includes these sector-specific notes. The following section summarizes key sector-specific challenges and issues in terms of access to public land (See also Table 2.2):

41. ***Access to public land for investment in industrial/manufacturing projects:*** Until the recent creation of the GAID in 2005, access to public land for industrial/manufacturing investment was fragmented between NUCA (which oversees the different authorities managing the new urban communities, including their industrial zones) and the Governorates (in addition, GAFI controls land in public free zones). The fact that each of these entities had its own different procedures for public land allocation and pricing created a particularly haphazard environment for industrial development that necessitated the creation of GAID. The common features within this fragmented system are supply-driven industrial location selection and land use planning process, and a reliance on State-determined administrative pricing of land at below-market rates, irrespective of the opportunity cost of land. Administrative pricing is even at below infrastructure cost recovery levels, which further fuels speculation. Instead of relying on the market to ensure that land is allocated to those who value it the most (e.g. through auctions), the solution devised by NUCA and the Governorates was to set up a control regime and indefinitely require investors to pay a price adjustment on any change, even if minor, to the initial terms of the contract (including modifications in ownership, use, etc).

42. The existing incentives' system (including the pricing of land) reflects a bias for the government's social development policies of developing undeveloped and remote areas rather than a basis in demand or on the grounds of competitiveness. As for investors, no information is available on the different options for locating their potential projects and the different authorities they would need to deal with, nor is there information or maps on the available sites with a given location. Another difficulty faces those investors seeking to secure adjacently-located industrial land for future expansion. By Law, land parcels that remained undeveloped for three years are repossessed by NUCA, which forces investors who are sure of their need to expand in the future to secure the land in advance and start building ahead of the need to expand so that the land is not repossessed. Some investors whose projects grew over time were forced to relocate their entire operation to a new site at a great cost to them as they did not foresee expansion.

43. ***Access to public land for investment in agriculture and land reclamation projects:*** Access to public land for agriculture and land reclamation investment projects is administered by the GARPAD, which was established in 1975. By Law, this applies outside of the *Zimam* and within 2km from the *Zimam* (where public land is under GARPAD control) as well as inside the *Zimam* (where Governorates control land). Egypt's 2017 investment opportunities map vested GARPAD with control over 3.4 million *Feddan*, some 70% of all the public land area controlled by the five main sectoral authorities. Unfortunately, GARPAD lacks the land information system and management tools and capacity needed to efficiently manage such huge stock of public land. In addition, GARPAD, with an outstanding debt of LE18 billion (USD 3.1 billion) to the National Investment Bank, is in a difficult financial situation that curtails its ability to deliver off-site infrastructure or strengthen its management capacity.

44. Several cases of public land allocated by GARPAD in accordance with the National Land Reclamation Strategy were later found by investors to be unsuitable for agriculture and, in some cases, investors converted the projects to urban uses and derived major windfall profits due to the significant price differential between agricultural and urban land. Many investors also complain that available desert land for agricultural reclamation projects tends to be poorly located relative to labor force concentration and markets, and often comes with problems in terms of sufficient availability of irrigation water.

45. The many laws and decrees governing GARPAD activities introduce many differentiated, complex and sometimes unclear and contradictory procedures for land allocation and pricing. On the one hand, public auction is the primary disposition procedure, yet on the other hand, the Law

allows the Board of Directors to dispose of public land administratively without advertisement based on prices set by the Higher Committee for State Land Valuation. This includes allocation to eligible entities specified in the Law, including Governorate residents, former armed forces staff and civil servants, small farmers, young graduates, and projects of national significance. The administrative method was used to allocate more than 700,000 *Feddans*, but this loophole has reportedly been closed since 2003 after mainstreaming the application of Law no.89 of 1998 on Public Tenders.

46. ***Access to public land for investment in real estate development projects:*** Public land for real estate development projects is controlled by NUCA and the Governorates, respectively for outside and inside of the *Zimam*. In new urban communities, investors deal with independent authorities without the need to seek clearances for the allocation decision from such government entities as MODMP and antiquities. Such clearances in the case of Governorate-controlled public land prove to be a major investment constraint. NUCA disposes of public land administratively (usually with an advertisement) through *Takhssiss* or conditional transfer of ownership at below-market prices, but which often cover the cost of service delivery. Investors complain that NUCA has a fixated price mindset and charges high prices for land. In reality, in the few instances where strategic parcels were auctioned, they fetched prices that were more than 300% the administrative prices. Investors also complain from a requirement for indefinite payment of administrative price differentials in case of any modification to the initial terms and conditions of the contract.

47. NUCA has cumulatively and over time developed complex, unclear and un-transparent land allocation procedures and development regulations. Recently however, NUCA has adopted new approaches to promote public-private-partnerships, including a land-for-equity-swap. In this approach, NUCA enters into partnership with developers using the value of serviced public land as its contribution and in return receives housing units that it allocates on affordable terms. Such approaches are viewed as innovative but are at the same time criticized for lacking transparency and lacking rules and regulations to govern the land valuation and deal structuring process.

48. The selection of new urban communities' location has in the past tended to be a political decision rather than based on market or technical considerations. Land use planning has typically been supply-driven with little gauge for demand. These factors explain why only 5 out of 20 new urban communities are deemed successful, those around Greater Cairo Region and Alexandria. In these areas, an unhealthy competition has been observed between NUCA and Governorates in terms of public land allocation for real estate development. One example is the excessive supply of public land for real estate development in the Greater Cairo Region through the competition between NUCA and Cairo and Giza Governorates, each of which has its different procedures and prices even if the sites are very closely located. The same unhealthy competition has emerged between NUCA and Alexandria Governorate's *Amlak*.

49. ***Access to public land for investment in tourism development projects:*** The TDA, created in 1991, was granted a broad mandate to promote tourism development. It was delegated control over 578 square kilometers of publicly-owned prime land stretching along the Red Sea and Mediterranean Sea coasts and Aqaba Gulf, and was given sole power over the land allocation and development process. Despite such measures to streamline the tourism development process, the TDA Board of Directors has itself created a bottleneck to the process by requiring all investors to obtain security clearance from the MOMDP (sometimes from Governorates where the MOMDP has delegated to them such authority). This step that has proven to be the main bureaucratic bottleneck in the entire process. In addition, significant tensions exist between TDA and the Governorates which find themselves deprived of control over their prime coastal lands,

and consequently of a major potential source of revenues for local service delivery, in TDA's favor. This has acted as a disincentive for governorates to cooperate with TDA.

50. Similarly, some tensions are found between TDA's tourism development role and EEAA's environmental conservation mandate, which are attributed to a lack of an overall tourism development strategy balancing the objectives of environmental sustainability and economic growth. Such tensions have prevented the development of over one-third of the public land stock under TDA control. TDA has also imposed strict land development guidelines and its monitoring of project compliance is sometimes perceived as rigid. Yet, notwithstanding such issues, interviewed investors rate their experience with TDA as overall positive and view the authority as efficient with experienced staff. To its credit, in the 14 years since its establishment, TDA has facilitated the development of some 50,000 hotel rooms, a third of Egypt's total capacity. TDA's Board is also credited for taking rapid mitigation measures during periods of crises to the tourism industry, as it did by postponing payments due from investors in Sinai who were affected by the 2004 terrorist attacks.

**Table 2.2 Key issues related to access to and development of public land for different investment sectors**

	<b>Agricultural/land reclamation use</b>	<b>Industrial/manufacturing</b>	<b>Tourism</b>	<b>Real estate development</b>
Ownership restriction by nationality *	For agriculture and land reclamation projects established under Investment Law No.8 of 1997, no restrictions exist on land ownership by foreign entities. Previously, individuals needed to be Egyptian (Arab nationals needed a Presidential Decree) and Companies needed to be 51% owned by Egyptians.	For industrial/manufacturing projects established under investment Law No.8 of 1997, no restrictions exist on land ownership by foreign entities.	For resorts, hotels, motels and tourist rental apartment projects established under investment Law No.8 of 1997, no restriction exists on land ownership by foreign entities.	For unfurnished rental housing and infrastructure projects established under investment Law No.8 of 1997, no restrictions exist on land ownership by foreign entities. Real estate development projects as well as business parks are not listed in the investment law's positive list, so it is unclear how these are treated (possibly as infrastructure projects).
Maximum landholding size restriction	If underground/modern irrigation technique: <ul style="list-style-type: none"> <li>• 200 Feddans/individual and 300 Feddans/household</li> <li>• 10,000 Feddans/cooperative and 30 Feddans/member</li> <li>• 10,000 Feddans/partnership or limited co. and 150 Feddans/member</li> <li>• 50,000 Feddans/joint stock Co.</li> </ul> If surface/traditional irrigation technique: <ul style="list-style-type: none"> <li>• Half of the above-limits</li> </ul>	There are no <i>de jure</i> restrictions on landholding size. Parcel sizes are predetermined in detailed plans, but it may be possible to assemble larger parcels depending on the relevant government entity's flexibility. In new urban communities, investors cannot reserve in advance parcels needed for future expansion since undeveloped parcels for 3 years are by law repossessed. Investors with gradual expansion plans may not be able to obtain adjacent parcels.	There are no <i>de jure</i> restrictions on landholding size. Land is disposed by TDA in two main size categories: <ul style="list-style-type: none"> <li>• Land parcel under 500,000 square meters for a limited tourism development project</li> <li>• Land parcel above 500,000 square meters for integrated tourism development project</li> </ul>	There are no <i>de jure</i> restrictions on landholding size. For large parcels, <i>NUCA Technical Affairs Sector</i> is responsible of disposition. Location is chosen by investor or by NUCA if no land is available in selected location or if investor does not have specific location preference.  For small land parcel, the Real Estate Committee within each new city headed by the head of New City Agency decides the allocation of land.  In both cases, the size of land parcel released is decided based on: <ul style="list-style-type: none"> <li>• Availability of land within the investor's preferred new city,</li> <li>• Investor's past experiences in real estate development</li> <li>• Investor's financial capabilities</li> <li>• Type of real estate or development projects (i.e. villas,</li> </ul>

	<b>Agricultural/land reclamation use</b>	<b>Industrial/manufacturing</b>	<b>Tourism</b>	<b>Real estate development</b>
				residential blocks, for high or middle class),
Method of allocation	<p>Desert lands, reclaimed &amp; cultivated: Auction or Administrative allocation using advertisement, eligibility and priority criteria</p> <p>Desert lands, not reclaimed but part of national strategy: Administrative allocation with advertisement</p> <p>Desert lands, not reclaimed and not in national strategy: Administrative allocation without advertisement</p>	<i>Takhssiss</i> through administrative allocation with or without advertisement	<p>Earlier, direct Sale, lease or <i>Intifa'a</i> to investor. In case of lease or <i>Intifa'a</i>, the duration of the contract should not exceed 25 years and to be renewed with new terms and conditions.</p> <p>Since 2004, TDA board has set the rule of "financial Suitability" for land disposition and replaced direct selling/leasing contract with administrative allocation decree that remains valid until full payment of land price. This mechanism has enabled the cancellation of any decree in case the investor failed to develop the project according to submitted time schedule.</p>	<p><i>Takhssiss</i> through administrative allocation with or without advertisement. It is also allowed to give concession for infrastructure and projects in new urban communities according to the following procedures;</p> <ol style="list-style-type: none"> <li>The selection of beneficiary should be in a framework of transparency and competition</li> <li>The <i>Intifa'a</i> period should not exceed 40 years from signing the contract</li> <li>The share of the beneficiary in the net profit should not exceed 20% from the total allocated and permissible capital</li> <li>The excess in net profit can be used as special reserve for years where net profit is less than 20%. The excess can also be used to improve and extend the infrastructure or reduce prices according to NUCA decision.</li> <li>A decree concerning the <i>Intifa'a</i> would be issued by the cabinet based on NUCA board decision in case the allocated and permissible capital does not exceed 10 million Egyptian pounds. Apart from this case, a law should be issued for giving the concession or</li> </ol>

	<b>Agricultural/land reclamation use</b>	<b>Industrial/manufacturing</b>	<b>Tourism</b>	<b>Real estate development</b>
				<p>commitment.</p> <p>f. It is allowed for NUCA board to exempt projects related to national economic development from concession (intifa'a) right based on a decree for the cabinet.</p>
Eligibility for administrative allocation	<p>Individual allocations (decision by Chairman according to rules set by Board of Directors): Priority for Governorate residents who are:</p> <ol style="list-style-type: none"> <li>1. Former armed forces or families of martyrs/wounded (3-6 Fed.)</li> <li>2. Small agricultural laborers (3-6 Fed.)</li> <li>3. Graduates of universities and technical institutes (6-10 Fed. for higher education and 4-8 Fed. for intermediate education)</li> <li>4. Former civil servants in government or SOE (5-10 Fed., 4-8 Fed. and 3-6 Fed. depending on grade level)</li> </ol> <p>Projects of national significance: decision by Council of Ministers following Minister's request</p>	<p>Companies with different legal forms (joint stock, LLC, etc), registered in the commercial registry and tax directorate. The company should show the approval from the Ministry of Industry and/or GAFI for projects falling under Investment Law No.8 of 1997 together with EEAA approval on project establishment and in several locations, the approval of MODMP is imperative.</p>	<p>In both cases of limited or integrated tourism development projects, the investor should be in a form of an Egyptian share-holding company with a capital not less than 50% of the total investment costs of the project.</p>	<p>NUCA is allowed to have direct contract with individuals, firms, banks, international and national organizations according to its internal bylaw.</p> <p>No privilege in developing real estate projects for low or middle income class. The same procedures, prices and conditions are applied for all types of real estate development without distinction among different categories.</p> <p>New PPP mechanism for encouraging low income housing development such as free housing, family housing etc..</p>
Allocation terms and conditions	<p>Lease-ownership. Lease rate set by Higher Committee for State Land Valuation. 3-year lease converted to ownership upon proof of investor's seriousness (unclear but implies substantial project or infrastructure completion, etc) at predetermined price at pre-improvement level</p>	<p><i>For Industrial zones in New Communities or Inland zones:</i></p> <p><i>Takhssiss</i> (i.e. conditional transfer of ownership) converting to ownership upon payment of price installments and completion of construction/start of operation (both timed at 3 years). Price set by Presidential Decree and/or NUCA/Governorates' Valuation</p>	<p>Since 2004, the procedures of land disposition are as follows:</p> <ul style="list-style-type: none"> <li>• New approvals would be based on financial base and previous experiences of investors,</li> <li>• The investment companies should complete their financial, technical and legal aspects before the formal decree for final allocation</li> </ul>	<p>Lease, Sale, <i>Takhssiss</i></p> <ul style="list-style-type: none"> <li>• The investor should pay LE 1000 to show seriousness of his request,</li> <li>• The investor submit in his request the type of project intended to be developed,</li> <li>• The establishment contract for the company created for the</li> </ul>

	Agricultural/land reclamation use	Industrial/manufacturing	Tourism	Real estate development
		<p>Committee. Investors are required to pay administrative price differential for any change in the contract terms, without time limitation.</p> <p><i>For Public Free Zones (FZ)</i> Lease from GAFI for a 25-year renewable period for an annual rate of US\$3.5 per square meter for industrial projects and US\$7 per square meter for storage and service projects.</p> <p><i>For Special Economic Zones (SEZ):</i> Lease from the SEZ Authority for a 50-year renewable period in return for an annual payment to be determined by the SEZ Authority.</p>	<p>of land is issued,</p> <ul style="list-style-type: none"> <li>• Canceling all approvals granted to investors who failed to proof their seriousness in developing the land or failed to pay their financial commitments against land allocation,</li> <li>• Giving several grace periods for those investment companies as long as implementation of their development projects are going on with reasonable degree or unforeseen events have taken place that caused delay in progress,</li> <li>• Revisiting the cancellation decrees upon formal request from investors if these requests are accompanied with clear financial and implementation time schedules.</li> </ul>	<p>project,</p> <ul style="list-style-type: none"> <li>• A preliminary feasibility study including time schedule for project implementation,</li> <li>• Approval of GAFI or any concerned authority based upon the type of the project in case this approval is obligatory,</li> <li>• Initial estimates of required infrastructure for the project,</li> <li>• A commitment to pay the remaining amount of the down payment (25% of total land price) within one month from acquiring the approval for his request,</li> <li>• The remaining price of land (75%) to be paid through annual installments (in a period of three years without interest rates – in some cases these period has been adapted to be between 4-5 years and reached even 9 years in new cities in South Egypt)</li> <li>• In all cases, administrative fees are levied by NUCA to issue the Takhssiss decree for land allocation. These fees should not exceed LE. 2000 for small Real Estate land (less than 5feddans). For land allocated for industrial, services or commercial uses, the administrative fees would be 1% from the total price of land or LE. 1000 (the larger would be</li> </ul>

	<b>Agricultural/land reclamation use</b>	<b>Industrial/manufacturing</b>	<b>Tourism</b>	<b>Real estate development</b>
				applied).
Land pricing and method	Administrative pricing: LE 50-200 per feddan	<p>Administrative pricing: LE50-125 per sqm of serviced land in NUCA-managed industrial zones.</p> <p>In the so-called inland zones (developed by Governorates), land prices vary in Lower Egypt between LE25-280 per sqm depending on location and level of services.</p> <p>Presidential Decree No. 158-2001 gave investors land for free in Upper Egypt (which prevented Governorates from providing services)</p>	<p>USD 1 per <i>sqm</i> for unserviced land. The investor pays 2% of the total land price for initial allocation completed to 20% for formal land allocation and land delivery in addition to 5% of the total cost as contract expenses.</p> <p>The remaining 80% of the land price is paid on 7 years in form of annual installments with 3 years grace period.</p> <p>Prime Ministerial Decree No.1026-2005 enables the investors owning integrated development project to sell some parts of the land after providing it with infrastructure with the condition that at least 25% of the land is provided with infrastructure together with the implementation of a pilot project. In this case, TDA is entitled to get the following compensation:</p> <ul style="list-style-type: none"> <li>• if the investment company disposed the land for hotel development, TDA would get 1.75 USD per each square meter sold</li> <li>• If the land is disposed for developing a project (tourism housing or services, administrative, recreational or commercial) or for developing units for those mentioned</li> </ul>	<p>Administrative Pricing in each new city is defined through the main land valuation committee within NUCA according to the prevailing prices in the city or through updating old prices based on a recent public auction that took place in the city.</p> <p>For large real estate projects, price of land ranges from LE. 180 to 250/sqm.</p> <p>For small or individual land parcel with an average area between 400 to 1000 sqm, the price ranges from LE. 400 to 1000/sqm.</p>

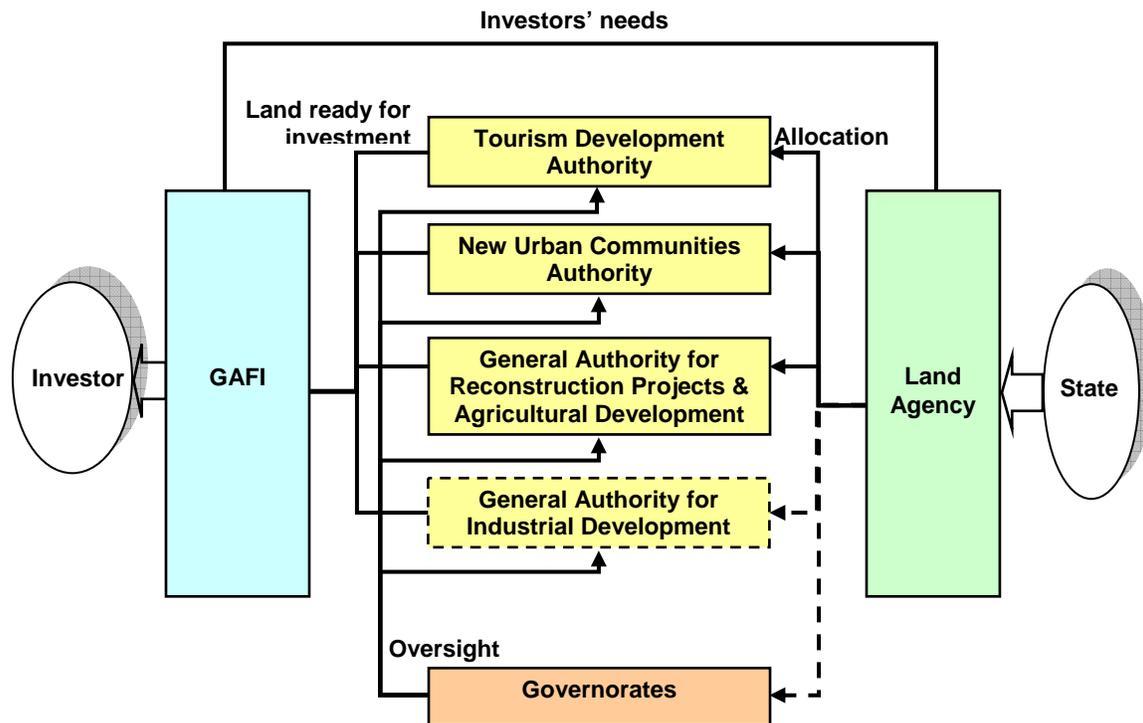
	<b>Agricultural/land reclamation use</b>	<b>Industrial/manufacturing</b>	<b>Tourism</b>	<b>Real estate development</b>
			purposes, TDA would get 5 USD per square meter of constructions. The new land owners or beneficiary would be committed with all similar obligations and commitments assumed upon the original owner.	
Key governing law(s)	<ul style="list-style-type: none"> <li>- Law No.143-1981</li> <li>- Law No.19-1984</li> <li>- Reconstruction, Housing and Land Reclamation Minister Decree No. 198-1982</li> <li>- Agriculture and Land Reclamation Minister Decree No. 290-1990</li> <li>- Law No. 7-1991</li> <li>- Law No.5-1996</li> <li>- Prime Minister Decree No.2903-1995</li> <li>- Prime Minister Decree No.2906-1995</li> <li>- Prime Minister Decree No.2907-1995</li> </ul>	<ul style="list-style-type: none"> <li>- Law No. 43-1979</li> <li>- Law No. 59-1979</li> <li>- Law No.3 of 1982</li> <li>- Law No. 8 of 1997</li> <li>- Prime Ministerial Decree No. 2904-1995</li> <li>- Presidential Decree No.158-2001</li> <li>- Law No. 83-2002</li> <li>- Presidential Decree No.350-2005</li> <li>-</li> </ul>	<ul style="list-style-type: none"> <li>- Law No. 59-1979</li> <li>- Prime Minister Decree no. 540, 1980</li> <li>- Law No. 7-1991</li> <li>- Presidential Decree No. 374, 1991</li> <li>- Presidential decree No. 445, 1992</li> <li>- Prime Minister Decree No.2908-1995</li> <li>- Prime Minister Decree No.1026-2005</li> </ul>	<ul style="list-style-type: none"> <li>- Law No. 59-1979</li> <li>- Law No. 43-1979</li> <li>- Law No.143-1981</li> <li>- Law No. 7-1991</li> <li>- Law No.5-1996</li> <li>- Prime Ministerial Decree No. 580-1980</li> <li>- Prime Ministerial Decree No. 2904-1995</li> </ul>

\* Investment Law cancelled ownership restrictions to foreign nationals.

## 2.5 Government efforts to reform public land management in Egypt

51. Since the appointment of a new Cabinet in July 2004, the GOE has put access to public land, as well as the other key land sector challenge, namely urban land and property registration, as a pressing priority for policy reform in the aim of addressing one of the most severe obstacles to doing business in Egypt. The MOI led the effort, working closely with the Prime Minister's office and the MOIT. The GOE's reform plan, illustrated in the following diagram (See Figure 2.4), focuses on three main reforms. The first measure is to establish an entity that would rationalize and harmonize the supply of public land from the State to the different government entities. The NCPSLU was established by Decree in 2001 for this purpose, but it only became operational in 2005. The second measure was to establish the GAID, a sectoral authority that would consolidate control over industrial land (previously scattered between the different Governorates and NUCA) and harmonize/streamline access to industrial land. The third measure focuses on the demand side, by positioning GAFI to enable investors to access public land through its one-stop-shop facilities. GAFI established a one-stop-shop in its Cairo headquarters and three regional investor service complex facilities in Alexandria, Ismailia and Assiut. The regional facilities were officially inaugurated in 2005, but their focus is still primarily on facilitating investment project licensing and obtaining operating permits. Enabling investors to access public land is still not a fully functional service. The following sections focus on the establishment and role of NCPSLU and GAID.

**Figure 2.4 Government of Egypt public land management reform plan**



Source: Ministry of Investment

### **2.5.1 The establishment and role of the NCPSLU**

52. NCPSLU was established by Presidential Decree No.153 of 2001 to resolve the problem of lack of (exchange of) information on public land and the limited coordination and exchange of information between the different public land controlling entities, which among other things led to many disputes related to control over public land. The decree placed the new authority under the Prime Minister, who chairs its Board of Directors, in which are represented 17 government ministries and authorities. A subsequent Prime Ministerial Decree No. 467 of 2005 stated the composition of the Board of Directors as follows: Minister of Agriculture and Land Reclamation as Chair (this is discussed later), the directors of NCPSLU and Military Survey Department, and representatives of the Ministries of: Defense and Military Production; Culture; Housing, Utilities and Urban Development; *Awqaf*; Irrigation and Water Resources; Interior; Petroleum and Mineral Resources; Power and Energy; Civil Aviation; Planning and Local Development; Environment; Transport; Communications and Information Technology; Agriculture and Land Reclamation; Investment; and Tourism (interestingly, the decree does not list a representative from the MOIT).

53. NCPSLU is mandated with important responsibilities as follows:

- (i) Inventory all public land outside of the *Zimam* and prepare general plans for its development and use in accordance with State policies;
- (ii) Prepare land use maps for public land outside the *Zimam* for all uses/purposes after coordination with MODMP;
- (iii) Prepare for each ministry a map with the [public] lands earmarked for its activities, over which the ministry will have full authority over their allocation and oversight responsibility for their use, development and disposition;
- (iv) Inventory/consolidate annual land use and development plans and programs for each ministry and the budgeted revenues and expenditures for land development;
- (v) Coordinate between ministries in issues of land pricing, disposition mechanisms, collection of sales proceeds, and protection of public lands;
- (vi) Ensure that the Treasury receives the net revenues from development of the land that has been earmarked to each ministry;
- (vii) Coordinate with MODMP on land use planning for public land outside of the *Zimam*;
- (viii) Participate in the identification and selection of the necessary sites for the State's new major infrastructure projects (highways, airports, railroad, ports, SEZ, etc) and coordinate between the different government entities on land uses in these sites;
- (ix) Prepare studies for public lands outside of the *Zimam* that have no planned uses, and prepare technical and environmental studies for public land outside of the *Zimam* in cooperation with the concerned ministries and authorities;
- (x) Keep all documents and information concerning public lands outside of the *Zimam*, the amount of land that has been allocated to each ministry, the annual stock of land that has been allocated by the ministries, and the remaining unallocated land stock;
- (xi) Prepare detailed maps for land use plans of public lands outside of the *Zimam* based on the general master plan;
- (xii) Document city and village *Cordons* and study their expansion and modification (both for governorates with desert and without desert hinterland);

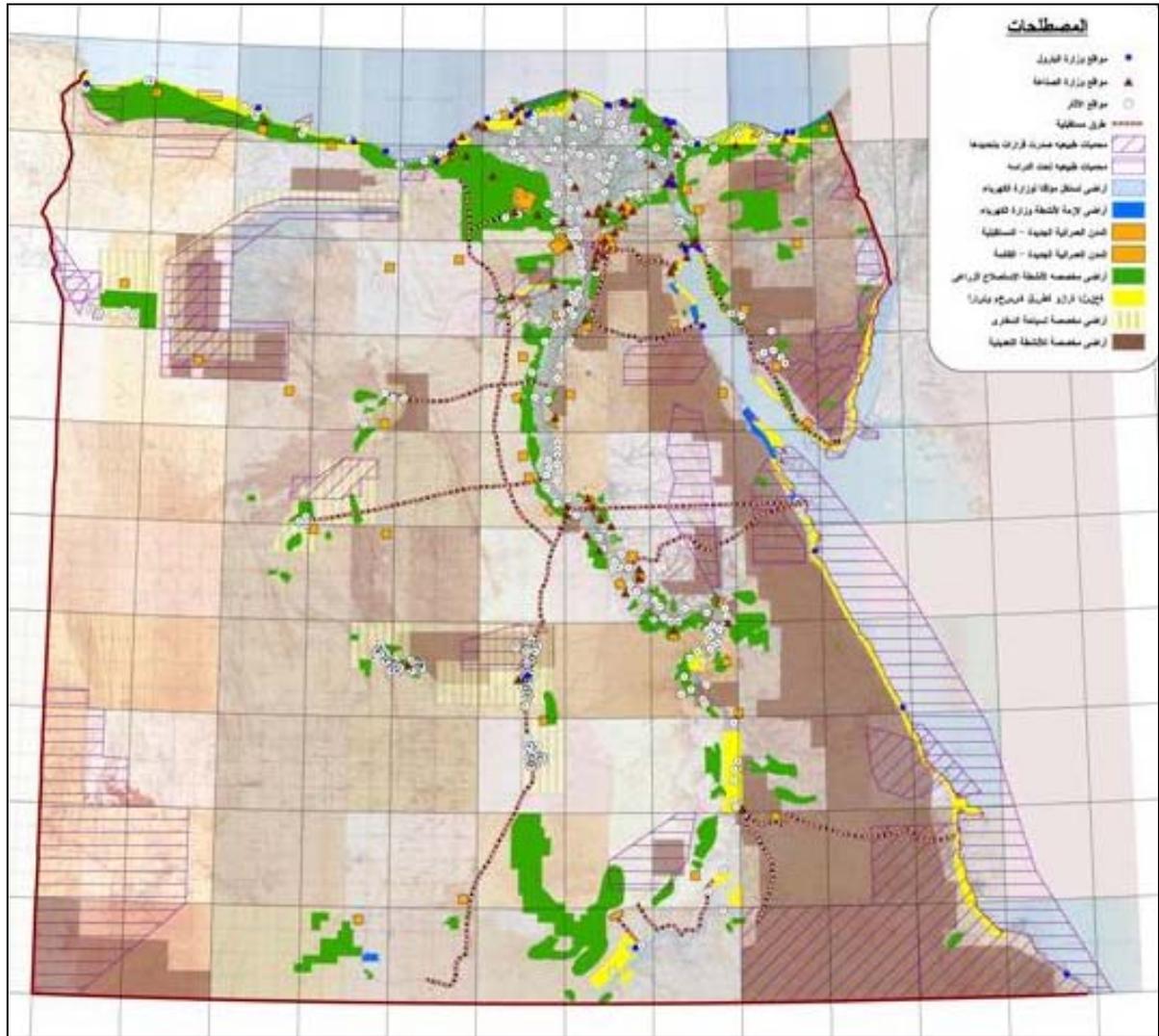
- (xiii) Assist the concerned government entities [i.e. ESA and Ministry of Justice’s REPD] in implementing the title registration (“*sejel ainee*”) system; and
- (xiv) Advise on conflicts over land and jurisdiction arising between different government entities (local governments, ministries, authorities, etc) or between them and individuals.

54. Despite the issuance of the decree in 2001, NCPSLU only become operational in late 2004 early 2005. After a wait of six months to receive maps from the public land controlling authorities, NCPSLU developed the first coherent map of the Egyptian national territory which consolidates all areas assigned to the different government entities with control over public land (except MODMP). This map, entitled “Investment Opportunities in Egypt until 2017,” was first officially enacted in 2001, through Presidential Decree No. 154, as the guide to all public land allocation to government authorities outside of the *Zimam*. The accuracy of the resulting map, at 1:1,000,000 scale, is however very limited as the public land areas controlled by the different government authorities are only schematically designated (see figure 2.5). NCPSLU has already embarked on developing a larger map at 1:250,000 scale (which would still be too abstract) but the center reports very limited cooperation from the different public land controlling authorities, which are not “sharing their maps” (it is unclear if all the entities actually have consolidated or accurate maps). It is also clear that the human and financial resources available at NCPSLU are not commensurate with its important mandate.

55. One of the commendable efforts by NCPSLU was to map the Nature Conservation Areas that have been officially protected from development, other environmentally sensitive areas that are currently under study, as well as the locations in which polluting projects may be located (in conjunction with the Egyptian Environmental Affairs Agency).

56. Interestingly, the mapping process by NCPSLU has uncovered some of the overlaps in geographic jurisdiction among government entities that have been assigned control over public land through Presidential Decrees spanning the past few decades. Uncovering such overlaps is the first step leading to a mediation process among the conflicting government entities to sort out ownership and control. The one key problem that NCPSLU has not tackled (yet) is the issue of trust land under the Ministry of *Awqaf*. This problem is of unknown dimensions, as the *Awqaf* ministry has never registered its lands with the REPD. Many of the *Awqaf* deeds of trust are in effect handwritten poorly preserved documents or *Hujja* that date as far back as the 18<sup>th</sup> century. Such confusion has caused several problems with Governorates and MHUUD, which discover after financing the necessary infrastructure for land development schemes that the public land that they were planning to sell/lease is controlled by the *Awqaf* (this was recently the case with many segments of the International Coastal Road, built by MHUUD). The issue of *Awqaf* land, while out of the scope of the study, is critical and requires urgent and prompt intervention.

Figure 2.5 Egypt Investment Opportunities Map until 2017



Source: NCPSLU, 2004 (provided by GOPP)

57. Notwithstanding the commendable objective underlying the establishment of NCPSLU (in light of the fragmentation of land control and lack of information, and problems that were uncovered over the transfer of control over land between the different public authorities), there are several issues related to the authority's establishment, mandate and oversight. The first issue deals with the sectoral influences over NCPSLU. The NCPSLU board of directors (appointed by the Prime Minister), while gathering representatives from 17 ministries with control or a stake in public land management, is chaired by the Minister of Agriculture and Land Reclamation. This appointment goes back to 2001 when the Prime Minister delegated his function as chair of the Board to the Deputy Prime Minister's level. The position was then occupied, although no longer is, by the Minister of Agriculture and Land Reclamation who has retained the post since then. This leads to a perception of sectoral control over NCPSLU against the Law's (rightly-conceived) intent of affiliating it at a level above the line ministry, which in part explains the sub-optimal cooperation from other sectoral line ministries and authorities. The selection of the NCPSLU director is also sectorally-influenced; the position is appointed by the Prime Minister acting on the Minister of Defense's recommendation.

58. One of the reasons behind creating such an entity is to fulfill the role of clearinghouse over the transfer of control over public land from the State to the different sectoral authorities for specific land use development. By Law, this "classification of public land as private domain of the State" requires close coordination with MODMP. Having the center closely affiliated with the MOMDP therefore allows to keep military information undisclosed, which is certainly a valid reason. The issue, however, is the expansion of the mandate of NCPSLU from its basic function as clearinghouse for public land classification and transfer of control to public authorities to include land use planning. NCPSLU thus fact follows the Egypt Investment opportunities map, a schematic national land use plan developed in 1997 with 2017 as the target year. However, it has no planning capacity to regularly revise and update such a plan in light of any future changes in Government priorities and policy objectives. In fact, NCPSLU's responsibility of developing a public land information system is already in of itself a daunting task that requires focus in light of the center's limited human and financial resources.

59. More importantly, such an expanded mandate for NCPSLU has created a strong overlap with the MHUUD-affiliated GOPP. The urban planning Law No. 3 of 1982 mandated GOPP with formulating national urban development strategies and land use plans, and providing technical assistance to and overseeing local governments in urban and land use planning activities, or undertaking itself such activities if no capacity existed. As such, it is unclear whether the two authorities are meant to co-exist, cooperate, or if they become mutually exclusive. And since the mandate of GOPP has not been downsized or revised since the creation of NCPSLU, this situation is equivalent to having added yet another additional government body in an already complex public land management system, which further exacerbates the already daunting challenge of coordination. This is not to say that the role of NCPSLU is not needed. Quite the contrary, but the idea is for NCPSLU to retain its core clearinghouse role in public land classification and allocation to public authorities (through coordinating with the military and maintaining an accurate and updated public land information system) and enhance coordination with GOPP. The latter, which would need to be re-affiliated with the Prime Minister's office as it once was during the 1980s when it was first established. GOPP would be responsible for coordinating between the different line ministries and sectoral authorities, in addition to its existing role and long established experience of preparing national urban development strategies and land use planning.

60. Finally, one of the important responsibilities attributed to NCPSLU in the decree is to ensure that the Treasury receives the revenues from the development of public land assigned to each Ministry. The laws establishing and regulating the different sectoral authorities (GARPAD, TDA, NUCA, etc) authorized them to retain the proceeds from the sale/lease of public land that has been assigned to them. It is unclear whether this decree supersedes past legislation or refers to a different issue. The decision of who gets the proceeds from the sale/lease of public land is a very contentious issue that has not yet been addressed and it is very doubtful that NCPSLU could implement it, especially since the sectoral authorities have (not surprisingly) been withholding the maps and inventories of the public land they control.

### ***2.5.2 The Establishment and role of General Authority for Industrial Development (GAID)***

61. The GAID was created by Presidential Decree No. 350 of 2005 as an economic authority affiliated with the MOIT. GAID is mandated with the following responsibilities:

- (i) Review and propose improvements to legislation related to industrial development;
- (ii) Prepare sectoral and geographical studies and plans for industrial development and monitor their implementation;
- (iii) Set general policies and plans to develop industrial zones in coordination with the Governorates and concerned government agencies, and authorize the establishment of new industrial zones or expansion of existing ones, including those established and managed by Governorates, other authorities or the private sector;
- (iv) Identify public lands to be allocated for industrial uses in coordination with NCPSLU;
- (v) Develop the regulatory framework, and enabling terms and conditions for private sector participation in the establishment, service delivery, operation of industrial zones, and making land available to investors;
- (vi) Identify industrial activities to be implemented in industrial zones in coordination with EEAA, governorates, other concerned public authorities and the private sector;
- (vii) Set the regulations and conditions governing the use and pricing of industrial land, and cooperate with the entities (governorates, public authorities, and the private sector) responsible for service delivery for and management of industrial zones on enabling investors to access land relying on the GAID's Industrial Land Fund;
- (viii) Define rules, requirements and necessary approvals for industrial projects, register the projects in the industrial registry, and delegate relevant entities in issuing approvals and licenses.
- (ix) Issue licenses for projects established outside the industrial zones only where necessary and according to the standards and conditions determined by GAID executive board;
- (x) Monitor and enforce regulations in industrial zones and licensed projects in coordination with the governorates;
- (xi) Promote the industrial zones and projects in cooperation with GAFI;
- (xii) Set general rules and requirements for investor support in industrial activities relative to such characteristics as production, operation, and export.

62. The decree also creates a Fund under GAID, named the Industrial Land Fund, to provide incentives for the establishment and development of industrial zones in Egypt, by subsidizing the price of land for industrial activities to increase the competitiveness of the zones and their ability to attract investment. The specific modus operandi of this Fund is, however, not defined in the decree.

63. Directly after the creation of GAID, negotiations started between the MOIT and the MHUUD over the management of industrial zones in new urban communities. It is not yet clear

what agreements will come out of these negotiations (whether on a management framework or transfer of the industrial zones to GAID).

64. Overall, the decree's underlying policy objective of creating GAID as an umbrella institution to regulate and facilitate industrial zone development and management is an excellent first step, especially in light of Egypt's past industrial zone experience. Only a handful of the 80+ Governorate and NUCA-established industrial zones are considered successful (See Volume Two for detailed statistics). This limited success is attributed to: inappropriate site location (often reflecting political rather than technical and economic considerations); poor design and development practices; inadequate coordination and lack of effective partnerships between zone developers and relevant authorities for delivery of off-site infrastructure; and reliance on administrative pricing of industrial land at below market prices, which acts as a disincentive for Governorates to finance service delivery and appropriate maintenance of infrastructure.

65. The main deficiency with the decree, however, is that it lacks sufficient detail (it is only four pages long), which could result in a confusion of mandates, authorities, or functions among tenants, site developer/operators, and the array of state agencies that may or may not be required to fulfill a particular function. The decree could and should be improved with more precise drafting, more detailed provisions and the removal of existing uncertainties. The following are the key issues which should be addressed in a revision process:

66. *Breadth of the authority's mandate and relationship, clarity of jurisdiction and coordination with other entities in the institutional landscape:* The decree creates a powerful agency with a broad mandate and vests it with a great degree of independence. This promises to create an effective institution provided that its mandate is clarified and properly coordinated with that of other authorities, especially GAFI, GOPP, and governorates. The broad policy, planning, site designation/allocation, and development control functions assigned to GAID will give it significant latitude if they indeed consolidate and supersede the normal industrial planning framework(s) at different levels of government in Egypt. If this is the case, the main issue will be how to coordinate land use planning for industrial and other competing uses with the different authorities. If this is not the case, then the decree will have added yet another layer to the overall policy, planning and institutional framework. The decree also empowers GAID to put in place systems for developing industrial land and making it available for investors, which are two very distinct functions. A more appropriate role for GAID is to set the overall policy and regulatory framework for access to and development/operation of industrial zones as well as flexible zoning guidelines for industrial land development, while the specifics (such as land prices/lease rates to investors or what specific industries should locate where) should be left to the private sector industrial zone developer/operator. Finally, project licensing and investment marketing functions further add to GAID's already broad mandate and require coordination with other government agencies, lest it introduce yet another redundant layer of bureaucracy. Overall, the GAID should only retain those roles that it can truly and effectively implement and where it would have an added value, namely regulating and facilitating the private sector's development and operation of industrial zones. Involvement in direct service delivery to end-user investors is in most cases unwarranted.

67. *Undefined industrial policy objectives:* Another concern is that the decree is presented in a policy vacuum. The decree's preamble should spell out the government (MOIT)'s policy objectives and principles, and the different authorities' roles, and specifically GAID's role as enabler of private sector investment (and whether this refers to industrial zone developers/operators or tenant manufacturing operations). The decree is confusing in that it states on the one hand that GAID will be mandated with implementing the industrial policies set by the

MOIT, but on the other hand grants GAID such powers as to prepare industrial development plans, set general policies for industrial zone development, and determine the industrial activities and products and related services in industrial zones, which in effect amount to industrial policies. The preferable scenario is for the Ministry (or GAID if it is clearly delegated the power) to set the Government's industrial development policy and, once this has been approved by the Cabinet, GAID would have full responsibility for its implementation, with clear instructions to concerned ministries and governorates to cooperate and provide assistance needed to carry out its objectives.

68. *Unclearly defined/coordinated land use planning framework:* The GAID decree is unclear as to how the overall land use planning process will function. When GAID recommends, on its own or acting on a request by another party (e.g. governorate), the designation of an area as an industrial zone, the planning process as stated in the decree would take place in collaboration with the NCPSLU. The problem is that the newly-established NCPSLU is not (at least yet) well equipped to undertake such role. Indeed, NCPSLU does not have the necessary capacity or tools to determine whether a given site is better used for industry or, say, tourism, nor to coordinate with existing legally-approved master plans. As mentioned earlier, until today, it is GOPP that is the national agency that undertakes spatial/land use planning activities, whether directly or in coordination with local authorities as is increasingly the case. To resolve the overlap created by the 2001 decree that created NCPSLU requires either merging GOPP and NCPSLU or clarifying the division of responsibilities, such that GOPP would continue its land use planning mandate and NCPSLU would become the national clearinghouse for public land allocation. Finally, the decree creating NCPSLU gave it broad powers that may cause conflicts with other entities' mandate (with GAFI over which entity provides investor services, with GOPP over planning powers, and with Governorates over land use planning and allocation for land in the urban fringe).

69. *Ambiguously defined powers and "enabling" mandate, with undefined instruments and guidelines and with potential for unduly burdensome regulation and conflict of interest:* The decree is vague regarding the definition of investors that GAID is meant to enable. Whether these investors are industrial zone developers/operators or end-users of industrial land (industrial/manufacturing tenants) would entail different requirements and have different implications. If the decree refers to the zone developers/operators, setting the terms of the use of public land for such purposes would be appropriate, but intervening to set the rate charged to tenants might imply undue interference and could act as a deterrent to potential developers/operators from taking on such concessions. The decree, in article 2(4), also creates a potential conflict of interest where GAID could be both a regulator of private sector industrial zone developers/operators and at the same time a potential zone developer/operator or participant in such an investment. This dual function, along with the numerous responsibilities assigned to GAID including "one-stop-shop" type of services (licenses, approvals, marketing, etc), could potentially deter prospective developers by creating market distortions and unfair competition (i.e. better services in the zones where GAID is an operator/investor than those with private sector investors), and ultimately lead to poor service to end-users.

70. Several powers given to GAID are provided without much detail to guide it in exercising its authority. For instance, the decree does not provide criteria to guide the designation of certain sites as industrial zones. The decree also makes no suggestions as to how to determine the price of land for industrial zone developers, what forms of public land disposition (sale, lease, etc) and the terms and conditions (duration of leases, etc). The decree also stipulates that the Board can delegate some of its (important) competences to the Chairperson, but does not precise which functions could be delegated. All these issues make it difficult to assess whether the authority's exercise of its powers has been appropriate or not, in addition to potentially creating rent-seeking

opportunities by implementing officials. It is understood from officials met that these issues will be dealt with in the Law itself and/or Executive Regulations.

71. Similarly, the decree grants GAID the power to determine the “activities and industrial products and related services in the industrial zones,” without specifying criteria circumscribing such sweeping mandate. It could be implied that this is for environmental considerations (hence the reference to the Egyptian Environmental Affairs Agency) and possibly to account for local priorities and needs (hence the reference to the Governorates). Yet, not specifying the limitations under which such power would be exercised might act as a deterrent to foreign investors, since it would seem to grant GAID too much discretionary power to intervene without specifying clear criteria for its exercise or the rationale for excluding a particular tenant from a given industrial zone. While this may be entirely justified in certain cases (e.g. heavy industrial pollutants), the decree does not make any attempt to restrict or limit such powers.

72. Finally, it is unclear how the proposed “Industrial Land Fund”—clearly a very important instrument at the disposal of GAID to support the construction, modernization and provision of infrastructure for industrial zones—will function, as the decree provides short and ambiguous references. One option is for it to act as a Land Bank that would make land available (through long-term leases) to developers/operators without risk capital involved, which would facilitate the establishment of privately-developed/operated industrial zones. Another option is that GAID and the Land Fund would be responsible for laying down the policies and harmonize the rules and modalities through which “governorates and other entities that provide infrastructure and manage industrial estates” would “provide [land] to investors.” Finally, the decree states that the Fund will support the delivery and maintenance of infrastructure for industrial zones, but does not propose what revenues/proceeds would replenish the Fund.

### **CHAPTER 3. REFORMING PUBLIC LAND MANAGEMENT IN EGYPT: DIFFERENT OPTIONS AND LESSONS LEARNT FROM INTERNATIONAL EXPERIENCE**

73. There is a pressing need to address the structural deficiencies of the existing public land management system in Egypt. Such deficiencies—manifested in the juxtaposition of many sectoral and geographic, central and decentralized public authorities controlling and managing public land in Egypt, each with its own set of rules and procedures—are the result of the accumulation of tens of laws and decrees over the past four decades. The resulting patchwork legal framework is to a large extent inconsistent, contradictory and by no means suitable for today’s requirement of an efficient process of public land management to enable investors to access public land for investment purposes. This has become one of the most severe constraints to doing business in Egypt, as expressed by the firms surveyed in 2004 and 2005 as part of the ICA study.

74. Reform requires at the outset that policymakers make an important decision on the approach to be adopted. An institutional reform process can either opt for “retaining and improving the status quo” through a set of discrete measures introduced to improve and rationalize the process, or it can go for a “root and branch” approach that would reengineer the institutional landscape in its entirety.

75. This chapter examines these two approaches to reform and the different variables and trade-offs that policymakers need to consider make an informed choice for the way ahead. It then proceeds to lay out three options for reforming public land management in the aim of improving the investment climate. For each option, the supply and demand sequences for access to public land are examined (the supply sequence refers to the process through which the State supplies public land to downstream public authorities that in turn allocate it to investors/end users, and the demand sequence refers to the process through which investors/end users access public land). The pros and cons of each option, the associated risks and the mitigation measures that would need to be undertaken are also examined. This chapter also examines the lessons learnt from global experience in land policy reform, and based on such lessons proposes a process for public land policy and legal reform.

76. These options and the lessons from global experience in land policy reform were the basis of discussions with the GOE in a high-level policy workshop, organized by the Ministry of Investment in collaboration with the World Bank on February 26, 2006. The workshop was chaired by the Prime Minister of Egypt and attended by over 40 stakeholders, including eight ministers, the chairs of all public land controlling authorities, and senior government officials concerned with land sector issues. Following the workshop and building on the consensus reached on the need to reform public land management in Egypt in the aim of improving the investment climate, the World Bank team developed a roadmap for reform in consultation with key stakeholders. The roadmap proposes a sequence of reforms over the short, medium and long-term, including measures that the Government can immediately act upon to address existing investor concerns while medium and long-term reform measures are being implemented, as well as an action plan for implementation.

#### **3.1 Approaches to public land management reform**

77. At the outset, a clear policy decision needs to be made as to the general approach to reform. There are two alternative approaches to reform the existing public land management

system in Egypt. The first approach is to retain and improve the status quo by rationalizing the existing institutional landscape controlling and managing public land to reduce existing inefficiencies. The second is to engage in a root and branch approach through reengineering the institutional framework governing public land management in Egypt to achieve the desired policy objectives. Choosing which approach to follow depends on several factors: (i) the extent of shortcomings in the existing system and their implications on the investment climate; (ii) the needs of investors/end-users; (iii) Government's long-term vision for managing public land assets; (iv) the likely extent of institutional resistance to change and the extent of political support to deal with such resistance; (v) the relationship and consistency of reform plans with overall government policies; and (vi) the overall context and public perceptions.

78. The first alternative—to retain and rationalize the existing institutional framework governing public land management in Egypt—would have the clear advantage of being less complex and would require less cost and time to undertake. It would also have the advantage of facing little resistance from within the system, at least relative to a 'root and branch' approach. The main drawback is that, by design, it would have a limited impact in addressing the structural deficiencies underlying the existing system (namely the sectoral model of public land management) and might be perceived as a signal of limited commitment to reform by the Government or an incomplete appreciation of the true negative implications of a dysfunctional public land management system that sets Egypt apart from other emerging economies with which it competes for investment. In effect, the general global trend in developed countries and emerging economies is characterized by a shift from sectoral to more holistic models of land management, and from central to decentralized land management. There is increased delegation to local governments of strategic/land use planning functions, as well as control over the management and allocation of public land, with central government responsible for setting national policies and regulations, and performance monitoring (this is the case in Turkey, Indonesia, Philippines, China, Albania, Botswana, at varying levels of development).

79. The second alternative would reengineer the institutional landscape controlling and managing public lands in Egypt. Such an approach is, however, expected to be more complex, time consuming and costly, with much resistance anticipated from entities that benefit from the status quo (especially from the sectoral line ministries and their affiliated authorities that would stand to lose if the current system of fragmented sectoral control over public land is overhauled). By contrast, the advantage of a root and branch approach is that it allows Government to comprehensively address the challenges and reflect its commitment to reforming one of the main obstacles to doing business in Egypt.

80. In selecting the appropriate approach to public land management reform, five important trade-offs and variables require careful consideration by policymakers to inform the process:

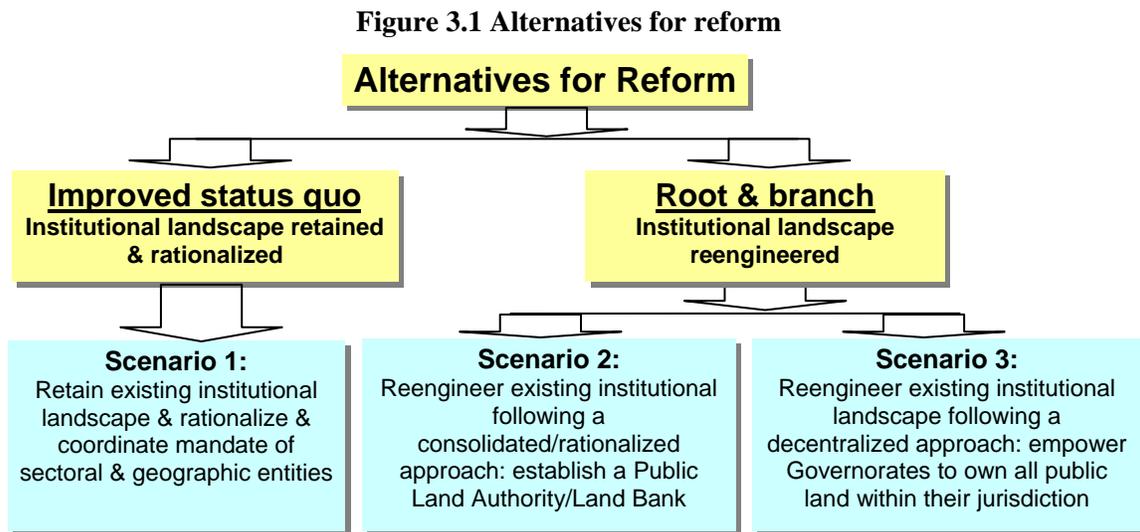
- (i) *Whether the desirable approach to assigning control over public land in the medium-to-long term would follow geographic or sectoral lines:* Today, the situation is a hybrid with no clear rationale. It is true that the existing institutional and legal framework developed over time as a result of an accumulation of policy decisions taken at critical junctures of the country's historical development, but the need to address the dysfunctions of the existing public land management system requires a strategic decision to tackle one of the key obstacles to doing business in Egypt today. Clearly, existing local governments' capacity level is an important factor in deciding how much control over public land to cede to geographic decentralized entities and whether all Governorates would be granted similar powers over the same timeframe.

- (ii) *Whether the desirable approach to assigning control over public land in the medium-to-long term would follow a consolidated or a decentralized model:* In this case, a consolidated or centralized model through, say, establishing a land bank that would have control over all public land, may have an advantage of simplicity in terms of design and cost. The main drawback is that central decision-making often lacks responsiveness to local priorities and needs. A decentralized model on the other hand raises the issue of local capacity, as mentioned above.
- (iii) *The dichotomous classification of public land as inside versus outside of the Zimam or the Cordon:* The related issue of dichotomy also needs to be addressed and resolved. Having two legal regimes and two systems of control over public land, each with its set of rules for disposing of public land, lacks any clear logic. A clear policy objective/direction is therefore required in this matter. If a clear policy rationale is found to underlie the dual system, it may then be warranted to replace the *Zimam* and *Cordon* with the *Haeiz*—urban planning and development boundary, which would be the most logical boundary to delimit jurisdiction over public land.
- (iv) *The dichotomous classification of public land into Arady Mokhassassa (i.e. public land whose use has been designated and which has been assigned to a controlling entity) and Arady Gheir Mokhassassa (i.e. public land whose use has not (yet) been designated and which has not been assigned to a controlling entity):* This is yet another dichotomous classification of public land in Egypt governing control over land. Again, what is needed here is a set of rules generally applicable to public land. The fact that public land is subject to several layers of classification (each with its own laws governing the different parameters related to use, control, disposition, etc) creates an unduly complex public land management system, which serves no obvious purpose or benefit to the State.
- (v) *The issue of line ministries and affiliated sectoral authorities combining their sectoral regulation/enforcement function with a direct implementation role:* Some sectoral authorities with sectoral policymaking and regulation responsibilities have in recent years mutated into or witnessed the establishment of affiliated “economic/self-sustaining authorities”. Such blurred line between regulator and implementer lends itself to criticism for conflict of interest and for deterring likely private sector investment out of fear of bias or unfair advantage playing to the benefit for initiatives that are in whole or in part publicly-implemented. In the area of public land management, a clear policy stance is needed on what is/should be the appropriate function of line ministries and sectoral authorities.

### **3.2 Three options for reforming public land management**

81. Taking into account the above-mentioned trade-offs and key variables for consideration by policymakers, three different options/scenarios for reforming public land management in Egypt in the aim of improving the investment climate have been formulated (See Figure 3.1). The three options or scenarios are presented here somewhat in abstract form, as “ideal types” representing different policy approaches and global trends in public land management. These options/scenarios served as a background to engage with the Government of Egypt on policy issues and reform direction. While the three scenarios refer to the existing situation in Egypt, they do not go into implementation detail. Only the agreed approach to reform, based on the consensus developed among key government stakeholders in the high-level policy workshop, has

been operationalized through a reform roadmap and an implementation action plan, presented in the following section.

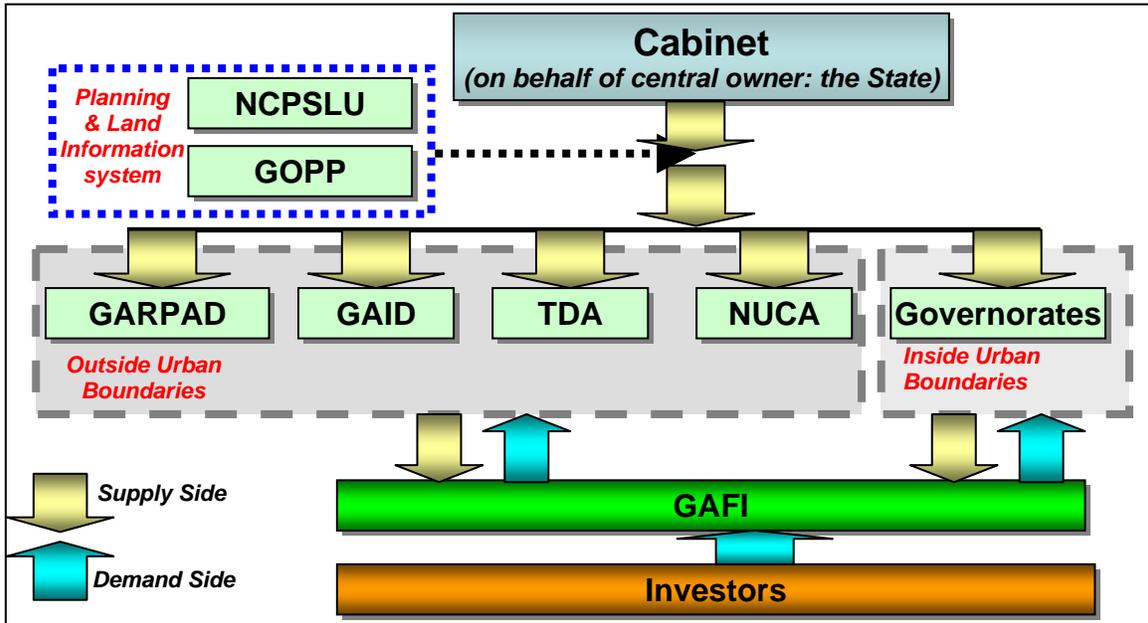


82. Each of the three options attempts to answer the following main questions: (i) What should existing institutions' role be? (ii) What new institutions need to be established (to undertake specific unfulfilled mandates) and/or what existing institutions should be consolidated or retrenched, if any? (iii) What are the pros and cons of each option, and what mitigation measures would need to be adopted? And (iv) What improved rules, procedures and performance standards need to be adopted?

### ***3.2.1 The first scenario (short-term): Retention and improvement of the status quo***

83. The first scenario or option—retaining and improving the status quo—aims to rationalize the mandate and jurisdiction of existing sectoral and geographic authorities controlling and managing public land and to improve coordination between them. These measures to improve the status quo are required in the short term to address existing investors' concern, while medium and long-term reforms are being implemented. It is important to note that this scenario builds upon the reform measures already implemented or planned by the Government of Egypt, namely the establishment of GAID and NCPSLU, and the investor service role assigned to GAFI. The following diagram (see Figure 3.2) illustrates the public land supply and demand sequences. Annex 3 provides more detail of the recommended reform measures and an assessment of the strengths, limitations, risks and necessary mitigation measures for this scenario.

**Figure 3.2 First scenario (short-term): retaining and improving the status quo**



84. *Supply sequence:* In this scenario, the supply sequence through which the State transfers control over public land to the different authorities requires clarifying the mandate of the two national authorities—GOPP and NCPSLU—that currently are assigned with a land use planning role, and improving coordination between them. It is proposed that NCPSLU’s mandate be focused on establishing and maintaining a public land information system, whereas the land use planning function be assigned to GOPP, which is effectively its role today. To strengthen the land use planning process and ensure that it better gauges demand and reflects investors’ needs, the Ministry of Investment’s GAFI needs to be represented in GOPP’s Board of Directors or, alternatively, establish a higher inter-ministerial planning commission that includes the Ministry of Investment and other sectoral line ministries to establish the national spatial/land use planning regulations and guidelines and approve national land use plans. Such measures would ensure that the allocation of public land for a given land use reflects the opportunity cost of the land and the State’s policy objectives. It is also important to substitute the current reliance on the *Zimam* or the *Cordon*—both of which bear no relationship to the actual growth of cities and urban areas—with the *Haiez* (urban planning boundary) as the boundary delimiting sectoral versus geographical authorities’ jurisdiction over public land.

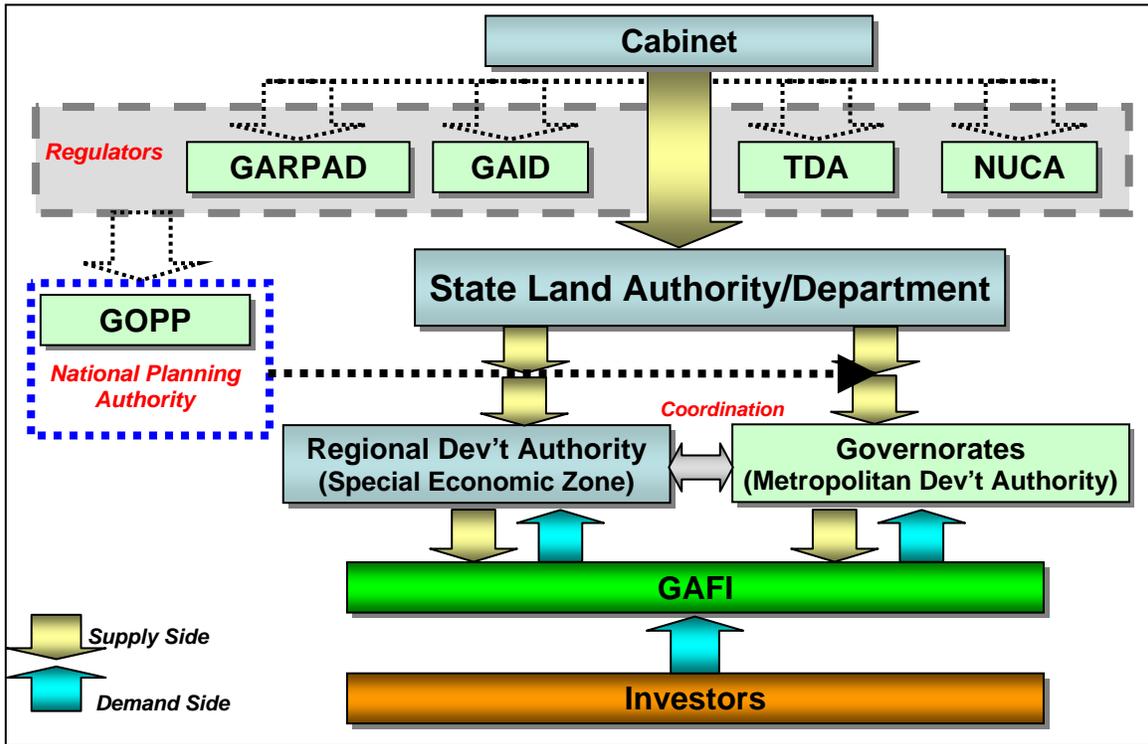
85. The State would then allocate public land to sectoral authorities (GAID, TDA, GARPAD, NUCA) outside of the urban boundaries, in accordance with a coherent national spatial strategy and land use plan prepared by the national spatial planning authority (i.e. GOPP), which would build upon and integrate with existing local and regional spatial development plans. Within urban boundaries, GOPP would be responsible for approving local development strategies and land use plans for such areas, which would be a precondition for the transfer of control over the necessary public land to the governorates. Required clearances and applicable development regulations from other concerned entities such as the MODMP (in areas deemed of strategic importance) and Ministry of Culture’s Supreme Council of Antiquities (in areas of archeological values) would be compiled by the planning authority for given sites and obtained *a priori*. To facilitate the process of access to public land by investors/end users, each sectoral and geographical authority is to set *a priori* clear procedures for public land pricing, disposition and development, which would be made available to GAFI and published for the investors.

86. *Demand sequence:* The demand sequence assigns GAFI the role of enabling investors to access public land. One option is making available to investors information on public land options to locate a given project (compiled periodically from the different land controlling authorities) as part of GAFI's assistance to investors in establishing and locating a project, and upon site selection, directing the investor to the competent authority for contractual purposes. The other, preferable option is creating *one-stop shops* in governorates (in addition to that in GAFI headquarters) with representatives of the different sectoral/geographic authorities with a delegated power to finalize all transactional procedures without investors needing to physically go to the relevant authority. The second role anticipated of GAFI is informing the land use planning process and the different public land controlling authorities of investment trends and investors' demands and needs. This will require monitoring the demand for different investment sectors and for various locations, and working closely with the different geographic and sectoral authorities to address bottlenecks facing investors in terms of land availability, pricing, tenure security, and contractual terms and conditions. In its function as a member of the inter-ministerial planning commission or the GOPP Board of Directors, GAFI would thus ensure that the demand-side considerations are reflected in the spatial planning strategies.

### ***3.2.2 The Second Scenario (medium-term): Consolidation and Rationalization of control over public land***

87. This second scenario aims to rationalize the existing public land management system through establishing a new consolidated entity, e.g. SLA/department or State Land Bank, which would control all public land. This new entity would be affiliated to a non-sectoral ministry (usually the Ministry of Finance given the asset management work required for public lands) or at a higher level (e.g. Council of Ministers). Following specific procedures and safeguards, this entity would release public land to the different public authorities, preferably to entities with geographically coherent jurisdictions (equivalent to a wholesale process of public land allocation from the State to a public entity), which in turn would allocate land to end users/investors (retail-level allocation from public authority to private entities). Such process would be expected to take place over the medium-term. While such a consolidated management system is being set up, short-term improvements such as the measures described in the first scenario would need to take place to address existing investors' concerns. The following diagram (see Figure 3.3) illustrates the supply cycle (in which the State makes public land available to the different public land controlling authorities) and demand cycle (in which investors access public land). Annex 3 provides more detail of the recommended reform measures and an assessment of the strengths, limitations, risks and necessary mitigation measures for this scenario.

**Figure 3.3 Second scenario (medium-term): consolidation and rationalization of control over public land**



88. *Supply sequence:* In this scenario, the supply sequence by which the State transfers control over public land to the different authorities requires the consolidation of fragmented control over public land within one entity, the SLA or department, which it is proposed to affiliate with the Ministry of Finance. The custodianship over all public/State lands, including land that has not yet been assigned or that has been assigned but remains undeveloped, would be transferred to the SLA which would also function as a land bank, undertaking such tasks as the acquisition of private land for public use through the appropriate instrument (negotiated purchase, preemption right and/or eminent domain). Required clearances and applicable development regulations from other concerned entities such as the MODMP and Ministry of Culture's Supreme Council of Antiquities would be obtained *a priori* by the SLA for given sites.

89. The SLA will administer public land allocation to the different geographic authorities based on the policies and guidelines approved by Cabinet. The role of the sectoral authorities will focus on setting sectoral policies, regulations and procedures (including for public land pricing, disposition and development) and monitoring. Based on approved local development strategies and land use plans, the SLA would transfer control over public land needed for urban expansion to the Governorates (or in an instance where multi-governorate coordination is needed, e.g. Greater Cairo Region, to an appropriate level entity, say a Metropolitan Development Authority). In unsettled areas outside urban development boundaries, e.g. for the establishment of a SEZ or in areas with current sectoral development plans (e.g. tourism development in the Red Sea coastline), the SLA would transfer the land to the newly established SEZA (SEZA) or to a Regional Economic Development Authority (REDA) that would coordinate formerly fragmented sectoral functions within economically and geographically coherent boundaries. The establishment of REDA's would address the issue of separate and often competitive sectoral development plans and promote coherent regional planning building on regional/local attributes

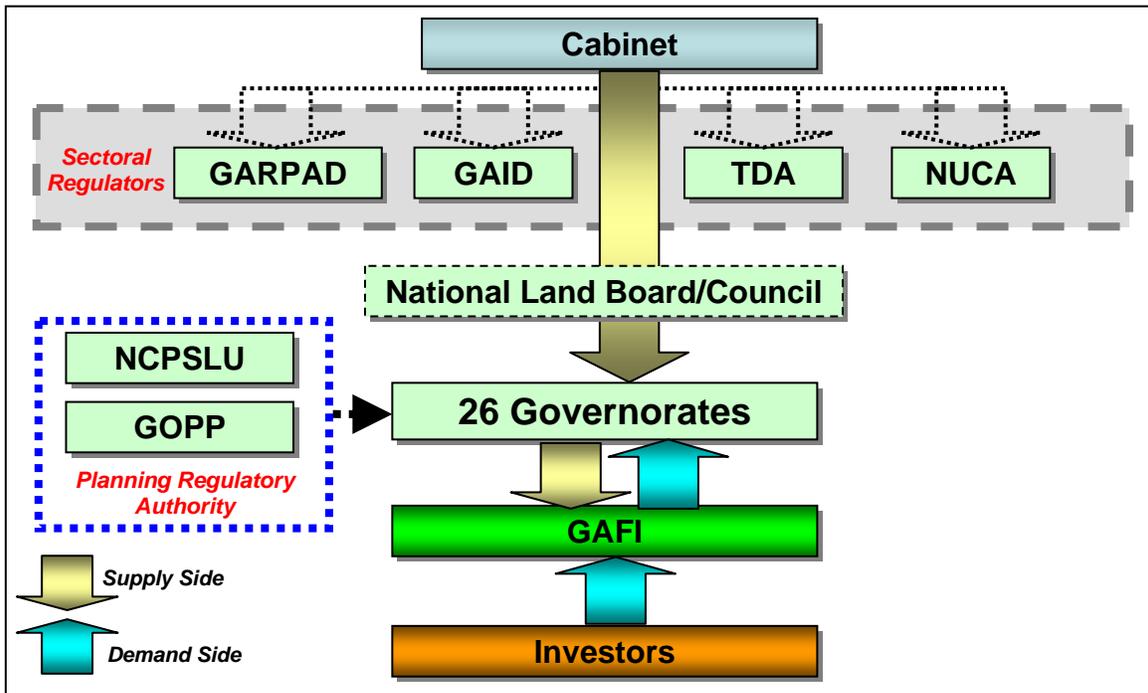
of competitiveness. The transfer of public land to either SEZA or REDA would be based on development strategies/feasibility studies and land use plans that are prepared in coordination with and endorsed by the concerned governorates, and approved by the National Planning Authority.

90. *Demand Sequence:* As in the first scenario, GAFI will be expected to play a key role in facilitating investors' access to public land. In the long term, and as Governorates and authorities build their capacity and avail the necessary resources to undertake on their own investment promotion, investor services and compete for attracting investment, it is expected that investors will start directly interfacing with these entities.

### ***3.2.3 The Third Scenario (long-term): Decentralization of control over public land***

91. This third scenario aims to for a gradual transition over the medium-to-long-term towards a decentralized system of public land management and land use planning, in which governorates would be delegated control over all public land within their jurisdiction. Governorates would allocate public land and regulate land development in accordance with locally prepared development strategies and land use plans, in accordance with national policies and guidelines. Appropriate checks-and-balances (including land board/council) would need to be introduced at the national and local level to ensure appropriate regulation and performance monitoring of the decentralized system. Such a transition can only be expected to be completed over the long-term in parallel with Government's decentralization policy and capacity building efforts to local authorities, although it could start earlier in Governorates such as Cairo and Alexandria with solid capacity in land use planning and management. Again, while the system is being set up for such a transition to take place, short-term improvements such as the measures described in the first scenario would need to take place to address existing investors' concerns. The following diagram (see Figure 3.4) illustrates the supply cycle (in which the State makes public land available to the different public land controlling authorities) and demand cycle (in which investors access public land). Annex 3 provides more detail of the recommended reform measures and an assessment of the strengths, limitations, risks and necessary mitigation measures for this scenario.

**Figure 3.4 Third scenario (long-term): decentralization of control over public land**



92. *Supply Sequence:* In this scenario, sectoral authorities assume a policymaking and regulatory role, which includes setting the national guidelines and procedures for public land pricing, disposition and development in their respective sectors. Through their representation in the national land board, sectoral authorities take part in decisions to authorize the delegation of authority over public land to governorates and in monitoring their performance. Governorates are required to prepare local land use plans detailing their needs of public land to implement their local development policies. Once such strategies and plans are officially endorsed by local council and enacted into law by the Cabinet (based on the recommendation of the national planning authority, which reviews their alignment with government policies and regulations), the governorates are authorized to manage and dispose of the public lands they need to achieve their development objectives and are held accountable against the approved plans. This decentralization process is expected to take place gradually over the long-term in parallel with Government’s overall decentralization policy and capacity building efforts, with pilots in one or two Governorates taking place in the short-to-medium term.

93. *Demand Cycle:* As in the second scenario, GAFI will be expected to play a key role in facilitating investors’ access to public land through mainstreaming their one-stop-shop facilities in all Governorates. In the long term, Governorates will gradually build a capacity to undertake investment promotion, investor services and compete for attracting investment on their own, and could therefore directly interface with investors.

### 3.3. Comparative assessment of the three scenarios

94. Table 3.1 compares the main features of the three scenarios (more in-depth analysis is provided in Annex 3):

**Table 3.1 Comparative assessment of the three scenarios**

<b>Scenario</b>	<b>First</b>	<b>Second</b>	<b>Third</b>
<b>Comparative advantages</b>	<ul style="list-style-type: none"> <li>▪ More politically acceptable and thus more likely to materialize</li> <li>▪ Limited fiscal cost</li> <li>▪ Faster results due to maintained familiarity with system</li> </ul>	<ul style="list-style-type: none"> <li>▪ Rational control framework</li> <li>▪ Downstream control over land by agencies with coherent boundaries</li> <li>▪ Policymaking and regulatory role for central authorities</li> <li>▪ Resolves land disputes between authorities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Rational control framework</li> <li>▪ Assigns control to entities that know best local needs</li> <li>▪ Financing service delivery</li> <li>▪ Policymaking and regulatory role for central authorities</li> <li>▪ Resolves land disputes between authorities</li> </ul>
<b>Comparative drawbacks</b>	<ul style="list-style-type: none"> <li>▪ Less reform impact: better inter-agency coordination is no new policy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significant political resistance if agencies give up controlled land. Otherwise, two co-existing systems</li> <li>▪ Complex and costly to set up new entity</li> <li>▪ Past regional planning experience unsuccessful</li> <li>▪ Major legal changes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significant political resistance from ministries/authorities</li> <li>▪ Limited local capacity</li> <li>▪ Difficult to monitor proper asset management</li> <li>▪ Needs to align with overall decentralization policy</li> <li>▪ Governorate boundaries not necessarily coherent</li> </ul>
<b>Associated Risks</b>	<ul style="list-style-type: none"> <li>▪ Business-as-usual</li> <li>▪ Planning coordination mechanisms prove to be ineffective</li> <li>▪ Some Governorates without capacity or clout to influence development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Past sectoral practices cause irreversible damage</li> <li>▪ Business-as-usual by sectoral authorities constraints SLA</li> <li>▪ Mismanagement and corruption more costly if one entity</li> <li>▪ Limited capacity or willingness to change</li> </ul>	<ul style="list-style-type: none"> <li>▪ Prone to mismanagement due to limited capacity</li> <li>▪ Prone to corruption</li> <li>▪ Unhealthy competition and no coordination in planning and implementation between Governorates</li> </ul>

95. The three scenarios share several common proposed features. These include:

- (i) *Need to rationalize land use planning function between GOPP and NCPSLU:* The idea is that the first focuses on regulating spatial/land use planning and the second on setting up and maintaining a complete and up-to-date public land information system. In the second scenario, NCPSLU would become part of or closely affiliated with the SLA.
- (ii) *Need to mainstream GAFI's investor service role* through expanding the coverage of their one-stop-shop facilities and to include enabling investors to access public land.
- (iii) *Need to sort out the conflict of interest arising from the combination by sectoral authorities of policymaking and regulation functions with direct implementation,* which requires that they remove themselves from implementation (as the second and third scenarios propose).
- (iv) *Need to substitute the Zimam with a more appropriate legally binding boundary for delimiting control over public land,* if two regimes of control over land persist (as in the first and second scenarios). The proposed boundary would ideally

combine the main attributes of the *Cordon* (a legal instrument) and the *Haiez* (a planning boundary that reflects actual and anticipated urban growth) and would be periodically updated.

- (v) *Need better land information systems and a right to information policy*, such that all public land would be inventoried in a public land information system in addition to recordation in the Land and Property Registry, and with provisions to ensure inter-agency exchange of information and enable investors/end users to access information on public land.

96. Finally, it is important to note that there are many feasible combinations lie in between these “ideal type” scenarios. The most common such “hybrid” is a consolidated system for public land management at the central government level along with a gradual process of decentralizing public land management, initiated first in the main cities in the country where good capacity exists. Turkey is one example of such model; the State Land Department affiliated with the Ministry of Finance is responsible for public land disposition, while local authorities in Istanbul were delegated the power to control and manage public land.

#### **3.4. Proposed process for public land policy and legal reform based on lessons learnt from international experience**

97. Many emerging economies and developing countries have either completed or are currently undertaking broad land policy reforms, including Thailand, Indonesia, the Philippines, China, Turkey, and all transition economies. Reform typically focuses on some or all of the following four pillars:

- (i) *Improving security of property rights* through: (a) completing registration of rights, as in Thailand, Turkey, Indonesia, Vietnam, etc; (b) improving security of registered rights, as in Macedonia and Cambodia; and (c) improving service delivery and reducing transaction costs, in all countries;
- (ii) *Improving land use planning and development control systems*, as in Vietnam, Indonesia, Albania, etc;
- (iii) *Reforming public land management*, as in Indonesia, Cambodia, Albania, and Turkey;
- (iv) *Improving property valuation and taxation*, as in Thailand, Indonesia, Philippines, and Turkey

98. Land reform is undertaken to achieve one or more of the following objectives: (i) improved investment climate and private sector development, a common denominator in all countries that have undertaken such reforms; (ii) increased revenue generation, as in the Philippines, Turkey and Laos; (iii) improved productivity as a result of better utilization of land resources, as in Thailand, Indonesia, and Vietnam; and (iv) for many current and potential EU accession countries, harmonization with EU policies, as in Turkey and transition economies. Two key factors have consistently been associated with the countries that were deemed more successful in implementing their land policy reform. The first is a commitment for reform at the highest political level; in the Philippines and Thailand, the reform champions were respectively the President and the King. The second factor is the adoption of a comprehensive approach to land reform, often tackling most if not all four abovementioned pillars. The Government of Egypt is embarking simultaneously on improving public land management and the dysfunctional urban land and property registration system (although the reforms have yet to tackle the inherent

institutional problem of separate entities responsible for land registration and survey). The Ministry of Finance is also currently preparing a draft legislation to reform the property taxation system. If successfully implemented, the combined effect of these interventions should significantly improve the functioning of the land market.

99. With respect to public land management reform, two important observations must be made from the onset. First, only a handful of countries did explicitly and comprehensively tackle the deficiencies of their public land management systems, and little information is available on such reform processes. This makes the lessons learnt from experience rather limited compared to land registration reform, which many countries have embarked on with support from the donor community. To start with, very few governments in developed countries hold a large stock of public land, which is not surprising since significant public ownership often distorts land markets. When (local) government in Germany, France or the Netherlands among other countries needs to acquire land for public use or for future development, this usually takes place through voluntary negotiated purchase or through compulsory acquisition instruments coded in the Law, namely the right of preemption (also called right of first refusal) and/or expropriation with fair compensation. In the few exceptions where government holds large land reserves, it is often for conservation purposes. Public (federal) lands in the United States for instance are managed by the Bureau of Land Management, affiliated with the Department of Interior that is in charge of environmental affairs.

100. Second, each country's historical, political, cultural and socio-economic specificity means that there are no blueprints or one model to follow. It is true that there is an observed trend toward meaningful delegation of decision-making over public land management to local authorities. There are also general principles for "good" asset management that governments need to adopt to strengthen their real property asset management systems and enhance their efficiency and transparency. These include recognizing the true cost of asset ownership by moving from a "free good approach" to accounting for the opportunity cost of the assets, and undertaking better accounting practices.<sup>9</sup>

101. The single most critical element to guide the improvement of the public land management system is for the Government to formulate an explicit public land management policy with clear objectives related to economic growth, equity and social development, environmental sustainability, and fiscal policy. In the discussions at the February 2006 high level policy workshop, the institutional organization of Public Land Asset Management was the threshold issue. This is because it is difficult to imagine progress being made on more fundamental issues without simplification of the organization of public land asset management. Needed changes involve simplification, greater standardization in terms of access to public land, and better coordination among agencies. These all have organizational and institutional implications.

102. In Egypt today, public land management has become highly fragmented among sectoral agencies and special zones. These have had their particular historic land management purposes, but cumulatively and over time, there seems to have been a loss of a coherent vision of the fundamental policies behind that management. Institutions managing public land adopt quite different and even competitive policies regarding priorities for and terms of access for such land. Subsidies battle subsidies in that competition. Investor demand and the market, with its allocative efficiencies, play only a limited role in determining where investment takes place. There is

---

<sup>9</sup> Kaganova, Olga and James McKellar eds (2006). *Managing Government Property Assets: Sharing International Experiences*. UI Press, Washington DC

therefore **a need for a clear and comprehensive public land policy** that reasserts the role of the market and then puts in place a rational framework of planning and incentives that reflect current needs and priorities. It must lay out Government's vision and a strategy for achieving it. For officials, such a policy provides fundamental direction; to citizens, it constitutes both information and a commitment to certain courses of action. It provides a solid basis for a reform of laws and regulations. A land policy pursues and seeks to balance a number of objectives including growth, equity, environmental values. This is a challenging task that only a well-conceived process can make easier. Below there is set out a progression for a development of public land asset management policy that seems logical, and has worked well in other countries. In practice, opportunities occur that sometime alter the order of this phasing, or cause different stages to overlap. Still, the internal logic of the progression is important and provides a vision of the process which is helpful, even if in practice it is sometimes necessary to adjust it.

#### ***3.4.1 A Public Land Policy Development Process***

103. Development of a public land policy often begins with the creation of a Policy Development Group (PDG) or a temporary Commission that is inter-ministerial in nature with representation from various stakeholder groups from outside government, and a Technical Secretariat to assist it. The PDG begins the work by identifying key needs and policy options, usually consulting key informants and experts. The PDG should also encourage public debate and conduct public consultations on key issues. It must seek to understand felt needs of investors and other citizens. It tests policy reform ideas, allows a diversity of demands to be made, and eventually tries to strike reasonable balances among them. If done well, it can build up the political constituency for priority changes in land policy and law, both articulating and influencing demand for change.

104. The Roadmap developed following the workshop and in consultation with key stakeholders (detailed in the next chapter) would create a Higher Committee of State Land Management, chaired by the Prime Minister, which would be responsible for organizing a PDG or a temporary Commission for policy development purposes. The Higher Committee would be the appropriate forum for decisions on the recommendations of the Commission. The Commission should be created as soon as possible, possibly even in advance of the creation of the High Committee. A Prime Ministerial Decree could provide a legal basis for the Commission.

105. The Commission would need to grapple with difficult issues. The power to allocate public land is of great economic and political importance in most developing countries, and is a common focus of corrupt practices. Public land is often treated as a "free good", whereas "good" land in terms of location, use and service delivery, is in fact scarce and valuable. An effective inventory of the public land resource is a first step toward planning for the effective use of that resource. Key land may need to be reserved for public needs. Those needs must be assessed realistically, and other land moved into the private sector for use. The costs to be charged and the property rights to be given to private land users must be designed to provide tenure security and incentives for investment in the land, and should reflect opportunity costs. Systems for recording and proof of land rights must be evaluated and improved. The various objectives to be served by lands are balanced in decisions as to which interest groups should get access to land and on what terms. Decentralization of decision-making can increase local commitment to land use policies and programs, but checks and balances must be incorporated to prevent abuses. In addition to individual owners, there may be communities which need access to land as such. Difficult gender equity issues must be confronted.

106. The policy statement emerging from the policy formulation process will usually be approved at cabinet or presidential level. It is a political document, in that it tries to respond to the demands of various constituencies and interest groups, and it will form the basis for the Government's legislative program in this area. In the Roadmap that appears in this report, the development of such a policy statement would be a first step toward the legal reforms envisaged there.

### ***3.4.2 Legal reforms related to public land asset management***

107. *Defining the Public Land Asset:* The distinction between public and private domain of the State is fortunately part of Egyptian Law, although in implicit form. The problem is that the Law does not clearly define what are State Lands (Article 874-1 of the Civil Code states that non-cultivated land without owner is considered State-owned, but it is unclear what other categories of land are publicly-owned). The Law also does not define the public and private domain of the State, what lands fall under each category, and how is the classification made. Law No. 143 of 1981 on desert lands applies to publicly-owned desert land that is part of the State's private domain and which lies beyond 2 km from the *Zimam*. Law No. 7 of 1991 on some rulings related to the State's private domain applies to desert land as defined in Law No. 143 of 1981. There are thus references in the Law to the private domain of the State but without clear definitions.

108. While state agencies managing land in the private domain of the state have considerable latitude in their allocation or alienation of it, land in the domain of the State can only be allocated or alienated to private parties if it is first reclassified as private domain of the state by a decision of high authority (usually the Cabinet/Council of Ministers or the President). This builds a firewall to protect essential public land resources classified as public domain from poorly considered allocations or alienations. It is important that there also be clear operating definitions that allow classification of public land as public or private domain of the state during inventory.

109. For the purpose of an inventory, what is important is to anticipate problems that will arise in the field. If there are legal ambiguities, instructions can be issued that will minimize the difficulties those ambiguities cause for the process and insure consistency in how they are handled. To the extent that a preliminary review of definition suggests that clarification of some points is needed for an effective inventory of public lands to take place, that clarification might be obtained through an interpretation included in this Prime Ministerial Decree.

110. *Identifying and Documenting the Public Land Asset:* A consolidated database of public lands is a management tool without which the term "management" is hardly appropriate. It will require a public land inventory, which must cover all land of the State, whatever the agency managing the land. Typically, the inventory would involve: (i) creation of inter-ministerial working groups at local level to carry out the inventory; (ii) compilation of land recorded as belonging to or in possession of State agencies; (iii) field operations for identification and mapping of blocks of "residual" State land, land belonging to the State because it is not privately owned or *Awqaf* (this requires that *Awqaf* land also be inventoried); (iv) identification of the agency responsible for management of each parcel; (v) resolution of disputes between public agencies arising during identification, as well as with *Awqaf* (but not between public and private claimants, which are more appropriately settled in the courts); (vi) designation of such land as part of the public or private domain of the State; (vii) entry of this information into a consolidated Public Land Database/Information System, and (viii) registration of the title of such land, if not already registered.

111. A legal basis for such an inventory will be needed to compel cooperation by the various holders of public land with NCPSLU. A Prime Ministerial Decree would be the appropriate follow up to the Presidential Decree No. 153 in 2001, which created NCPSLU and thus took an important step in the direction of identifying the extent of the Public Land Asset. The Prime Ministerial Decree should include a statement that the State creates and maintains a comprehensive record of the State Land asset and that any government agency in possession of land which does not come forward with the information for any inventory activity can lose its right to that land. The Decree will broaden the exercise of identification of the Public Land Asset to all Public Land, rather than the limited scope of NCPSLU to non-assigned public land outside of the *Zimam*. The Decree would also need to resolve the important overlaps between the land use planning roles of NCPSLU and GOPP in favor of GOPP, with NCPSLU being fully focused on its public land information role. There are a number of state land inventory exercises underway around the world. That in Cambodia is worth considering, and the framework being used there can be seen in Box 3.1. But the process in Egypt will face some different and difficult tasks, especially identifying any *Awqaf* rights that might apply to apparently public lands.

#### **Box 3.1 Cambodia's State Land Inventory Process**

The framework for Cambodia's ongoing State Land Inventory is provided in the SLM Sub-Decree of 2005, and by regulations issued thereunder. The inventory operation is carried out at District Level by a State Land Identification and Mapping Working Group. That Group is chaired by the District Governor and is composed of representatives of relevant government agencies. The Group receives technical assistance from a secretariat created for this purpose by the Ministry of Land Management, Urban Planning and Construction, and headed by the Deputy Head of that Ministry for the district. The Group with the assistance of the secretariat staff identifies and maps all state land within its limits, indicating which ministry or other government agency holds the land, or whether it is not held by any such entity. It also determines whether each parcel forms part of the public or private domain of the state.

The District Working Group seeks to resolve conflicting claims by different government agencies to hold particular areas of land, which are in fact common. If the District Working Group fails to do so, the dispute is passed to a similar Group at Provincial level for settlement. If no consensus is reached at there, the matter goes to the national Land Policy Council for settlement, and failing consensus there, to the Council of Ministers for decision. These working groups are not empowered to deal with public-private land disputes, since they would clearly tend to favor government claimants. Those are dealt with by the courts (if submitted to them) or will be dealt with in a subsequent phase of systematic title registration of these lands.

The results of this process are entered into a comprehensive State Land Database and a State Land Map tied to that database. As the land concerned it subject to systematic registration, it will also be entered into the Register of Immoveable Property. Both data sources will continue to exist, but that in the Register of Immoveable Property will be legally authoritative.

Source: World Bank

112. In addition, the Prime Ministerial Decree should address the relationship between this record and the Immoveable Property Register. It should be stated that all Public Immoveable Property is to be shown on the Immoveable Property Register as land owned by the state, with an indication of whether it is part of the public or private domain of the State and a specification of the concerned government entity owning or administering the land. In practice this will not immediately be possible because the record of Public Land will be compiled gradually. As that information becomes available when public land is identified, surveyed and documented, the land should be registered in the title registry (*sejel ainee*) system. The title registry system should be extended to urban areas (an effort which the Government is currently piloting in selected districts in and around Greater Cairo), and these initial registrations of State land should form the first step

in both the linking of rural registrations to reliable maps and the extension of title registration to urban areas.

113. What of the records of land administering agencies? The best practice here is for the State to maintain its own records of its land asset for management purposes, but for those parcels of land to also appear on the registers of immovable property, and for any dispositions of them to be registered. It is the title register which must be the authoritative record, with legal impact. This is needed both to ensure that rights to the land are secure and so that information on their existence and the dispositions of them, when registered, will be publicly available.

114. *Setting General Parameters for Use and Allocation of Public Land:* A Public Land Policy provides fundamental directions, but it is a Law on Public Land Management or a similar piece of legislation that should provide parameters as to what can and cannot be done with State Land, and spell out fundamental responsibilities of government and the necessary decision-making processes. Many laws—No. 143 of 1981 on desert land, No. 7 of 1991 on some rulings related to the State’s private domain, No. 5 of 1996 on free disposition of desert land, and No. 100 of 1964 on lease of state-owned property, to name only the key legislation—provide parameters that are differentiated by sector/land use, in addition to numerous other specialized decrees and rules for special zones.

115. Such parameters are needed to guard against wastage of this asset and to ensure its effective deployment for use and development purposes. The basic legal framework should focus on fundamentals to limit discretion and thus abuses. It should not provide very detailed rules or terms, which are better left to executive regulations or contracts. In the case of the private domain of the state, administering agencies should have discretion to implement Government’s policy objectives, but also with monitoring and enforcement systems in place to limit potential abuses emanating from such discretion. Drawing on international best practice, the fundamentals that should be included in the Law on Public Land Management would include:

- A consolidation of provisions defining public land, with appropriate definitions;
- A statement that the Public Land Asset is held in trust for the people;
- A prohibition of allocation or alienation of public domain land of the state for private purposes;
- A high-level decision required for conversion of public domain to private domain;
- A broad statement of the purposes for which private domain of the state may be allocated to private users (for instance investment and poverty alleviation);
- A broad statement of categories of persons to whom public land may be allocated or alienated (dealing for instance with whether non-citizens may acquire land rights);
- A broad statement of the terms on which this land may be allocated or alienated, for instance on leasehold or in ownership;
- A requirement that allocations of the private domain of the State above a certain size (different for rural and urban uses) be approved at a high level of government, including Cabinet approval for sizeable permanent alienations of private domain of the state, while allocations or alienations of smaller amounts of land may be approved at the local level.

116. It is not possible, however, to specify in great detail to whom and on what terms the private domain of the State should be allocated or alienated. Demand for public land is likely to exceed supply, and the prioritization of those demands is in part a political process. In any country, decisions about use of State assets are influenced by the desire of governments to satisfy existing supporters or build new constituencies. What are needed in the Law are broad

parameters, and a requirement that the processes of allocation and alienation be public and transparent.

117. *Ensuring that the Tenure for Allocated Public Land Provides Security and Incentives:* As to the tenure of allocations, the fact that private ownership is widely known and practiced in Egypt makes it appropriate to provide for both leasing out and alienation in ownership of private domain land of the State. The extent to which such land should be allocated to private persons in leasehold from the State or in private ownership is debated among experts. Asserted advantages of leasehold tenure include: (i) Leasehold or usufruct allow the State to benefit from an appreciating value of land; (ii) They allow imposition of development and land use conditions, and can provide the legal basis for repossessing such land where these are not met, and; (iii) They offer an opportunity to redistribute land at a later date on expiry of the lease. But there are also disadvantages: (i) Conditions in leases are in practice often ill-conceived and inflexible and can easily undermine tenure security; (ii) Fair and effective enforcement of such conditions is rare in practice; (iii) Ownership provides land users with greater security of tenure, freedom of action, and incentives to invest; (iv) The State can benefit from appreciation in land values through taxation of land and property ownership, and; (v) The State can maintain control of land use through well-enforced land use zoning, while preserving tenure security provided by private ownership.

118. Singapore and Hong Kong provide best practice examples of urban land tenure based on leasehold from the State with significant corresponding levels of investment. Laws which provide for leases of public land typically specify certain broad parameters. They: (i) state how rents should be determined and the conditions on which they may be varied; (ii) provide for transactions in and mortgaging of such leaseholds; (iii) state under what conditions leases will or will not be renewed at the end of their term; or (iv) state whether the leaseholder will be compensated for his/her improvements on the leasehold when a lease expires or is terminated.

119. There remains a fundamental policy question on the extent to which the state can best utilize ownership or leasehold to move land to users, but it should not be resolved in the Law, which should provide for both options. Most market economies provide for mixed systems, with most public land being gradually alienated in private ownership but substantial areas being retained and made available to private users in leasehold.

120. *Simplification and Coherence as Objectives of Law Reform:* Under current Egyptian law, many provisions similar to those mentioned above exist. The problem is not a lack of law, but of coherence, especially since such provisions are often particular to specific land uses or land-managing institutions (Annex 1 lists these laws). Existing laws do not appear to reflect the pursuit of a unified vision and set of strategies, and they are not readily comprehensible and user-friendly for those seeking to use and invest in land. The primary market in land, through which the State disposes of public land to users, is fragmented and has created quite artificial and often very local environments structured by multiple laws and regulations. Overlapping competences of various institutions and different sets of rules seem to pose major obstacles for investors seeking to make efficient decisions on acquisition of land for investment and use. This is especially evident with respect to observance of the complex regulatory requirements that have accumulated over the years, and which are themselves in need of rationalization. Even the system of land registration is fragmented, with two applicable formal systems for urban and rural areas (title and deed registration). The complexity and costliness of registration procedures has given rise to widespread resort to informal or less legally effective approaches to recording rights.

121. The task facing Government would appear to be one of both simplifying and rationalizing this legal basis for public land asset management. The objective should be to create a national market in access to State land, in which common regulatory standards apply. The existence of such a market could increase the efficiency of land use. There may need to be some exceptions to achieve particular public purposes, but these must be limited carefully. Today, the exceptions seem to have expanded to the point where they overwhelm any general legal framework for management of public land. **Egypt would greatly benefit from a consolidated law on Public Land Management, which should be prepared after development of the Public Land Management Policy.** It would best be handled by a Drafting Committee appointed by and reporting to the proposed Higher Committee of Public Land Management (also appointing the PDG), but whose membership should include representatives from the private sector and other non-governmental stakeholders.

### **Box 3.2 China: Decentralization of Public Land Administration**

Urban land in China is owned by the State, but its management has been progressively delegated to provincial and municipal governments, who allocate this land to users on long-term use rights. By the mid-1990s central government approval for allocations of public land were only needed for very large areas of land, the area differing depending on the nature of the land use. Central government retained the authority to retrieve public land from local governments for major investment projects of national interest. But otherwise, local government had full management of public land within their boundaries.

In the 1990s, demand for land for urban uses grew rapidly, in part due to a relaxation of legal restrictions which had partitioned the urban and rural economies into water-tight compartments, including tight restrictions on urban migration. Local government had some public land to reallocate from failed state enterprises, but also began to rapidly expand their borders into rural areas, where land was owned by rural collectives. Local governments acquired land compulsorily at compensation rates based on land values in rural, agricultural uses, and then auctioned or otherwise allocated that land for urban uses at much higher prices.

Recipients received long-term use rights and paid a single, up-front charge. This generated huge revenues for local governments in areas with strong demand for land. In 1998, central government approved land banking by local governments, in part to take over land of failed state-owned enterprises, but local government quickly learned to use this mechanism for ever more systematic land management, and to acquire rural land for future demand. This decentralized land administration, and the vigor with which local governments seized the opportunities for growth it provided, has driven a huge wave of urban infrastructural development in China's cities. This has been funded to a large extent from land revenues and much of the development has been carried out in partnership with private developers. The results are phenomenal.

On the other hand, from 2003 central government became concerned about a number of issues: 1) abuses involved in land takings from rural communities (resulting in civil disorder in some areas), 2) the practice of municipalities using public land in their land banks to secure liberal loans from other banks (threatening stability in the banking system); 3) the excessive dependence of some municipalities revenue from one-time charges on land, which might prove unsustainable; and 4) lack of controls of the use of the huge off-budget funds provided to local governments by land allocations. The experiment with decentralization of public land administration, remarkably successful in growth terms, now stands in needs of reform. A study of potential reforms is currently underway by Government with assistance from the World Bank.

Source: World Bank

122. *Decentralization of State Land Asset Management:* A final important issue is whether to decentralize decision-making concerning land allocations. A number of countries have decentralized administration of public lands to local and municipal governments. Decentralization of decision-making means that local populations will not be burdened with

allocations of land from their areas to enterprises or agencies whose activities seem to have little to offer the local inhabitants. This can vastly decrease local tensions that sometimes exist over allocations when local feelings are not taken into account. It can also revitalize and inspire local government development efforts. China provides an example how decentralization of public land administration has paid off handsomely in terms of local revenue generation, expansion of urban infrastructure and urban development generally (See Box 3.2).

123. Another example comes from Botswana, one of Sub-Saharan Africa's few success stories and one of the fastest growing countries in the world over the past two decades, with an average per capita GDP growth of over 7% per year. There, District Land Boards with both ex-officio members from district government and elected local members administer public lands in both urban and rural areas. The decision-making in the system is essentially decentralized, but with clear national standards and the potential for central government to intervene to ensure that major national land needs are met (See Box 3.3).

### **Box 3.3 Botswana: Land Boards in Decentralized Land Administration**

At independence, most land in Botswana is owned by the State, both in urban and rural areas, though that in rural areas was managed by customary institutions losing customary rules. In 1968, the new government legislated to create a system of District Land Boards to manage public land, one of a series of innovations that have earned Botswana its reputation as the best-governed country in Africa, with an average growth rate of 7% in recent years. While Botswana does not have urban areas of Egyptian size or complexity, its experience with Land Boards is worth consideration.

The District Land Boards (and sub-district land boards created later in some areas) combine official and elective members. The District Office of the Ministry of Lands and Local Government acts as the secretariat for the Board, and the District Lands Officer is the Secretary of the Board. The Board has an elected President. Four other relevant ministries have ex-officio membership on the Board. There were initially four local members popularly elected in a non-party vote for four-year terms. In some areas, ex officio membership was also provided for traditional leaders. Over time, the number of elected members has increased and has been made subject to party votes, while ex officio membership for traditional leaders has been eliminated. Legally, the Minister of Lands and Local Government retains the power to order Land Boards to make allocations, but it is a power that has been treated by great restraint by Ministers, and rarely used.

The Land Boards allocate land in both town and rural areas, using both customary allocations and long-term leaseholds, as may be appropriate. They are important participants in the land use planning process. The system has been efficient and low-cost, and has provided local people with a sense that they participate in decisions about land use in their areas. Disputes about land are rare. The system may work well in part because of the strong democratic ethos in Botswana, but it also owes a good deal to sound design and careful maintenance, an example of the latter being the regular and excellent training for land board members provided by the Ministry of Lands and Local Government.

Source: World Bank

124. Both these systems involve not simply decentralization of the public land administration and allocation functions, but the creation of checks and balances. Systems of checks and balances work best where there is decentralization of decision-making to local authorities, with central government exercising oversight and correcting mistakes. In China, the power to administer public land requires central government approval for very large allocations, and even more fundamentally, that power is delegated and can be withdrawn or varied by central government if the need arises. In Botswana, there are some transactions in land which require ministerial approval, as well as administrative appeals against actions by the Boards to the Minister. The Minister of Lands and Local Government can in fact order Land Boards to take

certain actions, though this power is almost never exercised. In Albania, as well, the public land management system has undergone serious reform as part of its effort to harmonize its policies with the EU. The two key features of the reform program are the decentralization of public land management decision-making (as well as land use planning) and the reliance on auctioning for disposing of public land (See Box 3.4).

**Box 3.4 Decentralization of land use planning and public land management in Albania**

Albania is undertaking serious political, social and economic reform in preparation for accession to the E.U, including land sector reform. The government has initiated a program to reform public land management in which it delegates to local governments the authority of controlling and managing all public land, except that which is needed for the national interest, upon satisfaction of the following process.

Local authorities are required to prepare a comprehensive regulatory plan, called Municipal Development Plan (MDP), which covers 15 years. The MDP includes a land use plan, economic and social infrastructure needs, traffic patterns, green areas, etc. Local government will also identify all public land within their areas that are not needed for national interest. The regulatory plan is submitted to the National Council of Territorial Adjustment (NCTA), which includes representatives from 13 ministries and is chaired by the Minister of public works, transportation and communications.

Upon approval of the plan, the NCTA will also approve the public lands to be transferred to the local authority. Transferred public land will include land needed for public facilities such as schools, hospitals, libraries, roads, etc. Local government is also authorized to dispose of unused public land for investment purposes, but the process has to follow an auctioning procedure in line with the national procurement law (which is harmonized with the EU). All auctions must be advertised in the national gazette and is subject to the normative audit of local government finances.

Source: World Bank

125. *Confronting Corruption in State Land Asset Management:* Corruption is a problem in public land management agencies in most developing countries. Lands, together with Customs, are the agencies most often cited as corrupt when citizens in these countries are surveyed. This is not because officials in this line of work are worse than others, but because bad policy decisions confront them with greater temptations. State Land—or at least critical categories of State Land, such as valuable urban or peri-urban land—is in fact a scarce and valuable asset, but is often not treated as such. It is commonly allocated to recipients at much less than market value by non-market or administrative mechanisms. This often lays the groundwork for opportunities for corruption, since when public land is allocated at less than market value, a person wanting the land in question may be willing to pay the allocating official something close to the difference between market value and the cost at which it is allocated to ensure he/she is allocated the land. Removing this opportunity by rigorously limiting non-market dispositions to welfare allocations to the needy, and insisting that all other allocations be done by public auction, eliminates this temptation and is far more effective than seeking to suppress corrupt practices by penalties. Decentralization of the allocation decision-making process also makes corruption much more difficult; it is difficult (and more expensive) to try to corrupt a committee. Checks and balances can be built into the system, including for instance a requirement that any major allocation be approved both by a local and a national committee. Procedural safeguards can also be included, such as a process for seeking administrative review of allocations, or a requirement for a public hearing at the location of the land concerned for major allocations (however defined).

126. It is important that the law states as the fundamental principle that State land should normally be allocated for the market value, while listing a number of specific exceptions such as allocations in support of poverty alleviation programs (e.g. low-income housing). Allocations in

several countries are often made to members of the political elite or civil servants and those connected with them, in cases where there is no compelling justification, for below-market prices. Consideration should thus be given to adopting one or more of the various mechanisms listed above for reducing incentives and opportunities for corruption in public land allocations. At the heart of public land management reform in both the Philippines and Turkey is the reliance on market-based allocation for public land in urban areas (See Boxes 3.5 and 3.6).

### **Box 3.5 Public Land Management in the Philippines**

Land in the Philippines is classified as private land, alienable and disposable public land (A&D Land, i.e. the State's private domain), and non-alienable and disposable public land (Non-A&D Land, i.e. the State's public domain). Non A&D land is managed by the Forest Bureau Department of Environment and Natural Resources and it includes all forest land (around 50% of the country's land mass), wet land and environmentally sensitive areas. The boundaries of forest land were approved by Congress and no changes in the forest boundaries can be done without the approval of Congress. A&D land is residual public land, that which is neither non-A&D land or privately-owned land.

In urban areas, the Department of Finance manages A&D land, through a Public Reclamation Authority (PRA) affiliated with it and mandated to identify and reclaim under-utilized public A&D land that could be used for urban development and then dispose of it. PRA identifies under-utilized land according to the Law and works closely with local governments to prepare the submission to the President for approval of the reclamation. Once signed by the president, PRA will auction the property in accordance with the national procurement law. All transfer of urban and peri-urban land under PRA is done through auctioning.

In rural areas, the Department of Agrarian Reform manages A&D land. It is often the case that A&D rural land is occupied and used by farmers since long periods of time, but they could not fulfill the legal requirements to acquire formal land ownership. The Department of Agrarian Reform distributes rural A&D land to landless poor farmers, initially through the issuance of occupancy rights (free patent), and then through full ownership rights once they have fulfilled all the legal obligations.

Source: World Bank

### **Box 3.6 Reforming Land Administration and Public Land Management in Turkey**

Turkey initiated a program to modernize its land administration system in the 1990s. Today, the modernization process is almost complete. The registration of all rights to private land has been completed and a program for the computerization of land registration was initiated and is expected to be completed in the coming few years. The system today is efficient; it takes less than 3 days to register a transaction in land and property, a better service standard than in many European countries.

All public land is owned by and registered in the name of the Treasury. The allocation of public land must follow the national procurement law through a transparent auctioning process. As the local representative of national government, the Governor has the authority to auction public land but the proceeds must revert to the Treasury. Elected mayors do not control public land. The limited supply of public land to the market relative to demand has over time resulted in the proliferation of squatting at the peri-urban fringe of main cities.

The fact that most land in Turkey is privately owned has meant that the Government's priority and the pressing need has been to reform the land registration system, which is completed. Relative to Egypt, the pressure on the Turkish Government to reform the public land management system is considered less acute, especially since the private property market is dynamic and efficient and most investors opt to use private property markets to meet their land demand. Nonetheless, the Government recognized the need to reform the public land management system and has initiated the reform last year. The objective is to establish an efficient public land management system, one which among other things allows local governments to request the transfer of public land in peri-urban areas to be able to organize an orderly expansion of cities.

Source: World Bank

127. Corruption can of course take place in decentralized public land administration as well as centralized systems, and the solution is to provide a check by requiring approval of major allocations (allocation of large areas and especially permanent alienation of large areas) at a high level of central government, and to provide for appeals to central government by those who wish to contest such allocations as violating the law or regulations. Some countries with which the World Bank is working on land management issues have begun to adopt anti-corruption strategies for land administration and management, and the recent experience of some of these, such as Indonesia, might be consulted for creative approaches (See Box 3.7). The public acknowledgement by most governments and donor agencies of the dimensions of corruption in this sphere is relatively recent, and many countries are just beginning to grapple with this problem.

**Box 3.7 Decentralization of land use planning and investment land allocation in Indonesia**

Indonesia economy expanded on an average rate of 8-9% over a thirty year period from 1960s to 1997. One of the main reasons for this expansion is the ability of government to secure cheap land for investors. The government used the principle of *Izin Locasi* (location permit) to transfer land to investors in the form of long term leases. In order to facilitate the process, the government consolidated all land functions under one agency, called the national land agency (BPN). BPN has a very broad mandate, including registering private land, issuing leases on government land, land use planning, and issuance of *Izin Locasi*. The idea is to have a one-stop-shop for all land-related service.

An investor could identify any piece for land, publicly or privately-owned, they need for an investment project (hotel, commercial building, to build a port or a highway, etc). The investor will apply to BPN to receive an *Izin Locasi*. BPN then will issue an *Izin Locasi* if the identified location is consistent with the land use plan. In the past, it was not uncommon that Government changed the land use plans to fit investors' needs. The BPN would then expropriate the land from private owners, in a process that was often criticized as non-transparent, and pass the property to the investors. The *Izin locasi* mechanism was successful in securing land for investors and attracting investments. However, the lack of checks and balances and the concentration of power in one entity, BPN, has led to serious misuse of the system during the Suharto era and alienated local communities.

After the change in government, the new administration recognized the strengths and weaknesses of the existing system. With support from the World Bank, the government has decentralized most functions of BPN to local authorities. Decentralized functions include among others the preparation of land use plans and the issuance of *Izin Locasi*. The government issues strict guidelines to ensure that *Izin Locasi* is approved by the elected local council after a period of public consultations. BPN functions were reduced to registration of private land only and policymaking. Also, BPN has initiated a major reform program to improve its image and tackle corruption, through major improvement in service standards, regular client surveys, and set up of a hotline to receive customers' complaints.

Source: World Bank

128. *Private Land: the "Second Front" in Land Policy and Legal Reform:* The roadmap presented in the following chapter envisages the creation of a Higher Committee of State Land Management which would lead the reform of policy and law for public land management. Its mandate, however, is confined to public lands. There is a larger task of general land policy and the policy and legal framework for private land ownership and use. The focus of the current assignment upon public land should not be taken to suggest that they are of equal or even greater importance in the long run. They are in fact critical, and should form a "second front" in land policy and law reform.

129. The most important failure in the legal and institutional framework for private land ownership appears to be the creation of an effective system of land titling and registration. Egypt already has a title registration law, but there are problems with both the law and its implementation. The registration system itself is fragmented, with title registration applied in rural areas (*sejel ainee* under Law 142 of 1964) and deeds registration in urban areas (*sejel shakhsee* under Law 114 of 1946). Government has failed to mobilize the potential of title registration to clear titles and resolve conflicts through systematic, field operations for adjudication and registration of titles. This is a need in rural areas, where older records have been used to register titles without field operation for adjudication to update the registry, which produced inconsistent results. But the need for title registration is much greater in urban and urbanizing areas, given the incidence of informality in these areas. For the Greater Cairo Region, it is estimated that 70-80% of all development since 1960 has been informal. Systematic title registration is urgently needed to formalize these landholdings.

130. Again, organizational issues arise and must be tackled early on. To address the need for mass systematic titling effectively, a consolidation of land survey, adjudication, and registration functions will be necessary. The World Bank's experience in land registration and administration projects in over 30 countries shows that effective policy development and implementation of land policy require getting most of the government functions concerning private land within one government agency. In particular, Survey and Land Registration need to be within the same agency, rather than Survey being located in one agency and the Land Registry in another agency, usually the Ministry of Justice. This is the case in Egypt, with land registration being vested in the REPD of the Ministry of Justice, while the ESA under the MIWR is responsible for survey. The World Bank's international experience with these systems has been that those in which registration is vested in the Ministry of Justice are among the most inefficient, and difficult to reform.

131. Care must be taken, however, if one agency is to include both the Land Registry and the "Lands Department" responsible for allocating and managing public lands. The Registrar and those involved in registering land titles under his/her supervision often exercise powers which affect the ownership of a parcel of land, and sometimes Government is a claimant. In this case, a potential conflict of interest can arise, with the Land Department as a claimant and the Land Registry as the adjudicator of claims. For this reason, many experts urge that these two units should not be within the same agency. This is the reason sometimes given for placing the Land Registry within the Ministry of Justice, but that has the disadvantage of separating it from Survey. Experts agree that if Lands and the Land Registry are within the same agency, there should be strong barriers erected between them. Usually this means that the law creating the Land Registry confers powers directly on the Registrar, rather than on the Ministry with which it is affiliated, to be delegated by the Minister to the Registrar. It is important that the Registrar and anyone executing quasi-judicial functions under his supervision should have clear legal independence of decision.

132. Finally, not all investment is oriented only towards State land located outside of the *Zimam* in Egypt. In reality, investors are often interested in underutilized land in prime locations in cities such as Cairo and Alexandria, which is either privately owned or controlled by State-owned enterprises. Often, the economics of land and property development projects on underutilized prime urban land are such as to enable adequate payment at market value for land assembly or for cash/in-kind compensation while still allowing for a profitable investment. While this is outside of the scope of this study, it is nonetheless critical for the government to address this issue through appropriate legislation governing this process (called urban land regeneration, redevelopment, readjustment, or simply land assembly) to enable an efficient process of land

redevelopment through public-private-partnerships according to the highest and best use. This is the case in many countries, including South Korea, Japan, Germany and France (See Box 3.8).

### **Box 3.8 Land Readjustment and Urban Redevelopment**

Developing countries seek major new investments from the private sector to renew their urban areas but land availability can be a problem. This can be dealt with by pooling existing landholdings, their redevelopment in more efficient land use/density (for instance replacing one and two story housing with high-rises) and use of the land freed up for new development. But private developers have trouble using market mechanisms to assemble together all the land needed because some holdouts demand exorbitant prices. Expropriation by the state is one possibility, as for instance in China, where municipalities expropriate land and those who held use rights are compensated with apartments in the new high-rises. But expropriation can cause political and social conflict and produce extended litigation, and countries are increasingly turning to a public-private partnership approach variously called land readjustment, land pooling, land sharing or land redevelopment.

This approach requires legislation that provides for the formation of property owner associations with powers to pool their land and redevelop their areas. Existing owners retain their property interests in the area, and benefit from appreciation in value due to new investments. The owners can agree to pool their land and redevelop it so long as some required majority of those landowners agrees. This figure varies but in Germany and Japan it is at least two-thirds of owners, whose holdings represent at least two-thirds of the land. The owners associations undertake redevelopment in partnership with private or public developers.

In different models, the relative roles of the private sector and government differ. In Germany, the process is initiated and promoted by local government, while in France it is driven by the landowners association. The Japanese model allows such projects to be initiated by the public or private sector. There is also considerable diversity among countries and even in particular development projects within countries regarding the relative roles of government and private participants in re-planning land use and investment funding. Laws which protect rights of existing owners and users but allow considerable flexibility in the framing of private-public partnerships seem to have the most potential.

The same process is also being used in Istanbul, Turkey, although for the different objective of strengthening its resilience to natural disasters, mainly Earthquakes. The city is less than 50 km from the north Anatolian fault line and a major earthquake is predicted in the next 30 years. One of the programs undertaken in Istanbul to achieve this objective is urban renewal in many older quarters of the city. The government initiated a major program for risk assessment taking into consideration distance from the fault line, soil quality, and the structural aspect of the building. For those blocks which are not safe, the government will implement urban renewal programs.

The process starts with the establishment of a task force which includes representatives of residents and the hiring of a consulting firm to prepare a feasibility study and a development plan for the area. The new plan includes densification through a mixed-use development with residential and commercial uses and more green areas, which would be undertaken by real estate development and investment companies. All existing residents can choose between a 75 square meter apartment plus a rental allowance for the construction duration or cash compensation. Tenants are also eligible for compensation. The investment funds would be recovered from the sale of additional residential space and lucrative commercial space. The overwhelming majority of the residents has voluntarily agreed to participate in the scheme given its clear benefit of protecting their lives and because they have fully participated in the planning of the project from the early stages. Istanbul Municipality is now debating a law to reduce the minimum legal limit of voluntary participation in such schemes to 80% of residents (owners and tenants). This means that if 80% of all owners and tenants agreed to participate, the government would have the power to declare eminent domain on the rest of the community and proceed with the project.

Source: World Bank

133. To enable such redevelopment, the revised Urban Planning Law must authorize this approach and include provisions on process (participatory process with public hearings, dealing with holdouts by establishing a minimum percent of population approving the process for it to be legally binding on holdouts, etc), rules on compensation (market value based on future/planned land use as is applied in the Netherlands and Germany or on the current land use as in France) and provisions related to land tenure status (ownership, leasehold or squatters).

## CHAPTER 4. REFORMING PUBLIC LAND MANAGEMENT IN EGYPT: THE WAY FORWARD AND CONCLUDING REMARKS

### 4.1 The Way forward

134. The high level policy workshop organized by the MOI in collaboration with the World Bank on February 26, 2006 was chaired by the Prime Minister of Egypt and attended by over forty participants including eight Ministers, and senior government officials and heads of authorities concerned with the land sector. The workshop provided an excellent venue to present preliminary findings of the study and discuss the Government's needs and views and present different options to reform/improve the existing policy, institutional and legal frameworks governing public land management in Egypt in light of lessons learnt from relevant international experience.

135. In the workshop, three interlinked approaches to reform were presented: (i) retaining and improving the status quo of juxtaposed sectoral and geographic control over public land; (ii) rationalizing public land management by consolidating the fragmented control over public land within one entity, a SLA; and (iii) decentralizing public land management to the Governorates. *For Egypt, the question is not only a matter of which institutional framework to adopt, but also at what speed should it be moving towards a more integrated and eventually decentralized model of public land management, as well as land use planning* (decentralization of land use planning was introduced in the draft new Urban Planning Law/Unified Building Code that is currently under review in Parliament). As such, the three approaches combine to offer a staged reform process that comprises three stages as follows:

136. The first stage—*short term*—focuses on rationalizing the existing institutional structure managing/controlling public lands by reducing the inefficiencies of the sectoral model and consolidating and harmonizing the fragmented and incoherent laws and regulations, through measures carried out over a one-year period. This would build on the reforms that Government has implemented or planned (e.g. establishing the National Center for Planning the State Land Uses—NCP SLU—to streamline and rationalize the public land supply flow from the State to the different authorities, establishing a new sectoral authority—GAID—to consolidate fragmented control over industrial land, and mainstreaming the General Authority for Free Zones and Investment GAFI's one-stop-shop services to include enabling investors to identify and access public land).

137. The second stage—*over the medium term*—focuses on rationalizing control over public land within a consolidated non-sectoral entity that would assume the role of custodian of public land (i.e. a State Land Bank). This entity would administer all new allocations of public land whether to sectoral or decentralized authorities (who in turn allocate land to end users). The public land allocation policies, regulations and guidelines would be set by a higher policy-making body to ensure transparency, efficiency of allocation, equity and social development policy objectives, and balance between central and local needs for public land. It is proposed that the Ministry of Finance would assume the role of custodian of public land assets and that a HC SLM, chaired by the Prime Minister, would oversee the policy-making and implementation of reforms.

138. The third stage—*gradually implemented over the long term*—focuses on the gradual shift towards a decentralized model for public land management by empowering Governorates to manage and dispose of the public land stock which is needed for growth and economic development within their jurisdictions. This public land stock would be determined based on

locally prepared development strategies and land use plans, in accordance with policies and guidelines set at the national level. This decentralized approach, with central government oversight, is in line with global experience/best practices and is best suited to ensure that land use planning and allocation decisions reflect local needs and priorities. However, it requires substantial legal, institutional and fiscal reforms as well as significant capacity building of local governments to assume the lead role in public land management. It also requires appropriate monitoring/oversight mechanisms. This can only be achieved in the long run, as part of government's overall decentralization policy. However, where local capacity exists, as in Cairo and Alexandria, the decentralization could start in the short/medium-term once the Governorates have prepared local development strategies and land use plans and their approval at the national level.

139. The workshop achieved its main objective of building consensus around the need for public land management reform and identifying Government's views and reform direction. The Prime Minister emphasized the urgent need to improve existing public land management practices to address one of the key constraints to doing business, and stressed Government's commitment to put in place a rationalized and integrated model of public land management. The Prime Minister noted that the two proposed ideas/approaches of placing the Ministry of Finance as custodian of public land (as in Turkey and other countries) and in the long run decentralizing public land management to local governments (in parallel with government's overall decentralization policy and capacity building efforts) would be favorably considered as part of the reform program. However, noting the time needed to implement these medium and long term reforms, the Prime Minister also requested that immediate improvements to the existing public land management system be developed as part of the overall roadmap for reform, improvements which Government can immediately act upon to address existing investor concerns while these medium and long-term reforms are being implemented.

140. It is within the scope of guidance and policy direction offered by the Prime Minister that the following proposed roadmap and action plan for public land management reform in the aim of improving the investment climate was developed. The roadmap was developed in consultation with key government stakeholders met following the workshop, including the Minister of Investment, the Minister of Housing, Utilities and Urban Development, the Minister of Agriculture and Land Reclamation, and the Minister of Planning and Local Development. A meeting hosted by the Director of NCPSLU and attended by the Chairmen of GAFI, GAID, GARPAD and TDA served to discuss how to improve the existing public land management system and coordination amongst the authorities (similar discussions were also held with the Chairman of GOPP and Deputy Chairman of NUCA).

#### ***4.1.1 Roadmap for Public Land Management reform in Egypt to improve the investment climate***

141. ***Principles underlying the roadmap for public land management reform:*** There is a pressing need to address the structural deficiencies of the existing public land management system in Egypt, which have resulted from the accumulation of many old policies and laws that are no longer suited to today's requirements for competitiveness and whose aggregate effect has been to make access to public land for investment purposes a major constraint to doing business in Egypt. It is particularly critical to revisit the sectoral public land management model with the aim, in the short term, of improving its functioning through a more rational use of the significant public land stock currently controlled by sectoral authorities (five million *Feddans*) to ensure an efficient land allocation and development process, and better coordination among these authorities. In the medium and long-term, the aim to address this structural problem is to move

towards a rationalized and integrated model of public land management, in parallel with gradual decentralization of public land management and land use planning. This will require consolidation and harmonization of the fragmented legal framework governing public land management, as well as significant efforts to standardize to the extent possible public land disposition and pricing methods, simplify the land allocation process, and ensure efficient allocation and utilization of public land assets.

142. ***Key elements of the proposed roadmap:*** The proposed roadmap to reform public land management in Egypt in the aim of improving the investment climate comprises the following measures:

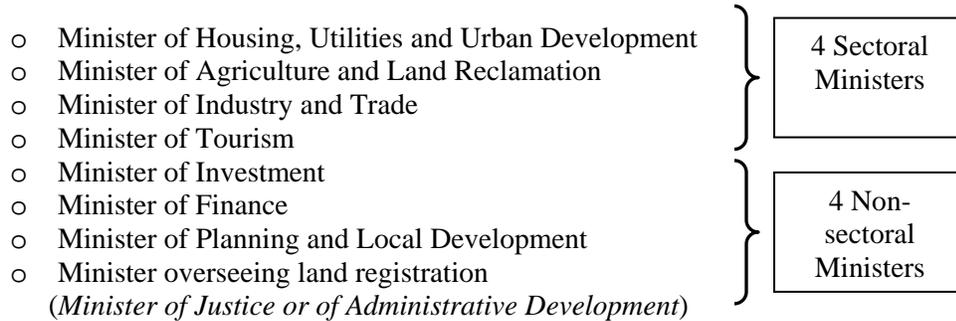
143. ***Concerning State Land and its Allocation:***

- Issue a Presidential or Prime Ministerial Decree to stop further allocation of public land to all sectoral authorities in the short term, e.g. for a 1-2 year period. Between them, the five largest sectoral authorities and holding companies control about 5 million *Feddans* of State land, of which a large proportion has not yet allocated to investors.
- Issue a Prime Ministerial Decree requiring the preparation of a detailed inventory for all public land under the custody of each sectoral authority, differentiating between lands not yet allocated to investors from lands that have already been allocated to investors (and further distinguishing between investment projects already operating versus those not yet in operation, and a record of the date of allocation of land for non-operating projects). This inventory should be prepared within 3-6 months and should be supported with all available maps. The State land inventory and management record of each sectoral authority would be audited by independent auditors, preferably private audit firms with established track record supported by a well-equipped government entity to handle such undertakings (e.g. Cabinet's Information and Decision Support Center, IDSC). A copy of the inventory and maps would also be made available to the NCPSLU to continue the process of mapping all public lands.
- Transfer control over all public land that has not yet been assigned a controlling entity or a land use together with all public land under the custody of the sectoral authorities but which has not yet been developed or allocated to investors to the Ministry of Finance (the rationale being that State land is one of the main public assets with an income-generating potential). The Ministry of Finance would henceforth act as the custodian of State land (i.e. a State land bank) and would be advised regarding its mandate by a land information support entity (NCPSLU). All deeds of State land would be deposited at the Ministry of Finance. The Ministry of Finance would administer or oversee the public land allocation process based on the policies and regulations set/approved by the Higher Committee on State Land Management (discussed later).
- New (wholesale) allocations of State land whether to sectoral authorities or Governorates with a proven capacity to efficiently manage and dispose of State land—in a first stage Cairo and Alexandria—or SEZ/geographic authorities (which in turn would allocate to end users) would be authorized based on their submission of strategic development plans and feasibility studies that enable a decision-making

process that reflects the opportunity cost of land (efficient allocation of public land), investment demands and trends as identified by GAFI, as well as the State’s social development policy objectives (e.g. affordable housing, etc) as identified by the Government.

144. **Concerning the Policy and Institutional Framework for SLM:**

- To ensure an integrated approach to public land management (especially land allocation and development) and effective coordination among the concerned government entities, a HCSLM would be established (based on the existing Ministerial land committee). The HCSLM would be headed by the Prime Minister and would include the following eight Ministers:



The Committee would assume the following mandate:

- Reviewing and approving all new (wholesale) allocations of State land for investment purposes (other than State land remaining under the control of sectoral authorities), based on the principle of competition between sectoral or geographic authorities.<sup>10</sup> Entities eligible to apply to HCSLM to obtain delegated control over public land include: sectoral ministries/authorities, selected Governorates (at first Cairo and Alexandria, upon completion of their development strategies and land use plans), and geographic entities (e.g. SEZA). Applications must be supported by feasibility studies, development strategies and land use plans that are aligned with Governorate/local development and land use plans. These are reviewed by the HCSLM Technical Secretariat to give a technical opinion on whether to authorize the delegated control.
- Approving periodically (period to be determined) the release of further tranches of State land to sectoral authorities and Governorates upon review and evaluation of their past performance in SLM;
- Reviewing and approving requests for classification and reclassification of State Land as part of the State’s public domain (which cannot be alienated or transferred) or the State’s private domain (which can be alienated or transferred), in coordination with the Ministry of Defense and Ministry of Environment;

---

<sup>10</sup> The Government may also opt that the HCSLM provides a no objection for sizeable permanent alienation of State private domain beyond a specified threshold, say 10 or 50 hectares. This would ensure scrutiny over large allocation decisions but the downside is that this may be viewed as a further approval/bureaucracy layer to the investment land allocation process and it could always be avoided through a series of smaller contiguous allocations to the same entity.

- Reviewing and approving requests for transferring control over State land among sectoral ministries/authorities and governorates;
  - Resolving disputes related to control over public land among different sectoral authorities and Governorates, as well as with the *Awqaf* Ministry;
  - Setting up a commission to establish systematic and transparent procedures for State land allocation and pricing for the different investment purposes, as well as monitoring and evaluation mechanisms, and reviewing and approving the final outcome prior to enactment into laws/decrees;
  - Supervising the completion of the inventory of State Lands allocated to all sectoral ministries/authorities and Governorates; and
  - Setting up a commission to draft a new State Land Asset Management law, consolidating existing fragmented legislation, and reviewing and approving the final draft before presentation to the Parliament.
- The HCSLM requires a competent Technical Secretariat that would review and provide technical advice on strategic development and land use plans, feasibility studies and other public land management issues as well as prepare national spatial strategies, guidelines and regulation to accommodate demand for investment (in coordination with GAFI) and supply needs for affordable housing and other social development policy objectives, and enable the decentralized preparation of local spatial strategies and land use plans. The government entity most qualified to play such a role is the Ministry of Housing's GOPP, which is the national entity in charge of regulating urban and land use planning and which has seven regional centers to support local efforts in plan preparation. For such an entity to efficiently assume its planning regulation and support role and effectively coordinate with all concerned line ministries and authorities as well as serve as an impartial advisor to the Committee, it is proposed to re-affiliate GOPP with the Prime Minister's Office, as it has been during the early 1980s in its better performance years. Its current affiliation with the Ministry of Housing—a line ministry with a specific sectoral interest in land use planning decisions (housing and urban development), is in contradiction with a land use planning role that encompasses all sectoral interests (agriculture, environment, tourism, industry, etc) and which should impartially arbitrate between all competing land uses. As part of its role, the Technical Secretariat would provide the committee with an annual consolidated report on the state of Public Land Management and Development, with an assessment of the performance of sectoral and geographical authorities.
  - There is a critical need for a “bookkeeping entity” that would establish, regularly update and maintain a Public Land Information System that includes a complete record of Public Lands, whether already allocated or not yet allocated, users and contract information. Given the magnitude of this undertaking, the mandate of the NCPSLU should be focused on this task so that it evolves into a State Land Information Center with the following responsibilities:
    - Undertake a complete inventory of State land and maintain and regularly update it;
    - Ensure that State land is registered in the Land Registry at the REPD;
    - Keep all deeds and official records related to State land;

- Oversee/ensure the protection of unallocated State land from encroachment in coordination with local government and putting in place an incentives package to ensure effective performance in this critical task; and
- Provide information about State land to the different users (HCSLM, GAFI, etc).

According to the Presidential Decree that established it in 2001, NCPSLU is affiliated with the Prime Minister’s Office and it has a board of directors with representatives of all land-related ministries and authorities. The Prime Minister subsequently delegated his function of Chairman of the Board to the Deputy Prime Minister’s level, and since then the role has de facto resided with the Minister of Agriculture and Land Reclamation (who then was but no longer is Deputy Prime Minister). Similar to the GOPP situation, the fact that the Board is chaired by one of the sectoral ministries has not enabled the Center to effectively fulfill its cross-sectoral role. It is therefore suggested that the NCPSLU Board be instead chaired by the Minister of Finance as the (non-sectoral) Ministry proposed to assume responsibility over State land asset management.

145. ***Concerning the legal/regulatory framework:***

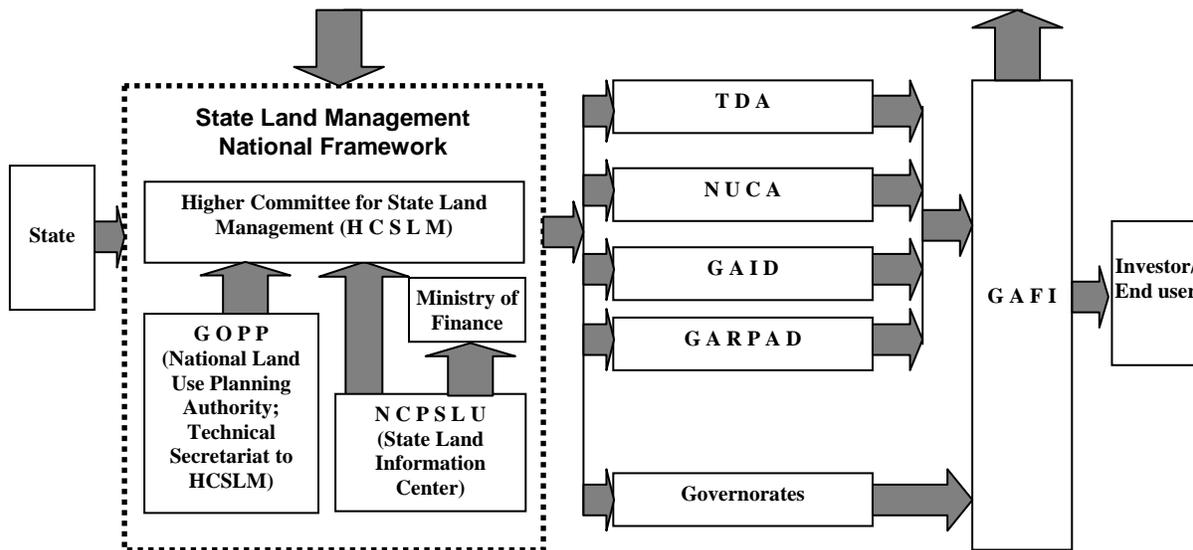
- Consolidating and harmonizing all laws and Presidential and Prime Ministerial Decrees governing control over and ownership of public land, allocation and development into a unified SLM law. The proposed SLM law and its executive regulations would cover *inter alia* the following aspects:
  - Definitions of State land and classification into Public and Private Domain (including prohibition of transfer of ownership of State public domain land and purposes/criteria of allocation of State private domain) and procedures for (re)classification between Public and Private Domain, with high-level decision;
  - General terms on which public land can be disposed of or its use assigned;
  - Institutions eligible to control and dispose of public land;
  - Public land allocation methods, procedures (simplified process in terms of steps, time, and number of required approvals), criteria, terms (ownership, leasehold, etc) and conditions;
  - Approval process of public land allocation decisions, including possibility of requiring high-level approval (by HCSLM) for sizeable permanent alienation of State private domain;
  - Principles of public land pricing for different uses (e.g. investment, affordable housing);
  - Measures to preserve public land against encroachment;
  - Methods and procedures of conflict resolution among different entities.

For this purpose, the HCSLM would appoint one or two Commissions to revise public land management policies and legislation. The Policy Commission would propose recommendations to reform public land management policies to improve the investment climate and harmonize/unify land allocation and pricing procedures based on a consultative process with key stakeholders, including the private sector. The

Legal Commission would review all existing laws and decrees related to public land management and would prepare a draft of the new SLM Law based on the policies and procedures approved by HCSLM. (This could be the same commission established by Minister of Justice Decree in 2005 to propose a unified Land Law.)

146. Figure 4.1 integrates the proposed institutional framework governing public land asset management with the recently completed/planned reform measures by the Government. An action plan and timetable for implementation of the proposed reform roadmap are presented overleaf.

**Figure 4.1 Proposed adaptation of recent reform measures initiated by the Government of Egypt**



#### **4.1.2 Action Plan to Implement the Roadmap and Milestones**

147. The action plan to implement the roadmap is divided into three stages: immediate actions expected to take place by the end of 2006, measures to be implemented during 2007, and long-term measures to be implemented over the next five or so years.

148. First stage: Immediate measures to be implemented by December 2006

- Issue a Prime Ministerial Decree stopping further allocation of public land to sectoral entities.
- Establish by way of a Prime Ministerial Decree the HCSLM by revising the membership of the Ministerial Committee on Land to assume the abovementioned mandate.
- Re-affiliate GOPP to the Prime Minister’s Office and add to its mandate its role as the technical secretariat for the HCSLM.
- Issue a Prime Ministerial Decree appointing the Minister of Finance as Chairman of the Board of NCPSLU and revising its mandate to focus on its State Land Information Center function.

- Finalize the audit of all public land under the control of sectoral authorities by independent auditors (with support of IDSC).
- HCSLM appoints a Commission to formulate recommendations to revise public land management policies and harmonized/unified land allocation and pricing procedures to improve the investment climate.
- HCSLM appoints a Commission to review all existing laws and decrees related to public land management and prepare a draft of the new SLM Law through a consultative process with key stakeholders.

149. These reforms could be covered in one Prime Ministerial Decree on State Land Inventory and Management, or alternatively a Presidential Decree. A small working group, including the Prime Minister's Office and GAFI (and possibly the Ministry of Finance and GOPP), would prepare the draft Decree. Article 1 of the decree would state the SLM policy principles (emphasizing that the aim is to ensure that State Land Assets are managed in an efficient, sustainable, equitable and transparent manner, in the objective of encouraging investment and ensuring equal opportunity of access to public land to socio-economically disadvantaged groups). The decree would proceed in following articles to establish HCSLM and state its mandate, re-affiliate GOPP to the Prime Minister's Office and introduce its role as Technical Secretariat to HCSLM, appoint the Minister of Finance as Chairman of the Board of NCPSLU, and launch the main HCSLM activities: State Land inventory and audit of State Land under the sectoral authorities, harmonization/unification of public land allocation and pricing procedures, and review/consolidation of SLM legislation in one unified Law.

150. Second state: Measures to be implemented during 2007

- Issue a Prime Ministerial Decree transferring all unallocated land from sectoral authorities to the Ministry of Finance (Treasury). Three options are available:
  - (i) All unused State Land allocated to the sectoral ministries/authorities is returned to the Treasury as of the date of signature of the decree
  - (ii) All unused state land allocated to the sectoral ministries/authorities is transferred to the Treasury as of a later date (say January 1, 2008 to allow these entities time to revise sectoral plans and strategies and identify short-term needs of public land).
  - (iii) Authorize sectoral ministries/authorities to retain a specific amount of public land needed for already approved activities per the date of signature of the decree and transfer all other unused public land to the Treasury.

The State Land Information Center would keep records of State land and oversee appropriate measures to safeguard State land assets against encroachment.

- Parliament reviews and approves the new SLM law.
- HCSLM high-level decision-making and the Treasury's administration of public land allocation to the eligible sectoral or geographic entities follows the new approved law and harmonized/unified procedures on SLM to achieve efficiency, transparency and equity of allocation as per the government's economic and social development policies.

- GOPP to assume its role as Technical Secretariat of HCSLM with support from the NCPSLU in reviewing authorities' requests for delegated control over public land, revising the national spatial/land use planning strategy in consultation with GAFI and other stakeholders, monitoring public land management performance of sectoral and geographic authorities and reviewing their annual reports and producing a consolidated annual report on the state of public land management, and ensuring with NCPSLU access to public land information and coordination between all entities.
- NCPSLU finalizes a first benchmark of the State Land Information System (e.g. scale of 1:250,000, cross-checking the 2017 Egypt Investment Map against actual ownership/control of public land by the different entities) and launches the State Land Registration process in the Land Registry
- GAFI rolls out its One Stop Shop Investor Service Centers in the Governorates
- GAFI and GOPP provide technical assistance to governorates in formulating their investment/local economic development strategies and land use plans.

151. Third stage: Long-term measures to be implemented during 2008-2013:

- NCPSLU finalizes the State Land Information System with detailed maps (e.g. scale of 1:20,000 ensuring that all State Lands have been registered in the Land Registry)
- Other Governorates finalize their medium/long term development and investment strategies and land use plans detailing their needs for public land to address their requests to HCSLM

#### **4.1.3 Risks and Mitigation Measures**

152. There are several risks that may emerge prior to or during the implementation of the proposed reform measures in the abovementioned roadmap, and which may well derail or stall the public land asset management reform process. The following section summarizes the key risks and proposes mitigation measures:

- ***Political resistance from the sectoral authorities and reluctance to give up control over public land:*** This is one of the most important risks facing the reform process. The main mitigation measure that is likely to overcome such political pressure from derailing or stopping the process is sustained political will and reform momentum at the highest political level, especially the support from the Prime Minister and key line ministers and stakeholders as has been evidenced during the high level policy workshop and the ensuing consultations as part of the preparation of the present roadmap. Other measures include putting in place incentives and checks-and-balances to encourage improved performance and compliance with the reform process (e.g. tying institutional funding decisions to implementation progress, accounting for the true value of assets, especially those held idle, etc), in addition to setting up periodic monitoring and evaluation systems and independent performance audits, with direct reporting to the highest level (HCSLM).
- ***Past public land disposition practices and/or accelerated disposition patterns during the interim transfer period causes irreversible damage:*** It is important when dealing with possible excesses of past public land disposition practices not to send wrong signals to the investor community (if, say, a lease was cancelled and the public land repossessed on the basis of malpractice by the allocating institution but without legal underpinning as

it relates to the investor). What would be needed in handling such cases is to enforce the existing regulations en force, which call for the repossession of public land (allocated at subsidized rates) which remains undeveloped beyond the maximum allowable timeframe, usually 3-5 years. The possibility of mismanagement during the interim period in which are transferred the management responsibilities for undeveloped/unallocated public lands from the sectoral authorities to the Ministry of Finance is also not unlikely. In this case, it is critical to have in place a functional system of checks-and-balances including period independent audits of sectoral authority performance, undertake an expedient transfer to the Ministry of Finance, and/or issue a temporary moratorium or prior review process for public land disposition practices during the interim period.

- *Limited capacity within the Ministry of Finance to administer public land asset allocation according to HCSLM policies and regulations and limited capacity among Governorates in terms of land use planning and (eventual) public land management:* Significant technical assistance will need to be provided both for the Ministry of Finance, especially to build up the NCP SLU's capacity to complete and maintain the State Land Information System, and more importantly to Governorates in land use planning and public land management. In addition to technical assistance, effective monitoring and evaluation systems will need to be set up to periodically assess performance.
- *Only few (cosmetic) reform measures are implemented and a slowdown in momentum leads to a business-as-usual attitude:* The importance of sustaining political engagement at the highest level to implement the first and arguably most critical stage of the roadmap cannot be understated. The aim is to ensure that the institutional and policy/regulatory reforms go hand in hand and that the agreed actions are implemented in spite of the short timeframe. More importantly, such momentum is needed to ensure that the reform process does not stop short at one or two measures (e.g. after re-affiliating one institution or issuing a decree), without implementation follow up and in the absence of a completed implementation of interlinked reform measures. In the second stage, the critically important step is to (significantly) complete the State Land Information System, which would constitute the basis of sound and informed management decisions. And finally, in the third stage in which planning for mainstreaming decentralized public land management will be underway, it is especially important to set up a system of checks and balances with independent monitoring in order to safeguard the public interest.

## 4.2 Concluding remarks

153. The institutional (re)organization of public land management became the threshold issue in the February 2006 high level policy workshop because it is difficult to make progress on more fundamental issues without simplification of the sector's organization, greater standardization of access to public land, and better coordination among agencies. Today's highly fragmented public land management system in Egypt with multiple sectoral agencies and special zones may have had a particular historic purpose, but cumulatively and over time, there seems to have been a loss of a coherent vision of the fundamental policies behind that management. Institutions managing public land adopt different and competitive policies regarding priorities for and terms of access for such land and use significant subsidies in this purpose. Investor demand and the market, with its allocative efficiencies, play only a limited role in determining where investment takes place.

154. There is **a need for a clear and comprehensive public land policy** that reasserts the role of the market in public land allocation and then puts in place a rational framework of planning

and incentives that reflect current needs and priorities. It must lay out Government's vision and a strategy for achieving it. Such policy framework would balance the government's objectives of efficiency, equity and environmental sustainability, and emphasize market-based allocation of public land assets except for clearly defined policy objectives such as affordable housing and environmental conservation, as well as a demand-driven approach to land use planning. It would also carefully examine the Government's locating incentives for attracting investment in the aim of unbundling these from socio-spatial development objectives.

155. And even though the sheer scale of public land in Egypt means that public land asset management bulks very large in the general land policy picture, it is nonetheless important to integrate public land policy within an overall land policy process that addresses other key interlinked components such as land and property registration and taxation, land use planning and development controls. Such policy framework would then guide the legal consolidation and harmonization reform process, which is critically needed.

156. There are also sector-specific issues that would be dealt with within the scope of overall public land management policies. The unclear property rights regime related to customary tenure is an issue that would need to be addressed in the public lands allocated for tourism development. The allocation of public land through *Takhssiss* at below-market prices and the attached regime of restrictions, especially the indefinite payment of price adjustments, is another issue that has been flagged by investors seeking to access public land for industrial and real estate development, whether these are managed by Governorates or NUCA. Another issue is the need for flexible spatial planning in industrial zones to enable expansion of investment projects. Consideration must also be given to developing a coherent approach to off-site infrastructure delivery, which currently ranges between complete reliance on the private sector without State intervention as in the tourism sector to complete reliance on the public sector for the delivery and maintenance of off- and on-site infrastructure as in many industrial zones.

157. In addition to improving access to public land for investment purposes, it is critical to pay attention to the land development process. This requires simplifying the process of issuance of a building permit, and removing the duplicate and unnecessary steps such as the temporary permit, and reducing and harmonizing inspections by the many departments (especially in Governorate-controlled public land). It is also critical to cancel the required clearances of the building permit application by the different government entities (MODMP, quarries, antiquities, water, sanitation, electricity, etc) by preparing in advance a set of building regulations granting automatic clearance and maps with available infrastructure networks and capacities to determine whether the parcel in question will have adequate services or not.

158. Finally, the focus of this Policy Note on public land asset management in the aim of improving the investment climate should not be taken to suggest that they are of equal or even greater importance in the long run than the administration of private lands. There is a larger task of general land policy and the policy and legal framework for private land ownership and use, which in fact form the "second front" in land policy and law reform. This requires strengthening land and property registration and reforming the real estate taxation system. In addition, the government will need to formulate appropriate legislation governing the process of urban land regeneration (or redevelopment, readjustment, assembly) to enable an efficient and transparent process of land redevelopment through public-private-partnerships.

## ANNEXES

## **Annex 1. Legal framework governing public land management in Egypt**

### ***A. Relevant Laws and Decrees Governing/Influencing Public Land Management in Egypt***

(Source: Ministry of Justice Committee, updated by the team)

#### LAWS

1. Agriculture Reclamation Law no. 178 for 1952.
2. Public road works Law no. 140 for 1956.
3. Law no. 29 for 1958 related to regulations of the free disposal of real estate owned by the State.
4. Law no.192 for 1958 related to River Banks.
5. Law no.100 for 1964 related to regulating the leasing of privately owned state property.
6. Agriculture Law no.53 for 1966.
7. Public Roads Law no. 84 for 1968.
8. Law no. 62 for 1974 of special provisions related to construction.
9. Law no.57 for 1978 related to the elimination of pools and swaps.
10. New Urban Communities Law no. 59 for 1979.
11. Local Administration Law no.43 for 1979.
12. Desert Land Law no. 143 for 1981.
13. Law no.48 for 1982 related to the protection of the River Nile.
14. Public tender Law no. 9 for 1983.
15. Law no. 89 for 1998 amended by Law no.5 for 2005.
16. Antique protection Law no. 117 for 1983.
17. Irrigation Law no. 12 for 1984.
18. Expropriation Law no. 10 for 1990.
19. State Private Domain Law no.7 for 1991
20. Environment Law no.4 for 1994
21. Law no. 5 for 1996 related to rules of free disposal or lease of desert land owned by the state or public entities.
22. Investment Guarantees and incentives Law no.8 for 1997 amended by Law no. 13 for 2004.
23. SEZs Law no. 83 for 2002.
24. Law no. 19 for 1984 of transferring ownership of privately owned state lands to governorates and the land reclamation fund.

#### PRESEDENTIAL DECREES

25. Decree no. 152 for 2001 determining Military Strategic lands.
26. Decree no. 153 for 2001 related to the NCPUSL.
27. Decree no. 154 for 2001 determining land uses.
28. Decree no. 531 for 1981 related to rules of disposal of property evacuated by the Armed Forces and its proceeds is specified to establish alternative Military cities and areas.
29. Decree no. \_\_\_ for 1986 of Ministry of Interior lands.
30. Decree no. 350 for 2005 establishing the General Authority for Industrial Development.

#### MILITARY ORDERS

31. Order no.1 for 1992
32. Order no.4 for 1992
33. Order no.1 for 1996

### PRIME MINISTERIAL DECREES

34. Decree no.580 for 1980 related to the creation of a new urban community along the northwestern coast
35. Decree no.2903 for 1995 related to the rules of disposal of lands set for construction owned by the state and the local administrative unit and lands suitable for reclamation within the *Zimam*.
36. Decree no.2904 for 1995 related to rules which regulate the management, usage and disposal of lands assigned to NUCA.
37. Decree no.2906 for 1995 related to rules which regulate the management, usage and disposal of lands assigned to GARPAD.
38. Decree no.2907 for 1995 related to rules which regulate the spending of the proceeds from the management, usage and disposal of lands assigned to GARPAD.
39. Decree no.2908 for 1995 related to rules which regulate the management, usage and disposal of lands assigned to TDA.
40. Decree no.2909 for 1995 related to rules which regulate the spending of the proceeds from the management, usage and disposal of lands assigned to TDA.
41. Decree no. 31 for 1981 related to rules of disposal of property evacuated by the Armed Forces.
42. Decree no. 1026 of 2005 amending Decree no.2908 of 1995.

### ***B. Synopsis of key laws and their important provisions***

#### **Desert land Law no.143 for 1981**

The management and disposal of desert lands in Egypt is regulated by Law no.143 for 1981 and its Executive Regulation, this Law falls into 29 Articles and its Executive Regulations falls into 72 Articles. Under this Law, desert lands are defined as privately owned-state lands located 2KM outside the *Zimam*, and lands of dried lake which have been assigned for reclamation purposes.

According to the Executive Regulations, the Egyptian Survey Authority is to prepare survey maps emphasizing the following:

- The border of the *Zimam*<sup>11</sup> and the ending boundary of 2KM from its border regarding non desert governorates.
- The existing city and village *Cordon*<sup>12</sup> at the date of issuance of this Law regarding desert governorates which are determined by a Decree from the Prime Minister.
- The outer border of lakes at the effective date of this Law.

Ratified copies are to be submitted to each of the MOMDP, the GARPAD, the NUCA and the competent authorities as stated in Article One of the Executive Regulations.

Based on the maps prepared by the ESA, management and disposal of the mentioned lands is to be according to the procedures set by this Law, as follows;

1. A Decree from the Minister of Defense is to be issued determining the strategic areas of Military importance among the desert lands, where the ownership of these lands may not be

---

<sup>11</sup> *Zimam* under Article One of the Law is the limits of land that has been surveyed by the ESA and subject to Land tax, the *Zimam* of the desert governorates is as determined by a Prime Ministerial Decree.

<sup>12</sup> *Cordon* is the municipal administrative boundary.

granted to any entity or person. These areas are to be only used for Military purposes and its use for any other purpose will require a decree from the Minister of Defense and will be according to the provisions set by the Minister as per Article two of the Executive Regulations. The competent authority at the Ministry is to notify the NUCA and General Authority of Agriculture Reclamation Projects with such strategic areas. Article Two of the Executive Regulation stipulates that each of the GARPAD and NUCA are to submit to the competent authority at the MOMDP a *periodic report* of the area which each authority intends to use whether for urban community development or agriculture reclamation purposes, for the purpose to getting the perspective of defense and security from MODMP, as well as its set provisions and rules relating to the matter. The Cabinet of Ministers upon the request of the Minister of Defense may expropriate desert land if was necessary for the internal or external national security or for the protection of antiques.

2. Apart from the determined strategic areas, a Decree from the Minister of Agriculture is to be issued determining the areas which are included in the agriculture reclamation projects plan , whereas its use for purposes other than its assigned purpose will require a prior authorization from the Minister of Agriculture. The GARPAD will be the entity responsible for the management and disposal of these areas after consulting with the Ministry of Defense.
3. Lands which are not located in strategic areas and reclamation areas are to be managed by the NUCA in coordination with the MODMP.

The reclamation and cultivation of desert lands is to take place in accordance with the provisions of this Law. The Law has given the GARPAD control of lands which are assigned for reclamation uses. Mines, minerals, petroleum and antiques, that might be found in the land are to be protected according to the regulating laws for such matters.

#### *Limits of ownership*

- The maximum limit of ownership of desert lands subject to this Law relies upon the method of irrigation and use of water resources, whether a modern method or a surface method is used. If a modern method is used, which is a method is related to water pressure, therefore the limits is set as follows according to Article 11 of the Law;
  - 200 *Feddans*/ individual or 300 *Feddans*/ family which includes a wife and two minor children.
  - 10000 *Feddans* for organizations noting a maximum limit of 30 *Feddans*/member
  - 10000 *Feddans* for partnership and limited stock companies noting a maximum limit of 150 *Feddans*/individual
  - 50000 *Feddans* for joint stock companies.
- However if a surface method of irrigation is used, which have been agreed upon by the competent Minister and the Minister of Irrigation, the maximum limit would be half of the mentioned limits.
- The ownership of the land according to this Law is limited to Egyptian nationals. However an exception may be made for citizens of Arab nations by a Presidential Decree.
- If land is owned by a company, then 51% of its capital should be owned by Egyptian nationals and the ownership of each individual should not be more than 20%, and it is not permissible to transfer lands owned by organizations and companies to non-Egyptians. A Decree from the board of directors of the GARPAD determined the ownership limits according to the nature of the project and the technical and financial capabilities of the owner.

*Forms of ownership:* Article 12 deems ownership as Full ownership, right of title (*Rakaba*), Usufruct rights, Lease for a period of 50 years (this kind of lease deemed as ownership according to this Law)

*Disposal:* The disposal of lands subject to this Law will be according to the rules set by the board of directors of the GARPAD, where these rules provide protection to the land and ensures that the authority will receive its due payments and share in the price difference upon the disposal of land which covers its share in the substantial utilities established by the government (*Article 13*)

- The usage of land will take place through a lease of three years.
- If the user proves seriousness of reclamation, the contract between the user and authority will be terminated and the land will be administratively withdrawn without any formal procedures.
- If the user proves seriousness of reclamation through out the lease period, the lease will be converted to ownership, where the user will pay the value of the land before its cultivation minus the three year paid lease value.
- The buyer is granted a land subject to this Law provided with its water resource for the purpose of reclamation, whereas the buyer has a time period of three years from the date of being provided with a water resource to complete the task of land reclamation.
- If the buyer fails to perform such task within the specified period, the sale contract will be terminated and the land shall be withdrawn.
- The authority may permit the disposal of cultivated lands means other than a public auction according to the regulations set by the board of directors.
  - Noting that the sold lands are not to be used for purposes other its assigned purpose, the disposal of the land before its reclamation is prohibited and requires the approval of the authority.
  - The boards of directors of the Authority set the prices for the disposal in collaboration with a technical committee based upon studies estimates prepared by the committee, and the net profit for the disposal of the land is to be deposited at the authority at a fund assigned for such purpose.
  - The boards of directors of the Authority may dispose or assign a real right or lease a land to whomever was sided by the disposal procedures whether by announcement, allocation or other procedures which have not been ratified by the Law until the effective date of this Law and an ownership statement was not issued for.

*Sanctions:* According to Article 23 of the Law, any person who trespass a land subject to this Law will face an imprisonment period which does not exceed one year and a fine which does not exceed Five Thousand Pounds.

#### **State Private Domain Law no.7 for 1991**

The provisions of this Law is to be applied to privately owned state lands, there are 9 Articles in this Law regulating land which fall with its scope. As previously mentioned the control of areas of strategic military importance lies within the MODMP. Regarding other areas, a Presidential Decree is issued to determine the areas falling under the following;

- a) Agriculture Reclamation Strategy, under the control of the GARPAD
- b) New Urban Community development, under the control of the NUCA.
- c) Tourism areas, under the control of the TDA.

- ❖ These three entities are to carry out their authority as owner in collaboration with the MODMP.(as stated in Article Two)
  - d) Dried lakes and areas are to be deemed as agriculture and reclamation areas, subject to the control of the GARPAD, in addition to the river banks, of which the GARPAD carries out its authority as owner in coordination with the Ministry of Irrigation.
  - e) Lands set for construction owned by the Local or State Administration, as well as Lands set for cultivation within the *Zimam*, fall within the control of the local administration units.
  - f) In respect of disposal, Article 4 stipulates that the governor after the approval of the local council, and in accordance with the general rules set out by the Cabinet of Ministers shall set out applicable rules of disposal giving priority to local residents.
  - g) Article 4 further stipulates that the rules of disposal may regulate disposal at no charge for the purposes of construction, housing, reclamation or any other purposes stipulated by the Cabinet of Ministers.
  - h) Lands which fall outside the scope of the *Zimam* are to be cultivated according to the national plan set by the Ministry of Agriculture, which undertakes the task of the plan's execution itself or assigns another entity to perform the task in coordination with the competent governorate.
  - i) The GARPAD manages the usage and disposal of these lands, this includes the lands which have been cultivated by the governorate until the date of the effectiveness of the plan referred to above.
- It is prohibited to use land subject to the provisions of this Law for other than its assigned purposes, however by a Presidential Decree after the approval of the Cabinet of Ministers, the land maybe reassigned to another entity or purpose. In the event of a dispute between any Ministry or entity or local unit regarding whom has authority over a specific land, the issue is to be presented to the Cabinet of Ministers. Where the decision of the Cabinet is binding upon all.
  - The proceeds of each of the GARPAD, TDA and NUCA from the disposal of land is deemed as public funds and is a resource for each authority, a Prime Ministerial Decree is to be issued to assign these amounts to a specific purpose, as well a setting the regulations and spending limit.

**Law no.5 for 1996 (The free disposal of Desert land)**

This Law regulates the rules of disposal of desert land which is owned by the state or public legal entities, at no charge for the investor, as well as leasing these lands for a nominal value. The Law falls into 6 Articles as follows;

1. The Law permits the free disposal or rent for a nominal value for the purpose of establishing investment projects or extension thereof.
2. Areas subject to the Law and procedures of disposal of these areas are determined by a Presidential Decree.
3. Article one of the Law stipulates that the allocation to an investor should take into account the size, nature and investment in the project.
4. However the ownership of the land is not transferred to the investor until the commencement and actual production of the project. (according to Article 2 of the law.)

5. Regarding leasing the lands for a nominal value, the lease period may not exceed Forty years, however the period is subject to renewal as long as the project is ongoing. If the project does not commence and there is no actual production, the owning administrative unit may withdraw the land (stated in Articles 3 and 4).
6. These lands may not be used for other than its assigned purposes or be disposed to a third party.

### **New Urban Communities Law no.59 for 1979**

Certain areas in Egypt are referred to as "New Urban Communities" under Law no.59 for 1979. A new urban community is defined as "an integrated community aims at achieving social stability and economical welfare with the objective of redistributing the population by setting up modern areas outside the range of the existing cities and villages that are attractive to citizens. Law no.59 for 1979 is the governing Law for these areas and it falls into 51 Articles. According to the Law:

#### **NUCA**

- These new urban communities are controlled by The NUCA, as stated in Article 2.
- NUCA handles the selection, disposal and sets the regulations for the areas which are eligible for urban community development.
- A presidential Decree is to be issued to appoint the chairman of the board, and determining his/her salary. The chairman appoints the president of the administrative entity of NUCA.
- The resource funds of NUCA are composed of:
  - a) A budget specified by the state.
  - b) Proceeds from sale, lease, usufruct of lands owned by NUCA.
  - c) Proceeds from NUCA's activity of works and services which it provides for others.
  - d) Loans.
  - e) Aid, donations and contributions.

#### **The land**

- NUCA selects the locations necessary for urban community development by collaboration with the local entities and sets its general and detailed planning regulations according to the state's national plan, as stated in Article 7.
- Moreover, an area of 5KM surrounding the urban community may not be disposed, or exploited, used, allocated or constructed upon in any way without a prior authorization from the NUCA, as well as an area of 100 meters on the side and along the public roads leading to the community may not be used without prior authorization from the NUCA.
- According to Article 5, at the event where community development projects overlaps with certain areas owned by individuals or private entities, NUCA may contract with the owner to obtain the land for a price agreed upon by both parties, however if the parties fail to reach an agreement, the land may be expropriated according to the provisions of the Expropriation Law no.10 for 1990.
- Agriculture lands may not be used for urban community development purposes.
- After the approval of the Cabinet of Ministers, a Decree from the Prime Minister is to be issued assigning the selected locations of state owned land for urban community development, as well as the 5KM surrounding area and roads leading the communities at no charge (free). This Decree is binding to all Ministries, authorities and entities. Any construction or structures may not take place on the grounds of the specified land without prior approval from NUCA.
- NUCA has full control over the local units and its financial resources until the transfer of the urban community to the local government unit, in addition NUCA issues all licenses and approvals for construction, operation and management according to the provisions of the effective Laws and Decrees.

### Community development projects

The New urban community projects and public utilities commitments and privileges are to be set as follows; (Article 11)

- i. The selection of the developers is to take place with competition and transparency.
  - ii. The concession period should not exceed 40 years from the date of contracting.
  - iii. The annual share of the net profit of the developer should not exceed 20% of the authorized and allocated capital
  - iv. If the net profit exceeds 20%, the surplus is to be used to create a reserve for the coming years when it will be lower than 20%. The surplus can also be used to renovate and expand the project and reduce the prices according to the set by the authority.
  - v. Determine the technical and financial means of supervision over the developer.
  - vi. Achieve equality between the beneficiaries of the project.
- A Decree from the cabinet of Ministries is to be issued to grant the concession according to the previous provisions based on the recommendation of the Board of Directors of NUCA, if the allocated and authorized capital does not exceed Ten Million Egyptian Pounds. Other cases will require the issuance of a Law to grant the commitment or concession.
  - It is not allowed for the owner of any establishment or a parcel of land in an urban community to dispose it before paying the full price of the contract and its related costs. Where the due payments to NUCA will be deemed a priority debt, according to Article 1139 of the Civil Code.
  - Projects established in these areas are granted several privileges and exemptions.
    - According to Article 46, all governmental entities, local units, general authorities, public sector companies and supervising authorities over state-property, are prohibited from disposing desert, bourn or agriculture lands located outside the existing boundaries of the city without the prior approval from the NUCA.
    - There are numerous Ministerial Decrees issued throughout the years in connection with the enforcement of this Law.

### **Prime Ministerial Decree no.2903 for 1995**

This Decree was issued to regulate the rules for the disposal the following lands;

- 1- State-owned land set for construction.
- 2- Lands owned by local units which are set for construction.
- 3- Lands located within the *Zimam* suitable for reclamation.

The decree falls into three Articles:

After the approval of the Local Council the competent Governor sets the rules of disposal of lands subject to this Decree, these rules must comply with the following;

- The priority of disposal is to be given to the residents of the governorate.
- The sale price of the land should not be lower than its market price.
- The sale contracts of the lands should contain clauses which bind the buyer from using the land for other than the purpose of its purchase.
- The rules should contain a down payment of the price of the land, and annual installment, duration of installments and the interest of installments.
- The rules should regulate cases where the land is to be disposed free of charge for development, housing, construction, agriculture reclamation, industrial projects purposes. In addition to cases where lands subject to this Law is to be disposed for less than its market value for public sector companies and public sector works which occupy the land at the date of issuance of this decree.

- As an exception of the Decree, the rules set by the Governor will not apply to lands and property evacuated by the Armed Forces which are determined by a Presidential Decree. This applies to lands specified for the Ministry of Interior, as well.

**Prime Ministerial Decree no. 2906 for 1995**

This Decree was issued to regulate the management, exploitation and disposal of land allocated for the GARPAD, which has control over lands assigned to it according to the provisions of Law no. 7 for 1991. The decree falls into 108 Articles. Lands which are subject to the control of the GARPAD are;

- 1- Desert lands subject to Law no.143 for 1981(mentioned above), which are assigned for reclamation purposes by a Presidential Decree after the approval of the Cabinet of ministers, based on the suggestion of the Minister of Agriculture, whereas the GARPAD has full ownership rights on these lands and carries out its authority in collaboration with the MOD.
- 2- Dried lake lands and river banks, where the GARPAD will carryout its authority in collaboration with the MIWR regarding river banks.
- 3- Lands which extend 2KM outside the *Zimam*, where its reclamation shall be in accordance with the national plan set by the Ministry of Agriculture.

***The Decree divides lands subject to it as follows;***

*Section one: Desert lands; which are divided as follows;*

- a) Uncultivated desert lands
  - i. Uncultivated desert lands included in the national plan, which its disposal is announced by way of sale or lease
  - ii. Uncultivated desert lands not included in the national plan, which its disposal is unannounced by way of sale or lease
- b) Cultivated desert lands
  - i. Disposed by a public auction
  - ii. Disposed by means other than a public auction.
  - iii. Disposed by other means than a public auction for purposes of national economic development.

*Section Two: Dried lake lands*

*Section Three: River banks*

*Section Four: Lands 2KM outside the Zimam*

***Section one: Desert lands***

***Uncultivated desert lands included in the national plan, where its disposal is announced***

1. This type of desert land is to be used by a three year lease period. if the user proves seriousness for land reclamation, the lease shall be converted to full ownership. In such case the user will purchase the land for its price before reclamation minus the paid lease value.
2. The lease contract shall be terminated and the GARPAD may administratively withdraw the land without the need for any formal procedures, If the lessee does not prove seriousness in the three year lease.

The Board of Directors of the GARPAD issues a resolution specifying the lands which may be leased for reclamation purposes, after taking the following steps;

1. Consult with the competent authorities.

2. Determining the infrastructure which will be required for the area and the possibility of providing it.
  3. Determining the price of the land and the cost of the infrastructure works, as well as its lease value.
- Article 4 stipulates the lease of the land is to be announced twice in a daily newspaper, the announcement should include the area, location, details, price of land and the lease value. In addition to the disposal provisions and characteristics of potential lessees.
  - Applicants are to submit their applications including all the information and attachments set by the Law, where these requirements differ according the type of applicant.
  - The lessee selection is made through a tender. The lease is granted to the selected lessee for a period of three years which starts from date where the lessee actually obtains the land, as stated in Article 13.
  - At the end of the lease period, a final report regarding the status of the land is to be presented to the Board of Directors of GAPRAR. This report is a product of several periodic inspections which took place through out the three year lease period.
  - Based on the final report, the board will decide whether the lease will be converted into ownership or the lease contract will be terminated.
  - Article 22 prohibits the dispose the land or any part of it before its full reclamation and full payment of its price, in which the owner or lessee is binded by the timeframe and provisions set by the GARPAD to cultivate the land.

*Uncultivated desert lands not included projects in the national plan and its disposal is unannounced*

- Regarding the uncultivated desert lands not included in the national plan and its disposal is unannounced, an application is to be presented by an investor to the GAPRAR including all the required information and attachments.
- A lease contract is formed for the applicant for one year subject to renewal until all the approvals from other authorities are obtained, however if the approvals are not granted, the lease contract shall be terminated, (Article 27).
- Article 28 stipulates that if the lease contract is converted to ownership, the full price is to be paid at the signing of the primary sale contract.
- The disposal of the land requires prior approval of GARPAD.

*Cultivated desert land*

The disposal of the third type of desert land, the cultivated desert land will take place as follows;

- The Board of Directors of GARPAD issues a resolution determining the cultivated desert land which are subject of disposal including the method of disposal and type of potential buyer according to the nature of each area, as stated in Article 30.
- Article 30 further stipulates that, the land may be disposed by either;

a) *Disposal through a public auction*, the procedures will take place as stated below;

- The Board or Directors determines the price of the land with the consultation of Technical Committee according to Article 30.
- The announcement of the public tender for the lands is to be published twice in a daily newspaper, where the announcement should include all the requirements previously mentioned

*Land is to be disposed to* Egyptian nationalities, and companies which have 51% of the capital owned by Egyptians.

b) *Disposal through other means than a public auction*, where the Board of Directors issues a resolution determining the prices and lease value of the land to be disposed to certain social categories according to the following table;

<b>Category</b>	<b>Maximum amount</b>	<b>Minimum amount</b>
1. War veterans or families of war martyrs	6 feddans	3 feddans
2. Small farmers	6 feddans	3 feddans
3. College/institutes/agriculture school graduates;	10 feddans	6 feddans
- High	8 feddans	4 feddans
-Medium		
4. Former civil servants;	6 feddans	3 feddans
- Fourth level employees	8 feddans	4 feddans
- First to Third level employees	10 feddans	5 feddans
- High administration level		

Uncultivated desert lands not included in the national plan, which its disposal is unannounced (sale or lease)

In addition, lands may be sold or leased by means other than a public auction for the purpose of national economic development for the mentioned social categories.

#### **Section Two: Lands of dried lakes**

Article 75 states, that lands of dried lakes are deemed as reclamation areas and are subject to the provisions which are applied to cultivated desert lands.

#### **Section Three: River bank lands**

According to Article 76 of the Decree, River banks refers to lands owned by the state or individuals, located between the of the River Nile and its branches. The city and village *Zimam*, includes these banks and its changes, where the area confined between the shore and which is determined at the meeting of the border of the *Zimam* sketched on survey maps end at that border.

The GARPAD in collaboration with the Real Estate Tax Authority survey the River bank lands annually, whether the lands are owned by the state or by individuals. This survey takes place on the month of January of each year and ends on the month of May of the same year.

The cultivated state owned lands and leased lands out of these river banks may be disposed by means other than a public auction, as well as lands that are concealed by possessors which have cultivated it. It is permissible to authorize the lease or disposal of these river bank bour lands by the Minister of Agriculture for the purpose of reclamation, if the disposal of the land will be for any other purpose it will require an authorization of the competent authority.

#### **Section Four: Lands which extend 2KM outside the Zimam,**

According to Article 90, lands which extend 2KM outside the *Zimam*, which to be leased or sold are divided into units suitable with its nature and project types to be established on its grounds, the division is to be ratified by the GARPAD's Board of Directors. A resolution from the Board of Directors is to be issued including area of each kind of the land, location, details, prices and types of potential lessees or buyers. The disposal is to be published twice in two daily newspapers. Sale or lease requests are to be submitted in the form of the standard applications including all the required information. The priority of disposal is to be given according to the following order;(Article 94)

- Public sector companies
- Joint-stock companies

- Agriculture reclamation organizations
- Other companies
- Individuals

**Prime Ministerial decree no.2908 for 1995**

This Decree was issued to regulate the disposal of lands owned by the TDA, the Decree falls into 19 Articles. TDA was given ownership to lands which are assigned as Tourism development areas by virtue of Law no.7 for 1991(mentioned above). Lands subject to this Decree are to be disposed for the purpose of establishing tourism projects.

- These lands are to be disposed to investors through "takhssis" (allocation) by a sale or lease or usufruct contract, where the period of the lease and usufruct contracts may not exceed 25 years.
- Tourism projects are classified into full development projects and limited development projects. Full development projects aim to establish a number of full tourism projects on areas of 500 000 sq2( five hundred thousand square meters), excluding shore areas having all utility hookups according to the general plan and designs ratified by the Authority. Limited development projects aims to develop one tourism project on an area of 500.000 m<sup>2</sup> (five hundred thousand square meters) excluding the shore areas with all utility hookups according to the general plan and designs ratified by the Authority.
- At the event of sale of residential units, the authority is entitled to 50% of the price of the tourism unit land provided that it should not be less than 15% of the unit itself. The percentage is to be determined according to the price of the market.
- The Authority may contract with a joint stock company to lease or use the land to establish a tourism investment project, after hooking up all the necessary utilities.
- The lease or usufruct contract must include all the provisions which reserves the rights of the authority.
- The components of the project are to be given to the Authority at the end of the project and the project's owner is at that time entitled to compensation. The owner may dispose the components of the project without written approval from the Authority, in such case the Authority will be entitled to 25% of the project's sales revenue, noting that the ownership rights of the Authority to the land is reserved.

***The procedures of the Land disposal are undertaken in 4 stages:***

***Stage one: Preliminary allocation of land***

- 1- The investor presents the application form for approval of a development a project and land allocation.
- 2- The Authority then reviews the proposed project study and location of land. In the event the application is approved, the Authority must reply by a written within 15 days from the date of submission indicating the preliminary reservation of the land.
- 3- The investor is obliged within 15 days from the date of notification of approval by the Authority to pay 20% of the total value of the land as allocation fees. Non-payment will result in cancellation of the preliminary approval.
- 4- Required detailed documents specified by the Decree are to be presented to the Authority.

If the investor does not present the required documents within the specified period, the preliminary approval reserving the land will be cancelled.

***Stage Two: Final allocation of location***

1. The Authority reviews and evaluates the study and documents of the proposed project. If approved, the investor shall receive the approval for the final allocation of the land.

2. The investor must submit certain documents within 30 days from receiving approval of final allocation, If the investor does not submit the documents within the specified period of time, the allocation will be cancelled.

*Stage three: Contracting*

The investor prior to contracting must pay 5% of the total value of the land as contracting expenses. The investor must pay a review fee, which is 3 and half per thousand of the total investment expenses of the project, payable as follows:

- **Full development companies:** 50% at submitting the execution documents and 50% after one year from ratification of the execution of documents or completion of the execution.
- **Limited development companies:** 30% at submitting the preliminary sketches and 70% at submitting the execution sketches.

The investor must pay the balance of the price of the land within a period of three years, in seven annual installments, at an annual interest of 5% on the delayed amount.

The execution sketches ratified by the Authority are to followed at the commencement of the project. The investor and contractor have criminal liability for the safe execution of the project.

*Stage Four: The execution of the project*

- The investor is obligated to execute the project according to with the time schedule ratified by the Authority.
- The investor must submit a quarterly report regarding progress of execution to the Authority.
- The Authority monitors the process and in case of non compliance or breach of the execution commitments, the Authority shall take the necessary steps pursuant to the rules ratified by its board of directors (fines- land withdrawal- termination of contract).
- If the investor violates the execution rules determined by the Authority, the Authority issues a warning notice to correct the violation within one month. If the violation persists, the Minister of Tourism shall issue a decree ordering removal of the project.

## Annex 2. Overview of key land and property registration and taxation issues

### ***Background on Real Estate Registration in Egypt***

Real estate registration in Egypt involves two main entities: (i) Real Estate Publicity (i.e. registry) Department (REPD) under the Ministry of Justice and which has been, since its creation in 1946, in charge of property title/deed registration; and (ii) the Egyptian Survey Authority (ESA) under the MIWR, which has historically been responsible for deed registration (both legal and technical aspects) since 1924 but which since 1946 has responsibility only for cadastral surveying. The RETD is also closely related to the process as it maintains the register for the real estate tax base, called *kashf al mokalafat*.

By Law , two registration systems co-exist in Egypt: a title registration system (called *sejel ainee* and regulated through Law No. 142 of 1964) that is applied in rural areas and a deed recordation system (called *sejel shakhsee* and regulated through Law No. 114 of 1946), which historically covered the whole country and currently remains in force in urban areas only. The application of the *sejel ainee* in rural areas in Egypt only started in 1976 (the executive regulation of the 1964 Law detailing the procedure for title registration was only issued in 1975). Both deed and title registration are voluntary. In the *sejel ainee* system, the registration fee is discounted by 50%.

Egyptian Survey Authority (ESA) officials estimate that 70-80% of agricultural lands (only the fields) are covered under the title registration or *sejel ainee* system (using a cadastral file with a unique parcel identifier for each property unit), whereas the remaining 20-30% are still covered under the deed recordation or *sejel shakhsee* system (using the transaction parties' information as identifiers). ESA also estimates that no more than 20% of urban properties are currently covered in the *sejel shakhsee* system. According to the Ministry of Justice, there are 13 million registered deeds in the *sejel shakhsee* system with REPD, but there are no statistics on the actual number of real estate units covered given that no unique property ID is available in the *sejel shakhsee*.

The limited ratio of urban property transactions that are registered in the *sejel shakhsee* system is due to many reasons including: (i) the prevalence of informal development (in the Greater Cairo Region, this is estimated at about 70-80% of all development since 1960); (ii) until recently, very high registration fees (used to be 12% until the early 1990s, reduced to 6% in 1998, 4.5% by 1999-2000, and most recently to the current level of 3%), which is in addition to the tax on real estate transfers imposed on the seller and equal to 2.5% of sale value; (iii) complicated and time-consuming registration procedures. The lack of a legal mechanism (namely a Condominium Law) to regulate the registration of apartment units (*vis-à-vis* the land registration process) is also seen by many as an obstacle to the current system of registration, since apartment buildings represent the dominant building typology in Egypt.

Similarly, the high percentage of title registration in rural areas belies a major problem. The *sejel ainee* system was not implemented so as to reflect the existing reality of *Hiyaza* today nor was there any systematic title adjudication. Rather, the process relied on the conversion of existing registered deeds (often unrelated to today's reality) into titles. This meant that titles to agricultural lands were often not issued in the name of today's landowners but instead in the name of yesterday's owners, many of whom had died, sold or subdivided their parcels, etc. As such, the newly established title system was born outdated and largely unrelated to reality. The primary benefit of the system as it was applied in rural areas is that it created a starting point

(*sejel ainee* registration can only be challenged through a court decision, which would be mainly on account of fraud or non-authenticity).

A recent study of Ibrahimiya village in Damanhour that compared titles issued under the *sejel ainee* system with the reality on the ground confirms these findings. Indeed, in only 24% of all parcels, the data from REPD and ESA matched, whereas the remaining 76% did not match. In 23% of the cases, the areas matched but owners were different; in 1% of the cases, the owner matched but the areas in both datasets differed; in 18% of the cases, the parcels had an ongoing request for registration; and in 34% of the cases, the parcels did not figure in either dataset.

### ***Real estate Registration Process***

The deed registration (*sejel shakhsee*) process, which is voluntary, consists of two stages. In the first stage, the applicant submits a request to the REPD branch in whose jurisdiction the land or building in question is located. The application, submitted as an original with four copies, includes the contract for sale of the property in question, its description including the area, boundaries, name and information of buyer and seller, sale price, encumbrances on the real estate, and the original ownership title or proof. The file also includes an official property tax record from RETD, the company's registration in the commercial register if the buyer or seller is a company, the building permit if it is a first registration, Tax form No. 38, and the incorporation/registration decision if the property is owned or to be purchased by a foreign company.

The head of REPD examines the file and records the application in a special logbook. REPD then forwards a copy of the file to ESA with a request to examine the file from the surveying angle to assure its location, area, boundaries. After paying the required fees, ESA assigns a time to the applicant for undertaking the field survey (usually within one week, but the delay can reach three weeks). ESA then reports back to REPD about the outcome of the survey, through a form called *Kashf Tahdid* (Cadastral Information Form). REPD then examines the application from the legal angle to ensure that the property in question is indeed owned by the applicant and that the file is without mistakes.

It is worth noting that in all abovementioned steps, any omission, mistake or unclear information (which is quite likely to happen since REPD and ESA operate manually) will immediately entail an interruption of the process until the error is corrected (either the file is returned to the applicant or to ESA for this purpose). This process reportedly takes a long time, even if in theory a 30 day period is the maximum timeframe for processing of the completed file (the file is not considered complete until all errors are corrected). In addition, if REPD's legal investigation of title or proof of ownership uncovers a defect, the process will come to a stop and the applicant will have paid the surveying fee without attaining his/her objective of registration (a prospective buyer usually requests from REPD the issuance of an official copy of the registered deed before committing to buying the property in question, which reduces the prospect for such a belated legal problem). Nonetheless, it would make more sense in the future if the legal investigation of title/proof of ownership preceded surveying (assuming that subdivisions and amalgamations would also be in the future).

Once the documents have been completed, the REPD approves the application for publicity and hands the file to the applicant to prepare a draft legal contract (known as the green contract) with the same information and have it endorsed by the Egyptian Syndicate of Lawyers/bar association in return for a fee. The applicant then returns the green contract to REPD for approval. If one of the contracting parties is a foreigner, REPD sends the green contract to the Ministry of Justice's Foreign Ownership office for approval. Once the green (or draft) contract has been cleared,

REPD stamps it as eligible for publicity and the owner then proceeds to pay the necessary registration fees and then the two parties (seller and buyer sign it officially in REPD).

The second stage is the publicity process itself. The applicant returns the signed and stamped draft contract to REPD, which checks it a second time for errors. If it is approved, then it is recorded in the registry, which marks the end of the publicity process. The buyer's right of ownership is officially sanctioned at this stage. The buyer is given a copy of the contract and a second copy is sent for safekeeping in the *Dar Al Mahfouz* document repository at REPD.

Overall, as can be seen from the above description, the registration process is time-consuming, complex (it takes anywhere between 3 to 24 months between REPD and ESA) and until recently used to be very costly. In addition, a large share of urban land and real estate cannot be registered under the current system without great difficulty (informal developments, lack of first registration, inability to partition inheritances, etc), and that is assuming that these cases will not be rejected by REPD staff which is likely.

Such a complex situation has given rise to a number of legally permissible and extralegal ways to get around the registration process. The hurdle imposed by the fact that the seller must go with the buyer to the REPD to sign the green contract (sellers are often reticent to do so, especially if they have already cashed in the sale proceeds) has led to the widespread adoption of a procedure called *Saha wa Nafaz*.<sup>13</sup> The buyer files a lawsuit known as *Saha wa Nafaz* against the seller and all previous sellers/owners in the ownership chain. The court investigates ownership in view of sanctioning the transfer deed. Once the process is done, the buyer would have "cleared up" the ownership deed and he/she should then go to REPD to record it. The court retains 1/4 of the 3% registration fees. Upon registering with REPD, the buyer would then pay the balance (3/4 of the 3%). Given that registration is voluntary and that the court retains only 1/4 of the registration fee in addition to its expenses (which are nominal), buyers often deem the *Saha wa Nafaz* procedure as sufficient security of ownership and therefore do not go to REPD. It is unclear, however, how this dynamic will change after the reduction in February 2006 of registration fees to a flat charge of LE1,000 per property.

Finally, a procedure that is common for giving some form of legality to transfers of property in informal settlements and in situations with unclear or contested ownership claims (e.g. when one of heir sells land without settling the estate) is to take the preliminary transfer deed to the courts for notarization, through a procedure known as *Saha Tawqi'e* (in which the court sanctions the deed signatures without constituting formal recognition by the court of the ownership claim). The volume of the *Saha wa Nafaz* and *Saha Tawqi'e* cases has suffocated the court system in Egypt.

The *sejel ainee* system starts with the authorities identifying one or more areas to be processed. The area is then surveyed by ESA, whose staff create maps with property boundaries and other information and with a Cadastral Information Form for each property. Registered deeds are then inspected and a preliminary legal decision is made. Owners or holders of ownership claims are then invited to challenge the registration process (in the *sejel ainee* experience in rural areas to date, the communication and dissemination campaigns have been criticized as poor and very little, if any, adjudication took place). Once the delay has passed, landowners are invited to convert their deeds to titles. It is not uncommon that owners do not register because: (i) registration is voluntary; (ii) owners have little understanding of the benefits of registration due to

---

<sup>13</sup> The other way is for the buyer to obtain a Power of Attorney from the seller permitting the sale to oneself, so that the buyer can sign in REPD on behalf of him/herself as well as the seller.

poor communication campaigns; and (iii) because the fees charged (50% of normal registration fees—which were 12% until recently before being reduced to 3%, and most recently to a flat fee of LE1,000 per property) were/are considered excessive by rural landholders. Interestingly, a study by the Egyptian Cadastral Information Management (ECIM) project—financed by the Government of Finland and placed under ESA—of a sample of recent transfer deeds in rural areas found that a large proportion still rely on the *Saha wa Nafaz* procedure, even though they have been issued titles (which points to a poor understanding of the meaning/benefits of a title).

The fees associated with the overall registration process are: (i) LE190 for the cost of surveying of the land only or LE380 for the land and building (these costs are per site visit, so that if the process needs to be repeated for whatever reason, new fees are charged);<sup>14</sup> (ii) 3% of the value of the transfer of the property or 300 times the real estate taxes paid, whichever is higher (inheritance transfers are free of charge); (iii) 0.5% of the value of the transfer for the endorsement of the Egyptian syndicate of Lawyers (bar association).<sup>15</sup> This is in addition to a tax on real estate transfer equal to 2.5% of the transfer value.

### ***Real Estate Taxation Process***

The RETD under the Ministry of Finance is the entity responsible for property taxation. RETD maintains the Real Estate Tax register—*kashf al mukalafat*, which in theory attempts to maintain a full documentation of all properties, even if these are (currently) exempted from the application of the real estate tax. Indeed, by law, real estate tax is currently only imposed on properties within municipal *cordons* or the agricultural land *zimam*. Property outside of the *cordon* or the *zimam* is currently exempt from paying real estate taxes, with the exemption scheduled to last until 2010 (it may then be extended). The Minister of Finance is by Law empowered to decree the addition of other areas to *kashf al mukalafat*, but in reality this power seems not to be exercised.

According to CAPMAS statistics based on the census and projections, the overall property tax base comprises 9 million *feddans* of cultivated/uncultivated agricultural lands; 9 million real estate properties (built or unbuilt lands); and 18 million real estate property units (including condominiums) for residential and non-residential use. Of the 18 million real estate property units, RETD estimates that as much as 10 million units are currently undocumented in *kashf al mukalafat*. The remaining 8 million units (whether or not they are required to pay taxes) are manually documented, and of these the information on 2 million units has been computerized. It is worth noting that RETD employs some 55,000 staff distributed between the central, regional and local level.

RETD, includes a tax on agricultural lands (known as *Daribet Al Atyan*), a tax on real estate (residential and non-residential) in urban areas (known as *Daribet Al Akarat*), and a tax on activities (known as *Daribet Al Malahy*). Landowners pay a tax on their agricultural land holdings that is equal to 14% of annual rental value (applied or imputed rent). Rental value is assessed based on a mix of documents provided by the owner such as rental contracts, rental value assessment for comparables, and the assessor's experience. Assessors also apply a series of

---

<sup>14</sup> The fee was reduced from LE300 to LE190 after REPD claimed that the high cost of surveying acts as an obstacle to demand for registration. Note that, even after the reduction of registration charges, REPD still collects 3% of the value of the property to register a transfer, which by far exceeds the cost of surveying. According to ESA, the reduction of the cost surveying charge means that the service is today subsidized. This reduction took place at around the same time that ESA was converted into an economic authority in 2000, which requires it to ensure that its revenues cover its expenses.

<sup>15</sup> This fee was significantly increased recently from the original 0.1%, which rose to 0.2% then to 0.5%.

factors that supposedly contribute to a point system (land/soil quality, proximity to roads, fertility, type of crop, presence/absence and nature of irrigation, value of a comparable *Feddan*, number of agricultural cycle per year, etc). The assessment system is clearly complex and it is unclear which assessment method is used and how systematic it is being applied.

The tax rate for all non-residential urban uses (industrial, commercial, administrative, etc) is 10% of annual rental value (applied or imputed rent). As for residential real estate, the tax rate is organized along several brackets according to the quality of the housing unit (classified by the Law into four categories: economic, medium, above-medium, and luxury housing, each of which has legally prescribed requirements regulating unit size and physical characteristics). These brackets range between 10% and 46%.

The currently applied real estate taxation system is faced with many problems that necessitate a major regulatory and institutional overhaul. The tax rate, especially on residential real estate, is clearly excessive. In addition, there is a long list of property types eligible for real estate tax exemption, including all non-luxury owner-occupied residential buildings/units built after 1977, religious, charitable and non-profit developments, government buildings, etc, which resulted in a large percentage of the building stock being exempted from taxation. In addition, the high tax rate imposed on residential real estate made the valuation and tax collection processes politically sensitive issues. This was the main reason behind the decision to exempt non-luxury (i.e. economic, middle, and above-middle housing standards) owner-occupied buildings built since 1977, and has also indirectly reflected on the very low assessment of real or imputed rental value. The low assessment value is in large part based on the fact that many housing units were/still are rent controlled<sup>16</sup> (whether these buildings are themselves the object of the assessment or are used as comparables for assessing other buildings) and that the assessment is only updated once every 10 years. In addition, the high tax rate caused many owners to capitalize on the list of exemptions in an attempt to find loopholes: the most commonly used method is to build a small mosque in a luxury high-rise apartment building to exempt the entire building from real estate taxes.

The assessment typically relies on a valuation of the real estate in question in order to determine or impute the rental value. There are several applicable methods for the assessment including documents provided by the owner (e.g. building permit with a stated construction value—which is below market value for construction cost as will be discussed later, contract with the building contractor, etc), the assessor's experience of the area and property type, the assessor's estimate based on a site visit and a list of factors that influence the assessment (land price, availability of services, construction cost, etc), the documented rental values of comparable properties, and a series of decrees that have affected assessment values for certain areas or uses. It is unclear what is the process or rules governing the selection of an assessment method in a particular case. It seems that the decision may be based on discretion and/or negotiated agreement (especially if the owner appeals an earlier decision/valuation process).

The third problem is that, by Law, the real estate tax is only collected on lands and buildings located within municipal *cordons*. This means that all the New Urban Communities are exempt from paying real estate taxes (it is unclear whether this is a flaw in the Law or an intentional measure to encourage location in New Urban Communities). In addition, given that the most

---

<sup>16</sup> Despite the abolition of rent control for new and vacated units in 1996, occupied housing units remain grandfathered under the former rent control regime, with a clause allowing the lessee of the unit to pass it once for a residing first-degree relative. The legal framework that installed rent control and regulated the relationship between lessor and lessee accordingly (including the tenant protection clauses) included Law No. 46 of 1962, Law No. 49 of 1977 and Law No. 131 of 1981.

recent municipal *cordons* were determined in 1985 on the basis of aerial photography dating from 1981-1985, much of the building stock in cities that has taken place since does not constitute part of the tax base. The fourth problem is that *kashf al mukalafat* does not reflect the situation on the ground today. It is, however, impossible to assess the extent to which the register diverges from reality today. Another problem is that vacant urban lands are not subject to real estate taxation, which would have been beneficial in addressing the problem of land speculation.

The impact of limited property registration in urban areas, an outdated real estate register (where many registered properties and owners are different from those found in the reality), extremely low assessment value, an unclear and rather subjective valuation process, exemption of a large percentage of the building stock from real estate taxes, and poor coordination between REPD, RETD and ESA have all reflected on the very limited resources available from real estate taxes (LE150 million per year from the agricultural land tax and LE120 million from the tax on urban real estate in 2004).

### ***Recommendations to improve the land and real estate registration and taxation systems***

Improving the land and real estate registration system requires the following:

- Replace the *sejel shakhsee* system (deed recordation) that is used in urban areas and in the built up zones in rural areas with the *sejel ainee* system (title registration), a critical measure planned by the Government and which the Prime Ministerial Committee on land registration was mandated to implement. This will require revising the legal framework which comprises two laws for *sejel shakhsee* and *sejel ainee*, allowing for their simultaneous existence.
- Launch a systematic titling adjudication and registration program in urban areas including in the New Urban Communities. The design of such program would need to avoid the pitfalls of the *sejel ainee* process that was applied in rural areas in Egypt (and which converted yesterday's registered deeds into titles without adjudicating the titles or acknowledging the existing *Hiyaza* then—it can mainly be credited for creating for each property a Cadastral Information Form). The proposed program will need to undertake the legal adjudicate of titles and reflect today's *Hiyaza* reality, in addition to vigorous community awareness and dissemination campaigns on the benefits of registration.
- Make first registration through systematic titling programs mandatory and at-cost or for free (currently first registration is voluntary and it costs 50% of the normal registration fees of 3%).
- Activate demand for immovable property registration through removing the disincentives to demand for registration (e.g. simplifying the process by removing duplicate steps such as the REPD checking on the survey work of ESA and iterative REPD-ESA steps that require applicants to visit each office 3-4 times at least; examining the feasibility of reorganizing the process to start with the legal component in REPD followed by the technical/survey component at ESA; discontinue the current practice of issuing of building permits and utility hook-ups without registered title/deeds). Government has in effect undertaken in March 2006 an important measure to incentivize registration by imposing a flat fee of LE1,000 (USD173) for the service that presumably reflects the true administrative transaction cost, instead of the past 3% of value. While this is hailed as an important step, some critics have argued that this represents a regressive charge against lower-value properties, held by lower-income groups. Also in the case of the surveying function, the service is a function of the size of the property, and the past imposition of a below-cost-recovery charge of LE190 had led to administrators finding loopholes in the

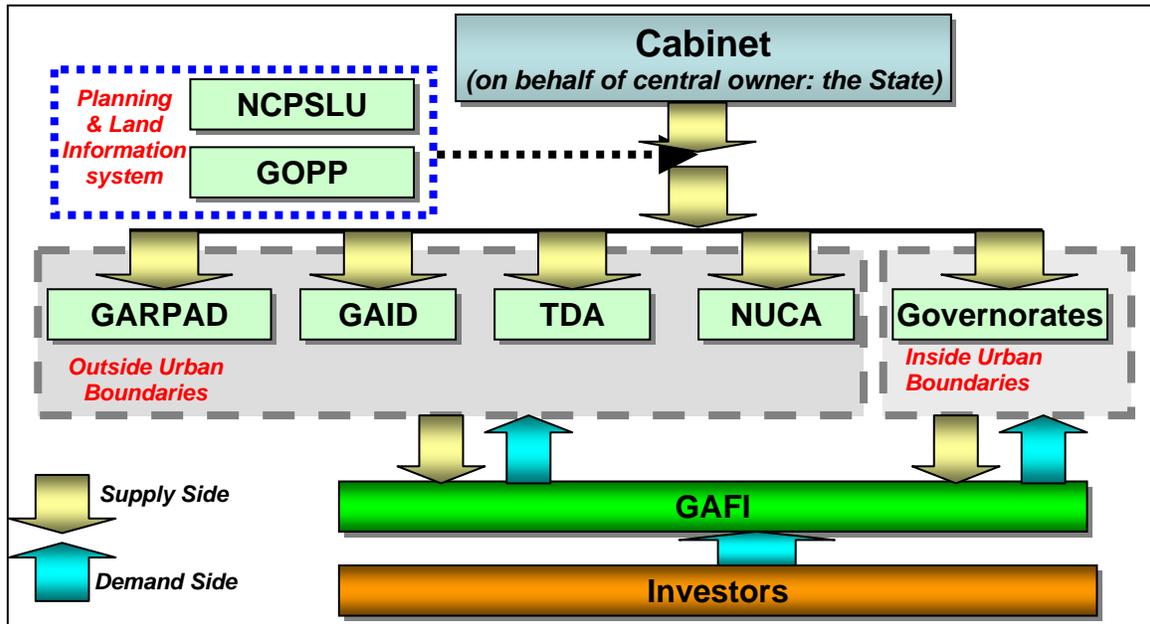
- system to charge a higher amount.
- Improve coordination between ESA (under MIWR) and REPD (under MOJ). In light of the historically and currently sub-optimal communication and coordination between both entities, it is unlikely that improved coordination will yield any positive results. A more likely approach to address such problems is institutional restructuring to consolidate the land surveying (ESA) and land registration (REPD) functions under one Authority that would be attached to the Council of Ministers.
  - Resolve the issue of the inability to register land titles in industrial zones under the *Takhsiss* system during the 3-year period in which the payment for land is not yet completed (by allowing for a conditional title registration that could be borrowed against).
    - Publish detailed procedures for the real estate registration process and the applicant (investor or individual)'s rights and responsibilities

Improving the land and real estate taxation system requires overhauling the entire land and real estate taxation system. The Ministry of Finance has embarked on the process of drafting a new legislation to reform the system. The reform process should aim to:

- Lower the currently excessive property tax rate and examine the feasibility of tying the tax rate to the asset value rather than rental income (which will require a special treatment for rent-controlled properties);
- Significantly reduce the long list of exemptions from property taxation that is currently available;
- Apply property taxation to all areas in and out of the *zimam* (and where incentives need to be given, these should be targeted and of a finite period, e.g. a 10-year exemption from property taxes to low- and moderate-income housing in New Urban Communities);
- Put in place systematic assessment methods of the “true” value or yield of land and real estate assets; and
- Develop an incentive system that rewards collection of property taxes

### Annex 3. Three Scenarios to Improve the Management of Public Lands

#### *The first scenario (short-term): Retention and improvement of the status quo*



*Recommended reform measures in the first scenario:* The key recommended reform measures in the first scenario are:

- (i) *Clarifying the responsibility for land use planning between NCPSLU and GOPP:* Resolving the overlap between GOPP and NCPSLU over land use planning, such that GOPP would become the national spatial planning authority and NCPSLU would become the national “land information system.” The current affiliation of both entities at the sectoral line ministry level also needs to be revised. The planning authority would need to be re-affiliated with the Prime Minister’s office as it used to be in the 1980’s. The Prime Minister’s delegation of authority for the position of Chair of the NCPSLU Board of Directors to the Minister of Agriculture also needs to be revisited, by appointing a non-sectoral minister as Chair, preferably the Minister of Finance who would oversee public land asset management. The land use planning process would be informed by both supply and demand-side considerations through the creation of an higher inter-ministerial planning commission or a Board of Directors for GOPP that brings together sectoral interests (housing, agriculture, tourism, industry, etc) with the Ministry of Investment.
- (ii) *Revisiting the existing spatial boundary governing governorates’ control over public land:* The reliance on the *Zimam* as the boundary determining governorates’ control over public land needs to be revisited, relying instead on a merged function of the *Cordon* (as a legal instrument) and the *Haiez* (as a functional instrument for urban development boundaries). The *Cordon/Haiez* would be periodically updated as part of the master/land use planning process,

prepared locally by Governorates, to reflect cities' expected growth. The reliance on a flexible and legally binding instrument would ensure the alignment of public land allocation with local development plans.

- (iii) *Rationalizing and coordinating sectoral planning process to address the unhealthy competition between sectoral authorities:* The different authorities' sectoral development plans often tend to maximize control over public land without assessment of the opportunity cost of land. This reflects an unhealthy sectoral competition over public land that negatively affects the management of and access to public land. Sectoral plans need therefore to be rationalized and coordinated with national development policies and spatial/land use strategies. One option is to require that sectoral plans be approved by the proposed higher inter-ministerial planning commission or multi-sectoral Board of Directors of GOPP as a precondition to their approval by the Council of Ministers.
- (iv) *Ensuring the coordination of the land use planning process between sectoral and geographic authorities:* Needless to say, it is critical that central government's sectoral plans in a given Governorate be coordinated with local authorities to ensure that local priorities, needs and existing development plans are taken into account, especially as Governorates are mandated with service delivery and development regulation within their jurisdiction including areas controlled by sectoral authorities. The lack of coordination between sectoral/central and geographical/local authorities has caused many problems in the past when Governorates feel they were not consulted by sectoral authorities over land use planning and development issues within their jurisdiction, and which reflected on the quality and timeliness of service delivery to investors. The existing legal framework calls for coordination with local authorities, but this rarely happens in reality and there are no incentives or measures to ensure compliance. As such, it is proposed to make mandatory Governorates' endorsement of sectoral plans prior to their submission to the Council of Ministers for approval.
- (v) *Mainstreaming GAFI's one-stop-shop investor service role, including access to public land:* It is important to mainstream GAFI's one-stop-shop investor service role by establishing facilities in all un-served Governorates. It is important to include within GAFI services enabling investors in the site selection process and to secure the necessary public land either by dealing on investors' behalf with the different sectoral or geographic entities controlling public land or housing in its one-stop-shop premises representatives of public land controlling authorities with delegated power to finalize transactions and all necessary procedures. Such measures are expected to streamline the process of access to public land and reduce the associated transaction costs.
- (vi) *Establishing appropriate land information system at the national and local levels:* Enabling investors to access complete and updated information on different options for location (public or private land) is critical to enable the making of informed choices. It is therefore important to establish and regular update solid land information systems at the national and local levels. NCPCLU would administer a public land information system at the national level, which it has started building in the past year. NCPCLU would also be mandated with ensuring the registration of public land in the title registration system or the *sejel*

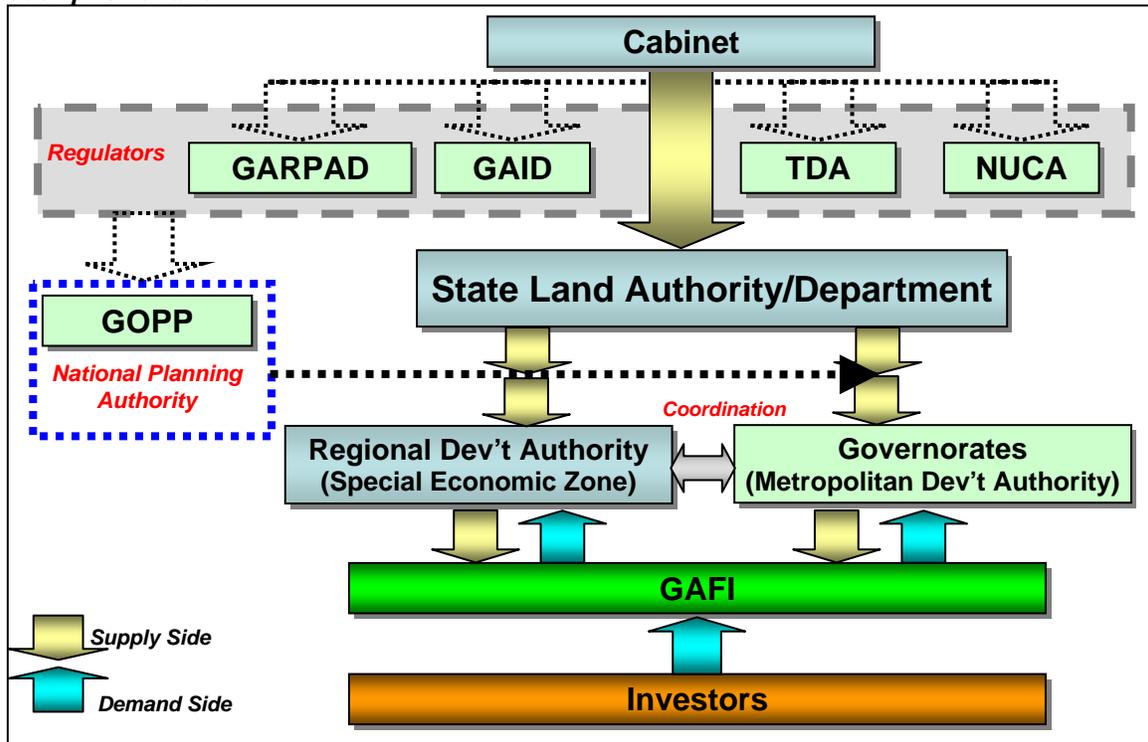
*ainee*, which the Ministry of Justice's REPD and the Egyptian Survey Authority jointly maintain.

The next section highlights the main pros of cons of the first scenario, the associated risks, and the proposed mitigation measures. The main **advantages** of the first scenario of rationalizing and improving coordination between the sectoral and geographical authorities are as follows: (i) retaining the status quo is more likely to be endorsed by all stakeholders since such reforms would be more politically acceptable and less likely to face agency resistance compared with, say, an institutional reengineering process; (ii) the fiscal cost of implementing such reforms would be limited compared with other options; and (iii) maintaining the existing system is likely to deliver faster results than other options, as the different authorities are already familiar with the system and will not need to adapt to a new system or implementation requirements. By contrast, the main **drawback** of this scenario is that in reality it is likely to have a limited impact. A sectoral model of land management and the existing fragmented system of sectoral and geographic authorities are structural problems in the system, which better inter-agency coordination cannot be expected to resolve. Inter-agency coordination in itself is not a new policy, but supposedly an existing feature of the current system that could not be activated due to a lack of incentives or regulatory controls to ensure cooperation.

The main **risks** associated with this approach are: (i) Maintaining the existing system is likely to encourage existing entrenched interests to derail the implementation of associated medium/long-term reforms and would lead to a business-as-usual attitude among the different sectoral authorities; the same issues that complicated access to public land in the first place would likely resurface after a period of improved performance; (ii) The inter-ministerial planning commission or other mechanisms intended to coordinate sectoral spatial/land use strategies in the aim of rationalizing their collective public land consumption would not achieve its stated objective, especially since such measure stands to have implications in terms of sectoral control over public land and thus may face resistance from sectoral ministries; (iii) Resistance would also be expected from ministries that stand to lose oversight over agencies through re-affiliation (MHUUD and MALR vis-à-vis GOPP and NCPSLU respectively) or certain features of the system granting them authority (e.g. replacing the *Zimam*—an agricultural feature—with an urban boundary); and (iv) not all governorates will have the political clout or planning capacity needed to ensure that local needs are integrated in sectoral plans.

To address the above risks and drawbacks, the following **mitigation measures** are proposed: (i) Set up mechanisms for periodic monitoring and performance evaluation reporting to the Council of Ministers and/or GAFI; (ii) Significant technical assistance is needed to coordinate land use planning and streamline agency processes and procedures, including support from the National Planning Authority to governorates in local planning initiatives and coordination with sectoral plans; (iii) the release of public land to all authorities will require approval of development strategies and land use plans from GOPP and clearance of the land in question from ownership disputes and recordation of the transfer in the public land information system by NCPSLU, which is designed to minimize conflicting land use plans and development strategies and control over public land.

**The Second Scenario (medium-term): Consolidation and Rationalization of control over public land**



*Recommended reform measures in the second scenario:* The key recommended reform measures in the second scenario are:

- (i) *Establishing a SLA or Department and assigning it control over public land:* As mentioned earlier, a newly established SLA or department, affiliated with the Ministry of Finance or Council of Ministers/Prime Minister's office, will be vested control over non-assigned and assigned-and-undeveloped public land by Presidential Decree. This entity will administer the allocation of public land to other authorities (Governorates within revised urban boundaries and geographic authorities as appropriate beyond the settled areas) in line with a regulatory framework and policies and procedures set by a higher policymaking body (Cabinet). Governorates would control public land within revised urban boundaries through their own *Amlak* or opt to delegate their authority to authorities having planning and implementation capacity and financial resources. The SLA would oversee the functioning of the different *Amlak* agencies to ensure conformity with established public asset management practices.
- (ii) *Focusing sectoral authorities' role on policymaking and regulation:* The mandate of the different sectoral authorities (GARPAD, GAID, TDA, NUCA) would evolve such that their focus would be on setting national sectoral development policies and regulations, regulating development to ensure alignment with policy and regulatory frameworks, and administering the Government's incentives for sectoral development.

- (iii) *Clarifying the responsibility for land use planning between NCPSLU and GOPP:* same as in the first scenario.
- (iv) *Transferring control over public land outside settled areas to Regional or Economic Zone Authorities:* The functioning of such autonomous authorities within economically and geographically coherent boundaries would address the issue of authorities operating along strict sectoral lines and competing to maximize control over public land. To be transferred control over public land, these authorities would have to formulate area-based economic development strategies and land use plans coordinated with and approved by concerned governorates.
- (v) *Revisiting the existing spatial boundary governing governorates' control over public land:* same as in the first scenario.
- (vi) *Mainstreaming GAFI's one-stop-shop investor service role, including access to public land:* same as in the first scenario. In the long term, a more rationalized role for GAFI would be expected in parallel with the developing capacity of local authorities to undertake high quality investment promotion and investor services.
- (vii) *Establishing appropriate land information system at the national and local levels:* same as in the first scenario.

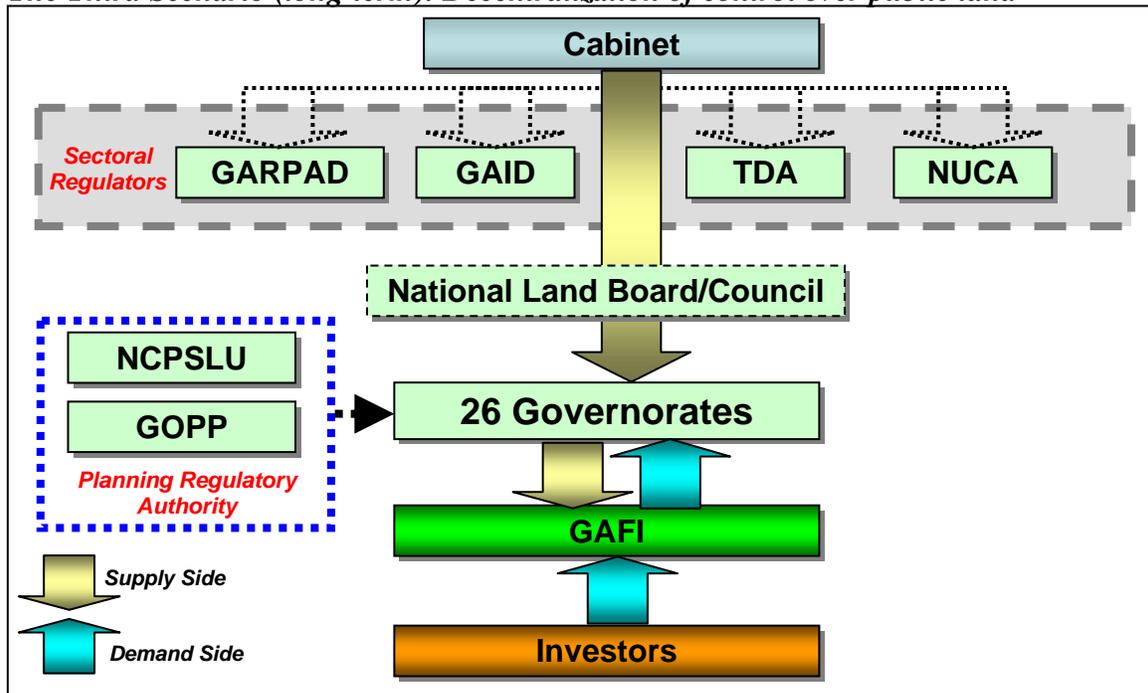
The next section highlights the main pros of cons of the second scenario, the associated risks, and the proposed mitigation measures. The main **advantages** of the second scenario are: (i) Setting up a consolidated and rational institutional and legal framework governing public land management by establishing one entity as a custodian of public land assets in Egypt as opposed to many competing sectoral authorities; (ii) handing downstream control over public land to public authorities operating along geographically and economically coherent boundaries; (iii) focusing central government authorities' role on policymaking and regulation, which addresses the conflict of interest arising from their combined regulatory and implementation roles in the past; and (iv) putting in place a structure that resolves the prevailing disputes over public land ownership between central government entities.

By contrast, the **drawbacks** of the second scenario are: (i) Transferring to the SLA control over public land that had already been assigned to sectoral authorities but which remains undeveloped would likely lead to significant political resistance from the line ministries and sectoral authorities that stand to lose power; the alternative of only transferring to the SLA control over non-assigned public land would create two parallel co-existing systems of public land management, a potentially confusing situation; (ii) In a context of an over-staffed and largely inefficient civil service, creating and staffing a new entity (SLA) and providing the incentives needed to ensure proper management of State land assets promises to be a politically charged, fiscally costly and technically complex task; (iii) That Egypt's past experience with regional development planning was unsuccessful is expected to overshadow the functioning of public land-controlling regional authorities; (iv) implementing such reforms will require significant legislative reform to revise the existing fragmented laws, decrees and regulations governing control and disposition of public land, redefine the mandate of existing entities, and organize the establishment of the new authority including its mandate, jurisdiction, operating and governance framework, staffing, financial issues, etc.

The main **risks** associated with this scenario are: (i) Whether past land management practices by sectoral authorities and the likelihood of an accelerated allocation of land in the interim period from the date of enacting the decree creating SLA to the completion of transfer of responsibilities would create an irreversible damage and limit the maneuvering room of SLA; (ii) The continuation of competitive and uncoordinated development policies by line ministries and sectoral authorities is also likely to limit SLA's ability to undertake rational and efficient management of public lands; (iii) The consolidation of control over public land in one entity (SLA) carries a risk of higher cost and more severe implications in the event of mismanagement or corruption, as well as the risk of having created yet another institutional layer in the system if line ministries and sectoral authorities do not give up on their tradition planning and implementation role; (v) The lack of capacity within the entities assigned with a direct implementation role in terms of public land allocation (relative to sectoral agencies) and that the staffing of sectoral authorities would not be adapted to the new focus on the policymaking and regulatory role; (vi) A possibility of a setback in performance compared to the instances where the sectoral model worked efficiently (TDA's role in tourism development along the Red Sea coast).

The proposed **mitigation measures** for this scenario include: (i) In general and in the event of accelerated allocation by sectoral authorities, the SLA would need to hold to account the different public land controlling authorities in the issue of enforcing the repossession of subsidized public land that remains undeveloped after the expiration of the maximum legally permissible timeframe (usually 3-5 years); (ii) Housing the SLA under a non-sectoral ministry (Finance) or above the line ministry level (Council of Ministers) and setting up a national policymaking body with representatives from sectoral and non-sectoral interests (e.g. Higher Committee for Public Land Management) that would set the national policies, guidelines and regulations governing public land management would ensure that sectoral influences are balanced and do not cause undue influence over SLA operations; (iii) To allow for proper monitoring and accountability, it is proposed that the different downstream public land controlling authorities submit annual reports on activities to the Ministry of Finance/SLA, and that their management performance along with that of SLA be subject to independent audits (it may also be desirable that SLA and downstream entities submit annual reports on activities to Parliament); and (iv) it is also critical that technical assistance be made available to SLA and the different public land controlling authorities as well as for the purpose of consolidating the complex and confusing patchwork of legislation that is currently in place into one unified public land management law.

*The Third Scenario (long-term): Decentralization of control over public land*



*Recommended reform measures in the third scenario:* The key recommended reform measures in the third scenario are:

- (i) *Control over all public land (non-allocated and/or allocated) is transferred to the Governorates:* Governorates would be delegated control over public land within their jurisdiction, in a gradual process of decentralization that reflects each Governorate's level of existing capacity and readiness (through having legally enacted development strategies and land use plans). Local Governments would be empowered to retain all (or part) of the proceeds from land sale or lease, which would be used to finance service delivery and maintenance, and local economic development activities. For such transfer of authority to take place, Governorates must *a priori* locally prepare in a participatory way a long-term vision for sustainable development and development strategy to ensure balance between economic development, social equity and environmental considerations. The strategy and land use plan are also critical for the purpose of ensuring accountability, as governorates' public land management performance would be periodically measured against the provisions of the plan (especially how much public land has been allocated and for what purposes). Once such strategy and plan have been legally enacted by local government and approved by central government (GOPP), the Governorate would be legally authorized by the Cabinet to manage and dispose of the public land needed to implement its local development strategy.
- (ii) *Focusing sectoral authorities' role on policymaking and regulation:* Same as in the second scenario.

- (iii) *Introducing a national land council or board with cross-sectional representation:* It is critical to put in place a system of checks and balances to ensure effective functioning and monitoring of the decentralized public land management system in accordance with national policies and guidelines. It is proposed to set up a national land council or board, which would include representatives from public, private and civil society stakeholders and which would have a mandate that includes among other things: (i) proposing for Cabinet's review national policies and guidelines for public land management, and advise policymakers on relevant issues affecting the investment climate and overall public land management; (ii) monitoring governorates' performance in public land management and allocation against the approved strategies and plans; (iii) approving local governments' decisions to allocate sizeable areas of public land beyond certain established threshold (e.g. over 200 *Feddans* of agricultural land and 10 hectares for urban land); (iv) advising Cabinet over decisions to reclassify public land into public or private domain of the State.
- (iv) *Decentralizing land use planning activity to the Governorate or if feasible city level, with GOPP assuming the national policymaking and regulatory role:* Since the local preparation of land use plans based on long-term development strategies is a precondition for the delegation of authority over public land management to Governorates, this clearly requires the decentralization of land use planning activities to the Governorate level, as well as the preparation of long-term development strategies. This measure is currently proposed as part of the revised building regulation and urban planning law, prepared by GOPP and submitted to Cabinet and Parliament for their review and approval.
- (v) *Mainstreaming GAFI's one-stop-shop investor service role, including access to public land:* same as in the second scenario.

The next section highlights the main pros of cons of the third scenario, the associated risks, and the proposed mitigation measures. The main **advantages** of this scenario are: (i) Setting up a rational and decentralized institutional and legal framework governing public land management by empowering each Governorate to act within its jurisdiction as the custodian of public land assets upon satisfaction of the procedural requirements as opposed to the existing fragmented system; (ii) handing downstream control over public land and the proceeds from their sale/lease to the Governorates, as they are the entities that know best local priorities and needs and that are also responsible for service delivery and maintenance; (iii) focusing central government authorities' role on policymaking and regulation, which addresses the conflict of interest arising from their combined regulatory and implementation roles in the past; and (iv) putting in place a structure that resolves the prevailing disputes over public land ownership between central government entities.

The **drawbacks** of this scenario are: (i) Significant political resistance would be expected from the line ministries and sectoral authorities that would lose control over public land; (ii) many Governorates will have limited capacity to assume their new expanded mandate of land use planning and management of public lands; (iii) substantial legislative reform would be required to redefine and confine the role of sectoral authorities to policymaking and regulation and re-draft local government law to account for governorates' expanded mandate; (iv) implementation is contingent on progress in government's overall decentralization policy, especially fiscal decentralization; (v) in some instances, the Governorate's administrative boundaries do not

necessarily make economic or geographic sense (e.g. Greater Cairo Region encompasses three Governorates, which means that one contiguous urban area is governed by three Governors).

The **risks** associated with this scenario are: (i) the proposed system would be prone to mismanagement due to the limited capacity at local level; not all Governorates will have the capacity needed to efficiently manage public land and plan for development; (ii) if not adequately regulated and monitored, the proposed system could be prone to corruption (indeed, the Prime Minister's office issued in February 2006 a "reminder" to Governorates to abide by existing public land management regulations, especially the formation of a local committee including a representative from outside of the Governorate, to approving public land allocation, after several incidents of un-transparent and sole source allocations have been recorded); (iii) the proposed system would also be difficult to monitor effectively, and would thus require innovative regulatory measures and incentives for compliance; (iv) In the same way that sectoral authorities compete to control public land in an unhealthy way, it is likely that neighboring Governorates would make competitive and/or conflicting land use planning and development decisions that would cause negative externalities (e.g. land use planning and public land allocation for investment purposes along the Red Sea or Mediterranean coastline by neighboring Governorates).

The proposed **mitigation measures** include: (i) Establishing a system of checks and balances including a National Land Board to approve large public land allocations and annual independent audits to monitor Governorates' public land management performance especially the alignment of land distribution with the approved plans; (ii) It may be desirable to revise Governorate boundaries to ensure territorial coherence and/or in the case of Greater Cairo Region to establish an independent legal entity—a municipality or metropolitan area, as is the case in Luxor—to which land use planning and public land management functions are delegated; (iii) in addition to the accountability measures, it is important to build into the system adequate incentives to reward efficient performance in public land asset management.

#### Annex 4. List of high level policy workshop attendants and persons met

##### High level policy workshop attendants

Name	Title / Organization
HE. Dr. Ahmed Nazif	Prime Minister of Egypt
HE. Dr. Mahmoud Mohieldin	Minister of Investment
HE. Dr. Mahmoud Abou Zeid	Minister of Water Resources and Irrigation
HE. Dr. Hassan Youness	Minister of Electricity and Energy
HE. Dr. Osman Moh. Osman	Minister of Planning and Local Development
HE. Eng. Ahmed El-Maghraby	Minister of Housing, Utilities and Urban Development
HE. Eng. Mohamed Mansour	Minister of Transportation
HE. Dr. Ahmed Darwish	Minister of State for Administrative Development
Dr. Ziad Bahaa El Din	Chairman, GAFI
Mr. Mohamed Amr El Shawadfy	Chairman, NCPSLU
Eng. Mohmoud Abdel Brr	Chairman, GARPAD
Mr. Ashraf Mahmoud	Vice Chairman, NUCA
Mr. Amr Asal	Chairman, GAID
Eng. Khaled Makhlof	Chairman, TDA
Eng. Gomaa Gebreel	Chairman of Agricultural Reform Authority (ARA)
Counselor Farouk Awad	Assistant Minister of Justice, Responsible for land and property registration
Counselor Mamdouh Ragheb	Chief Appeals Justice, Deputy Head of Technical Office, Ministry of Justice
Ms. Manal Al Hinawy	Advisor to the Minister of Finance
Mr. Mahmoud Attalah	Vice Chairman, GAFI
Ms. Neveen El Shafeie	Vice Chairman, GAFI
Mr. Abdel Geleel El Iraqi	Head of Chairman technical office, GAFI
Ms. Wafaa Sobhy	Head of central administration, Chairman technical office, GAFI
Mr. Mohamed Ghazali	Head of one stop shop branch in Cairo, GAFI
Mr. Mohamed Moustafa	Technical office-GAFI
Mr. Abdel Hamid Ibrahim	Senior Advisor to the Minister of Investment
Mr. Magdy Waly	First Under Secretary, Ministry of Investment
Ms. Mona Zobia	Advisor to the Minister of Investment
Dr. Sherief Otefa	Advisor to the Minister of Investment

##### List of persons met

Name	Title / Organization
HE Dr. Mahmoud Mohieldin	Minister of Investment
HE. Dr. Osman Moh. Osman	Minister of Planning and Local Development
HE. Eng. Ahmed El-Maghraby	Minister of Housing, Utilities and Urban Development
HE Eng. Amin Abaza	Minister of Agriculture and Land Reclamation
HE. Dr. Ahmed Darwish	Minister of State for Administrative Development
HE Dr. Abdel Rehim Shehata *	Minister of Local Development
HE Dr. Samy Saad Zaghoul	Cabinet Secretary General
Dr. Ziad Bahaa El Din	Chairman, GAFI
Dr. Hazem El Kouedy	Chairman, GOPP
Mr. Mohamed Amr El Shawadfy	Chairman, NCPSLU
Eng. Mohmoud Abdel Brr	Chairman, GARPAD
Mr. Amr Asal	Chairman, GAID
Eng. Khaled Makhlof	Chairman, TDA
Mr. Ashraf Mahmoud	Vice Chairman, NUCA
Dr Samiha Fawzy	Sr Advisor, First Assistant to the Minister of Industry and Trade
Dr Mohamed Al Alfy	Advisor to the Minister of Housing, Utilities and Urban Development

Dr Laila Darwish	Advisor to the Minister of Housing, Utilities and Urban Development
Ms. Mona Zobaa	Advisor to the Minister of Investment
Mr. Abdel Geleel El Iraqi	Head of Chairman technical office, GAFI
Mr. Mahmoud Attalah	Vice Chairman, GAFI
Dr Fadia Nosseir	Supervisor, Central Administration for Foreign Agricultural Relations, MALR
Mr. Hosny Soliman *	Director of Nasr City Public Free Zone
Dr. Hussein Al Atfy *	Head of Sector Minister's Technical Office, MIWR
Dr. Diaa Al Koussy *	Advisor, MIWR
Eng. Hussein Al Gibaly	First Undersecretary for Housing and Utilities, MHUUD
Eng. Essam Rashad *	First Undersecretary for Housing and Utilities, MHUUD
Counselor Farouk Awad	Deputy Minister of Justice
Counselor Mamdouh Ragheb	Chief Appeals Justice, Deputy Head of Technical Office, Ministry of Justice
General Ashraf Mahmoud *	Head of 10 <sup>th</sup> of Ramadan New Town Authority
Eng. Abdel Hakam Mahmoud *	Deputy Head of 10 <sup>th</sup> of Ramadan New Town Authority
Eng. Hisham Nasr *	Chairman, Egyptian Survey Authority, MIWR
Eng. Samir Al Rouby *	Project Director, Egyptian Cadastral Information Management (ECIM) Project, ESA
Mr. Ian Crocker *	Team Leader, ECIM Project, ESA
Ms. Ann Myles *	Land Management and Cadastral Expert, SwedeSurvey, ECIM Project, ESA
Ms. Kaisa Harju *	GIS Advisor, Scanagri, ECIM Project, ESA
Mr. Ismail Abdel Rasoul *	Deputy Minister of Finance, Chairman of Real Estate Tax Authority
Dr. Ashraf Abdel Wahab *	Advisor to the Minister of State for Administrative Development
Mr. Mohamed Sirry *	Partner, Sirry Law Offices
Mr. Douglas Menelaws	Senior Consultant, Egypt Financial Services Project, USAID/Chemonics International Inc.
Mr. David Sims	Land Management Consultant
Eng. Salaheddin Hegab *	Partner, Sabbour Associates, Chairman of the Construction Industry committee, Egyptian Businessmen Association
Private sector investors	Several representative private sector investors in industry/manufacturing, tourism, agriculture and land reclamation, and real estate development

\* Met in December 2004 as part of the Egypt ICA "access to industrial/manufacturing land" study

## BIBLIOGRAPHY

Cete Méditerranée (2005). Panorama des politiques de l'aménagement de l'urbanisme et de l'action foncière en France. June 2005 (Unpublished Report)

Galal, Ahmed and Omar Razzaz (2001). Reforming Land and Real Estate Markets. World Bank Research Policy Working Paper 2616

Golland (2003). Models for Land Assembly in the UK: Comparative Analysis of other European Approaches. Center for Residential Development, Nottingham Trent University Research Paper, Vol. 4, No. 16

Kaganova, Olga and James McKellar eds (2006). Managing Government Property Assets: Sharing International Experiences. Urban Institute Press, Washington DC

Kirk, Michael (2004). State Land Economics in Cambodia. Land Management and Administration Project (Unpublished Report).

Land Equity International (2002). Institutional Arrangements Policy Study: Volumes 1 and 2. Philippines Australia Land Administration and Management Project (PALAMP)

Larsson, Gerhard (1997). Land Readjustment: A Tool for Urban Development. Habitat International, Vol.21, No.2, pp.141-152

Secretariat of the Council for Land Policy (2001). Strategic Land Policy Framework: Green Paper. Royal Government of Cambodia

Sorensen, Andre (1999). Land Readjustment, Urban Planning and Urban Sprawl in the Tokyo Metropolitan Area. Urban Studies, Vol. 36, No. 13, pp.2333-2360

World Bank (2006). Egypt Investment Climate Assessment Survey Follow up. The World Bank, Washington DC (Unpublished Report)

World Bank (2005). Egypt: Towards a Better Investment Climate for Growth and Employment Creation. The World Bank, Washington DC (Unpublished Report)

Valletta, William (2005). Status of Land Reform and Real Property Markets in Albania. The World Bank, Washington DC (Unpublished Report)

Government of Egypt documents:

- Laws and Decrees (See Annex 1)
- Statistics provided by the different ministries and sectoral authorities

# **The Management of Public Lands in Egypt to Improve the Investment Climate**

**Existing Situation and Options for Reform**

**Presentation of Preliminary Findings**



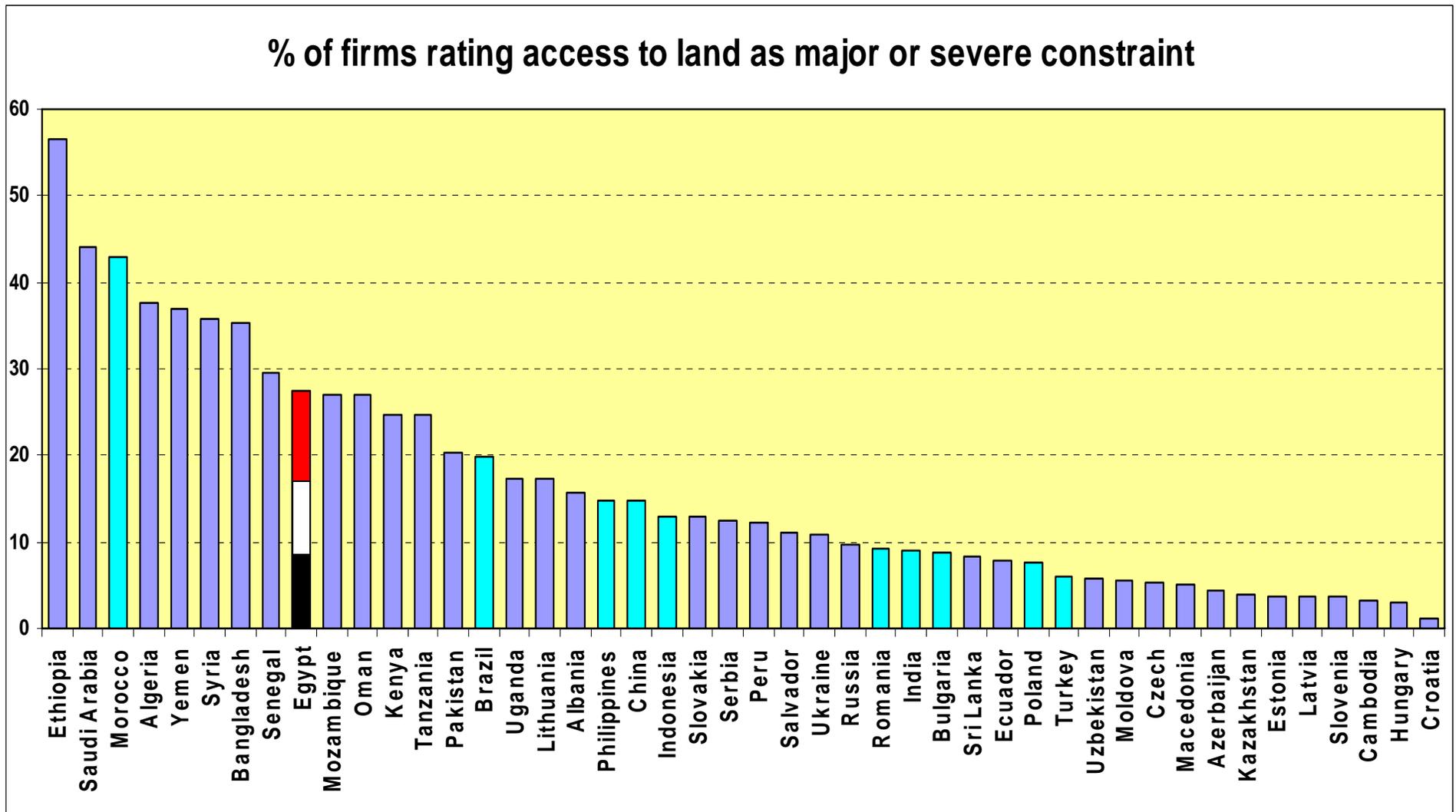
**The World Bank**

# Contents

- (1) Why reform public land management in Egypt?**
- (2) Existing situation and key challenges**
- (3) Options for public land management reform in Egypt**
- (4) Lessons learnt from international experience & public land management policy reform roadmap**
- (5) The way forward**

# 1 Why reform management of public lands in Egypt?

Access to land is more of a major constraint to doing business in Egypt than in most other countries

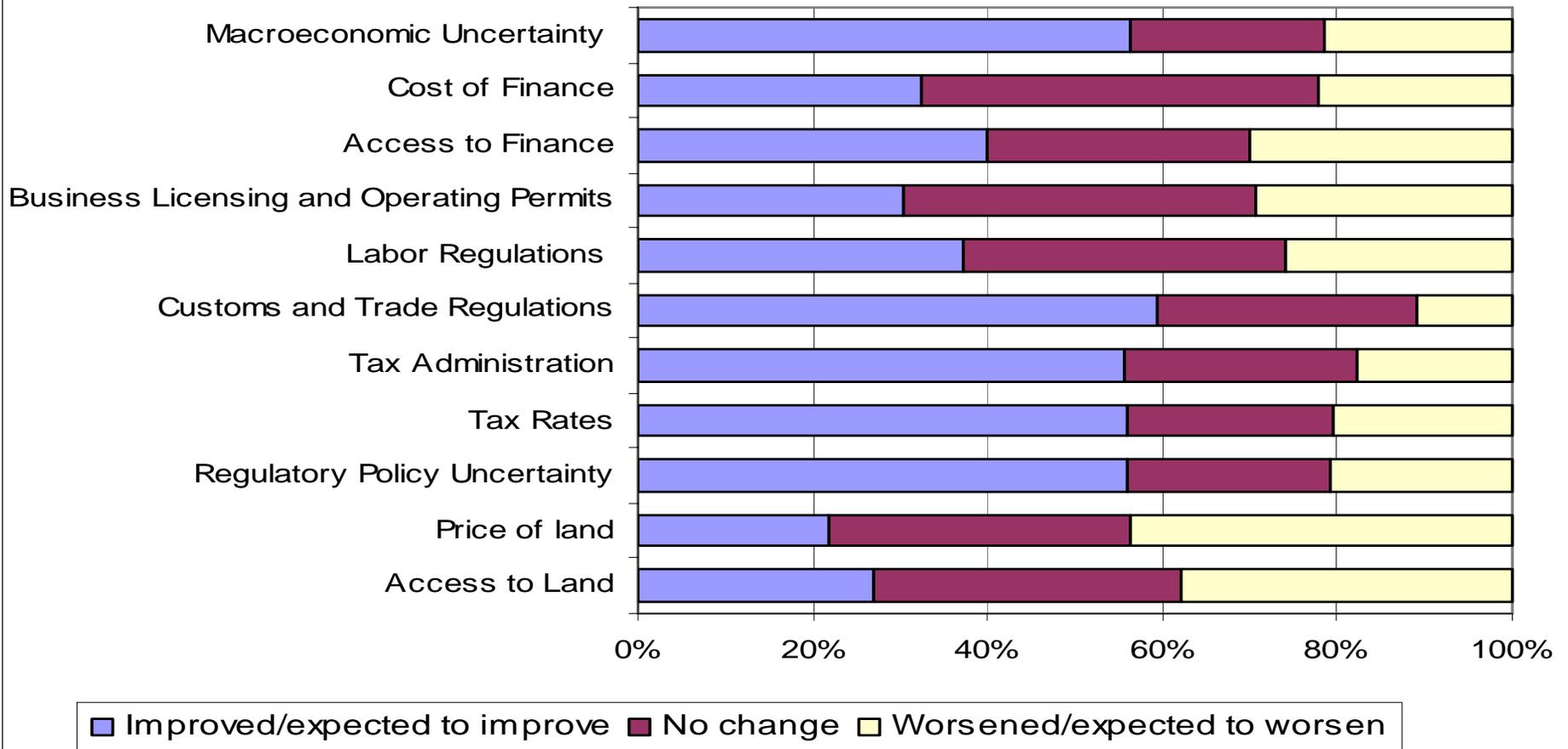


Source: World Bank, Investment Climate Surveys, various years from 2000-2005 (Egypt, 2004)

# 1 Why reform management of public lands in Egypt?

Despite major improvement in the investment climate between 2004-2005, the one constraint firms perceive as worsening is access to land

**Figure 3: Firm's perceptions/expectations on general constraints of the business environment**



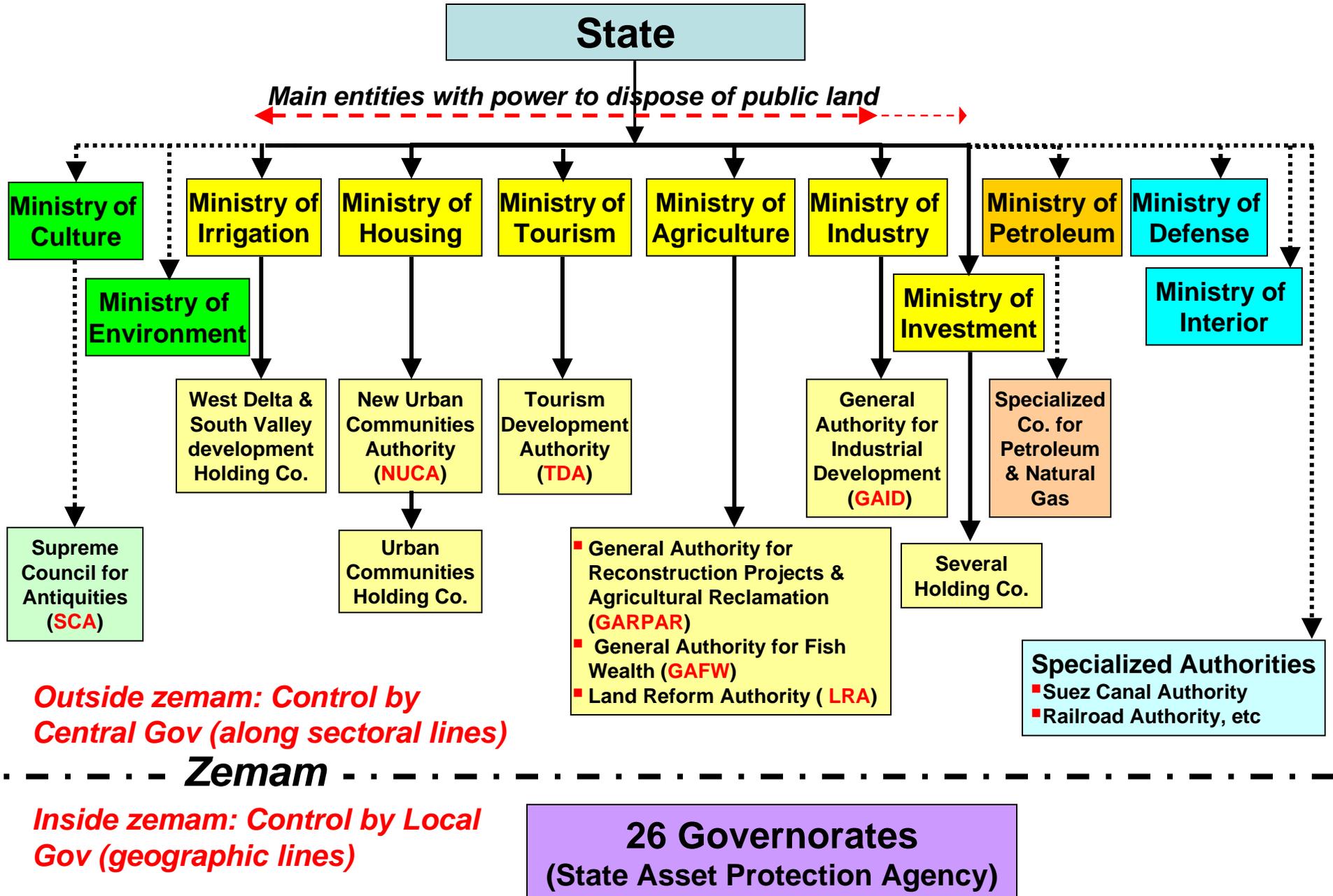
Source: World Bank, Investment Climate Survey in Egypt (difference between 2005-2004)

## 2

### Existing Situation: Key Issues & Challenges (1)

- (1) Institutional framework: Many sectoral & geographic entities directly & indirectly control public land allocation & development**
- (2) Legal framework: Highly fragmented & incoherent legal framework complicates access to public land**
- (3) Policy framework: Lack of policy framework governing public land asset management (identification, documentation, preservation, disposition, pricing, leveraging)**
- (4) Allocation system: Significant reliance on administrative allocation of public land at below-market prices, & limited use of market mechanisms, e.g. auctions**
- (5) Land use planning: Supply-driven land use planning with no gauge for demand**
- (6) Land Information System: Lack of a comprehensive, coherent LIS (no public land inventory, dysfunctional land registration system)**

# 2 Entities Directly & Indirectly Controlling Public Land in Egypt



## 2

## Existing Situation: Key Issues & Challenges (2)

**(7) Zemam: Unrealistic, archaic boundary delimiting Governorates' control over public land**

**(8) Outside of the Zemam:**

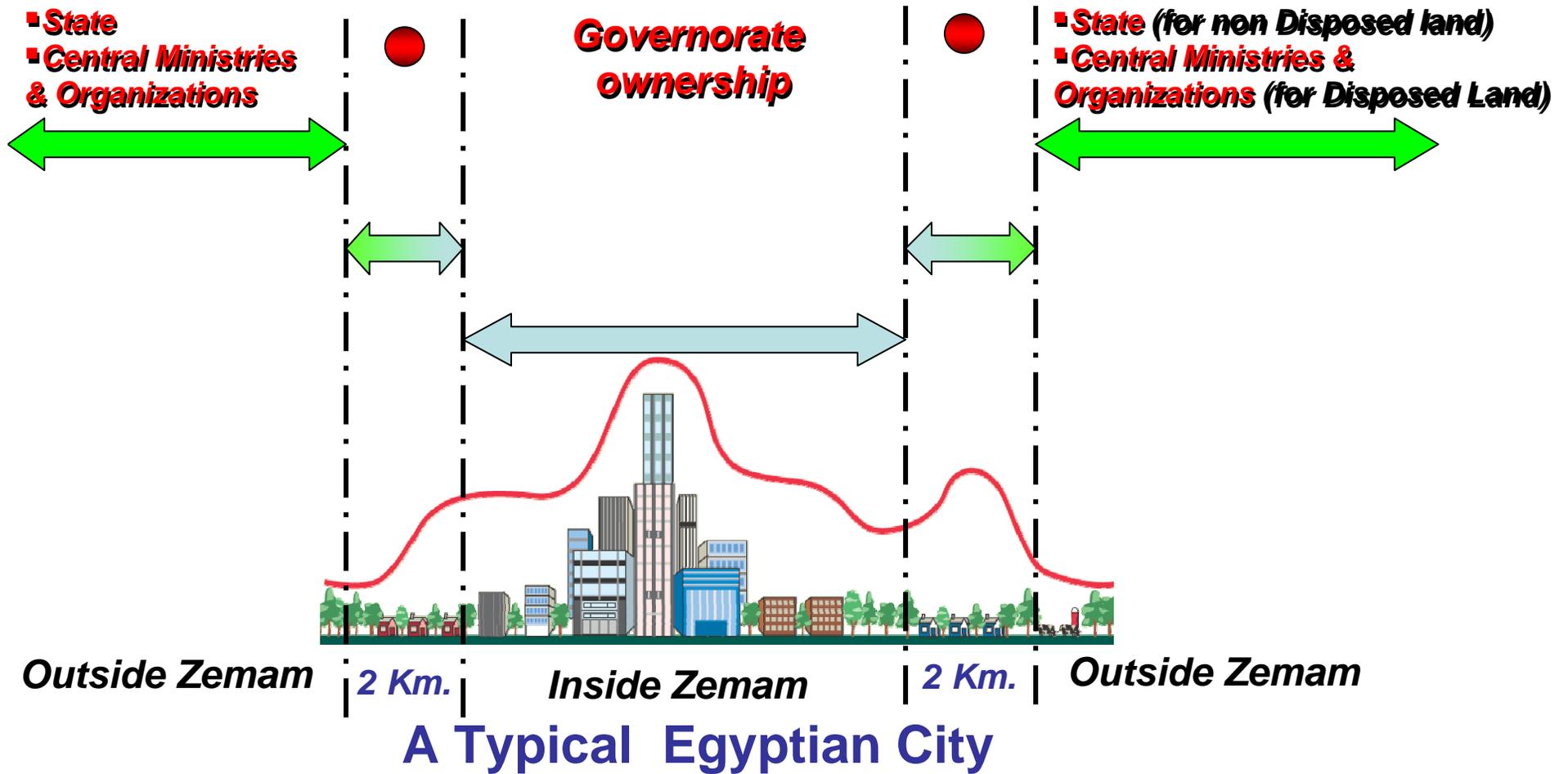
- **Uncoordinated sectoral policies/plans & competition of line ministries led to allocation of excessive areas of public land to sectoral agencies**
- **Existing *de jure* hierarchy of control over public land among ministries/agencies does not follow an economic rationale**

**(9) Inside the Zemam:**

- **Mismatch between Governorates' responsibilities & local economic development tools at their disposal**
- **Dysfunctional public land management practices at State Land Protection Agency (haphazard land use decisions, ineffective land valuation, un-transparent allocation, complex procedures prone to rent-seeking, no notion of enabling investment)**

# 2

## Control over Public Land in many Egyptian cities



● **Under Governorate control unless if central entities have development plans!**

**Zemam** refers to the perimeter comprising urban lands within city or village cordons, and cultivated and uncultivated agricultural lands surveyed and included in the register of agricultural land

**Outside Zemam:** Control over land is by Central government, split along sectoral ministries

**Inside Zemam:** Control over land is by local government/ Governorates, Split along geographic lines.

Note that for cities surrounded by agricultural land, 2km extension start at the nearest desert fringe

## 2 Public land controlled by major five authorities in Egypt

	Total controlled land area (Feddan)	Total land available for distribution (Feddan)	Total land area allocated (Feddan)	% licensed projects operating
<b>Industrial Land (GAID):</b>				
Inland Industrial Estates (Governorates)	54,398	17,260	7,457	43% of 2,304 proj.
New Towns Industrial Estates (NUCA)	39,638	7,053	28,109	27% of 6,840 proj.
Tourism land (TDA)	137,619	NA	NA	NA
Agricultural reclaimed land (GARPAN)	3,400,000	1,400,000	2,000,000	NA
Agricultural & development land (MIWR: West Delta & South Valley Dev Holding Co)	650,000	NA	NA	NA
Land for New settlements (NUCA) * Excluding millions feddans in PM Decree 540-80 & 24 planned new communities	Much more than 165,306	165,306		NA
<b>TOTAL</b>	At least 4.5 million	NA	NA	NA

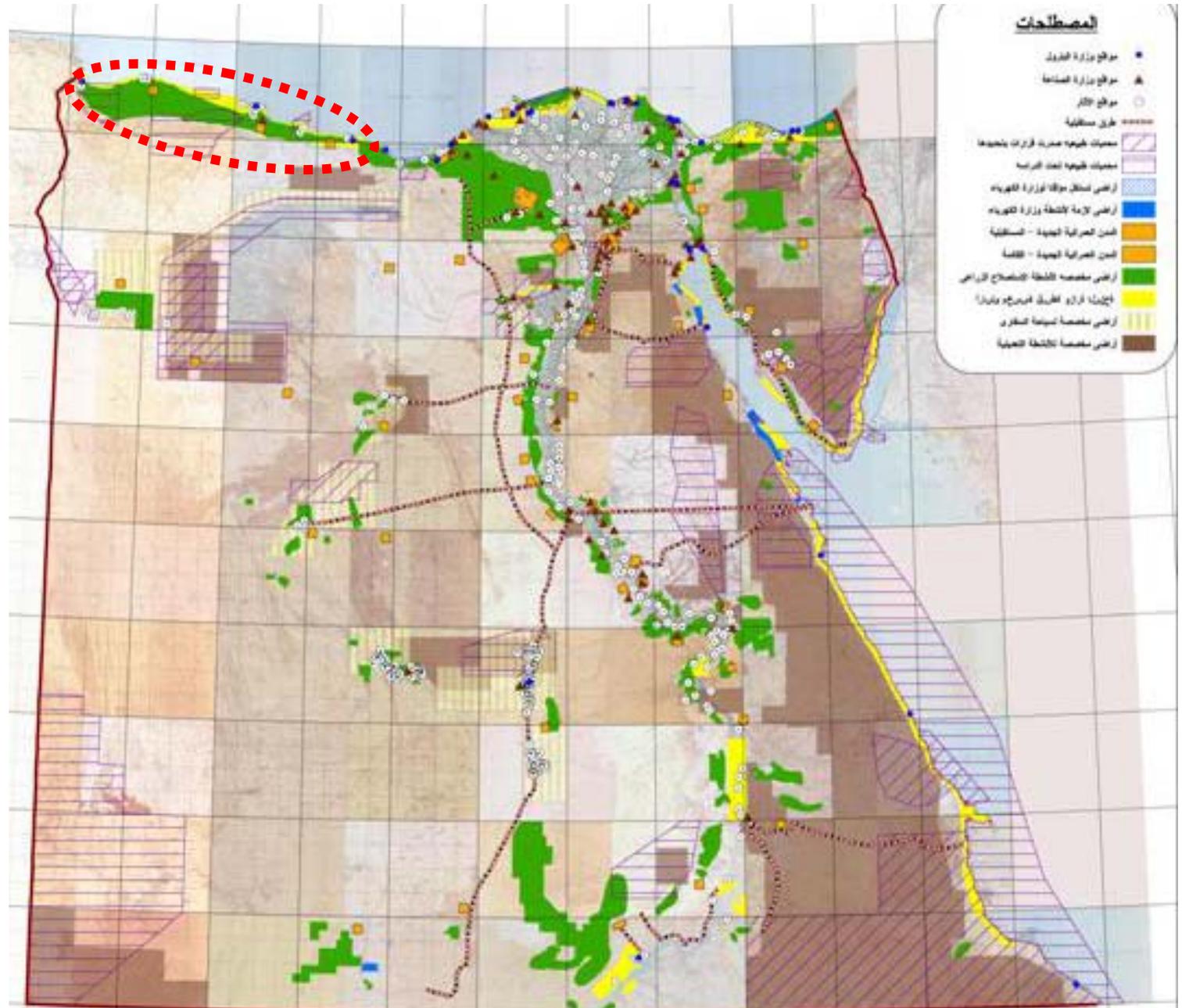
**18,677km<sup>2</sup> of land controlled by GAID, TDA, GARPAN, NUCA (excl. 24 planned new towns & PM Decree 540-1980) & West Delta/South Valley Holding Co. = 1.9% of Egypt land area**

- Land controlled by GAID can accommodate 2.5m jobs @ 100 jobs/ha (today 0.48m jobs)
- Land controlled by NUCA can accommodate 7-10.5m inh @ 100-150 pp/ha (today 1.5m inh)

# 2

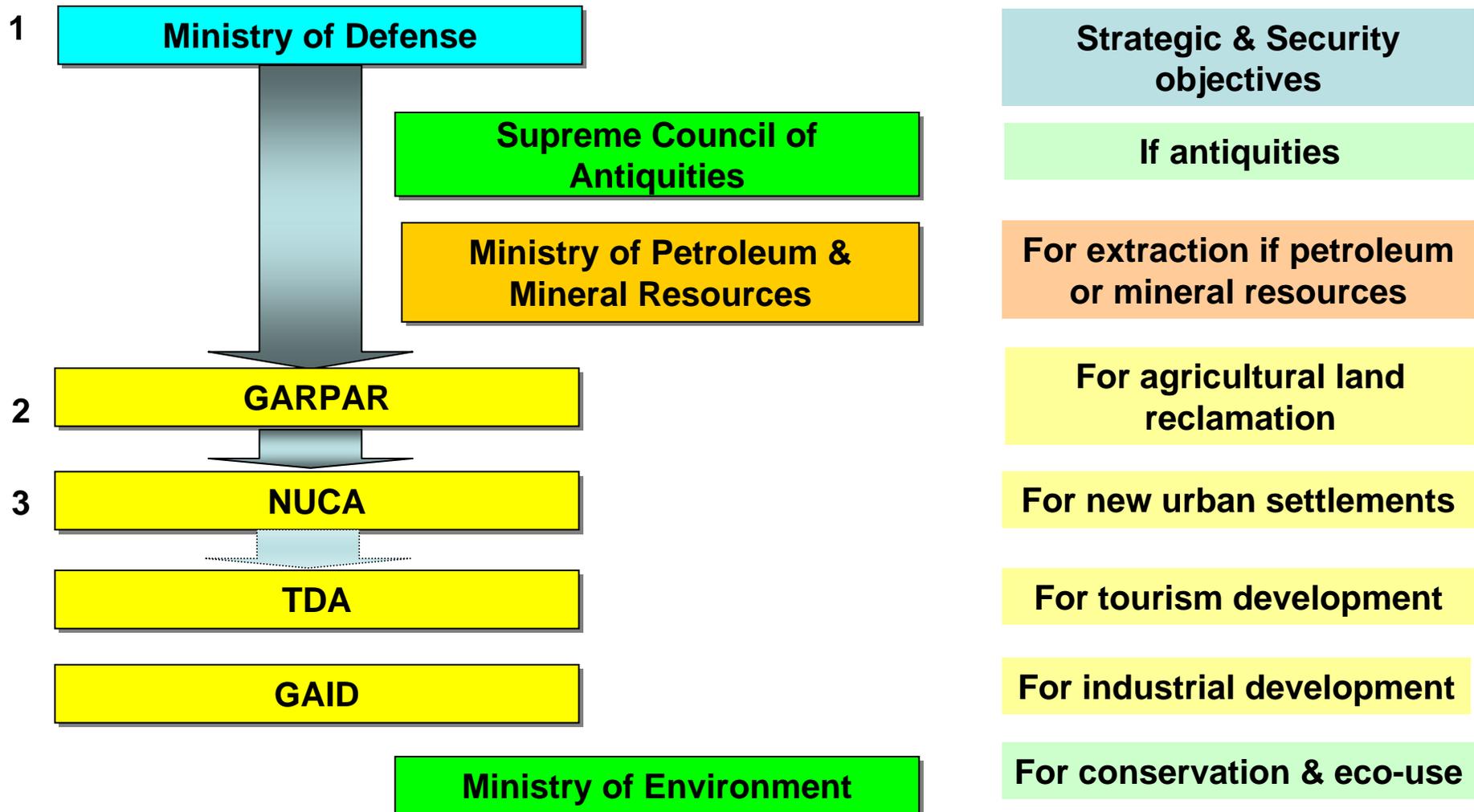
## Public land controlled by major entities in Egypt

Unclear control among NUCA, TDA & LRA, Alexandria & Matrouh Governorates

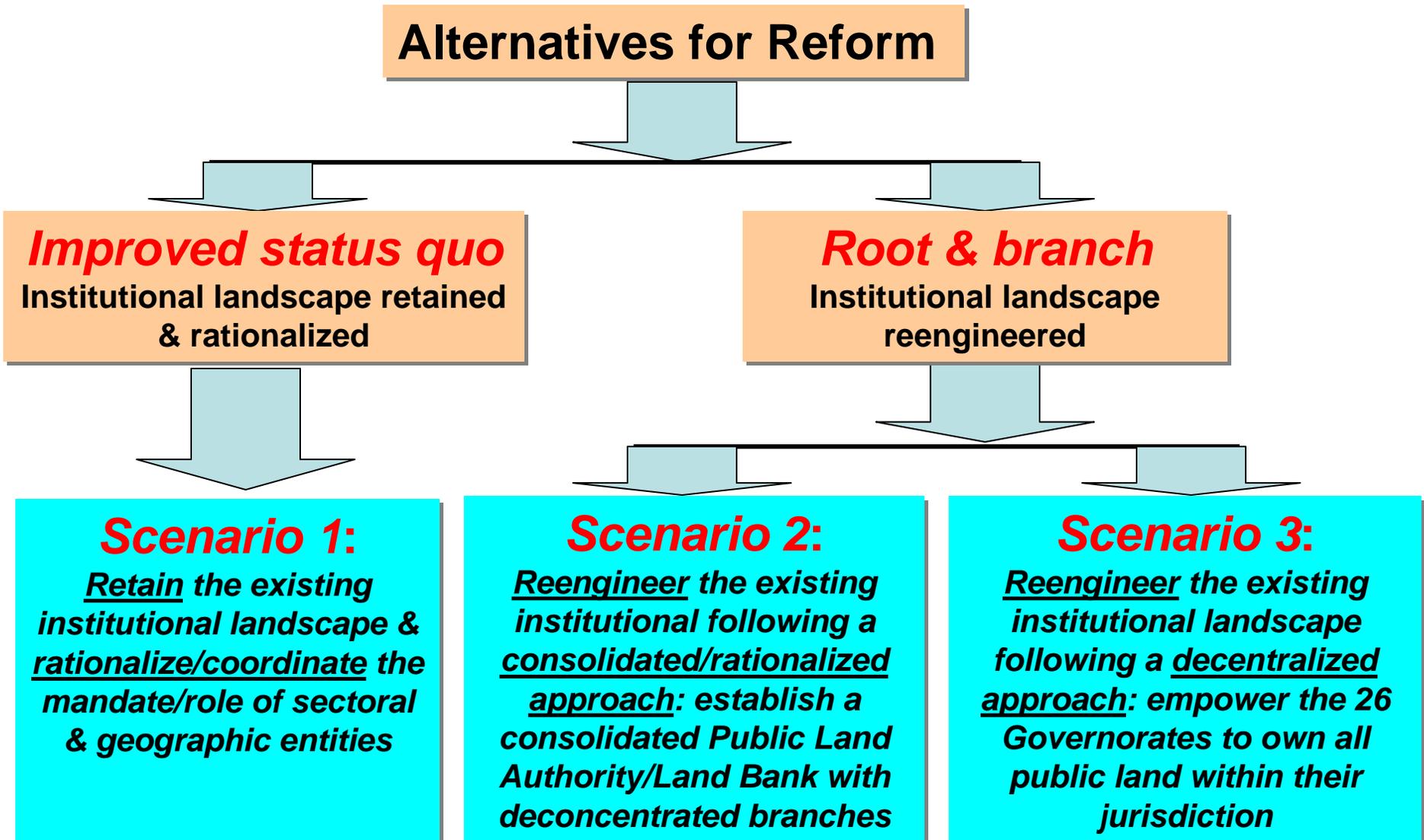


## 2 Existing hierarchy of control over public land among sectoral agencies does not follow an economic rationale

Control over land outside the zemam & influence over decision-making of disposition/development is according to the following order:



## Different Scenarios for Public Land Management Reform in Egypt



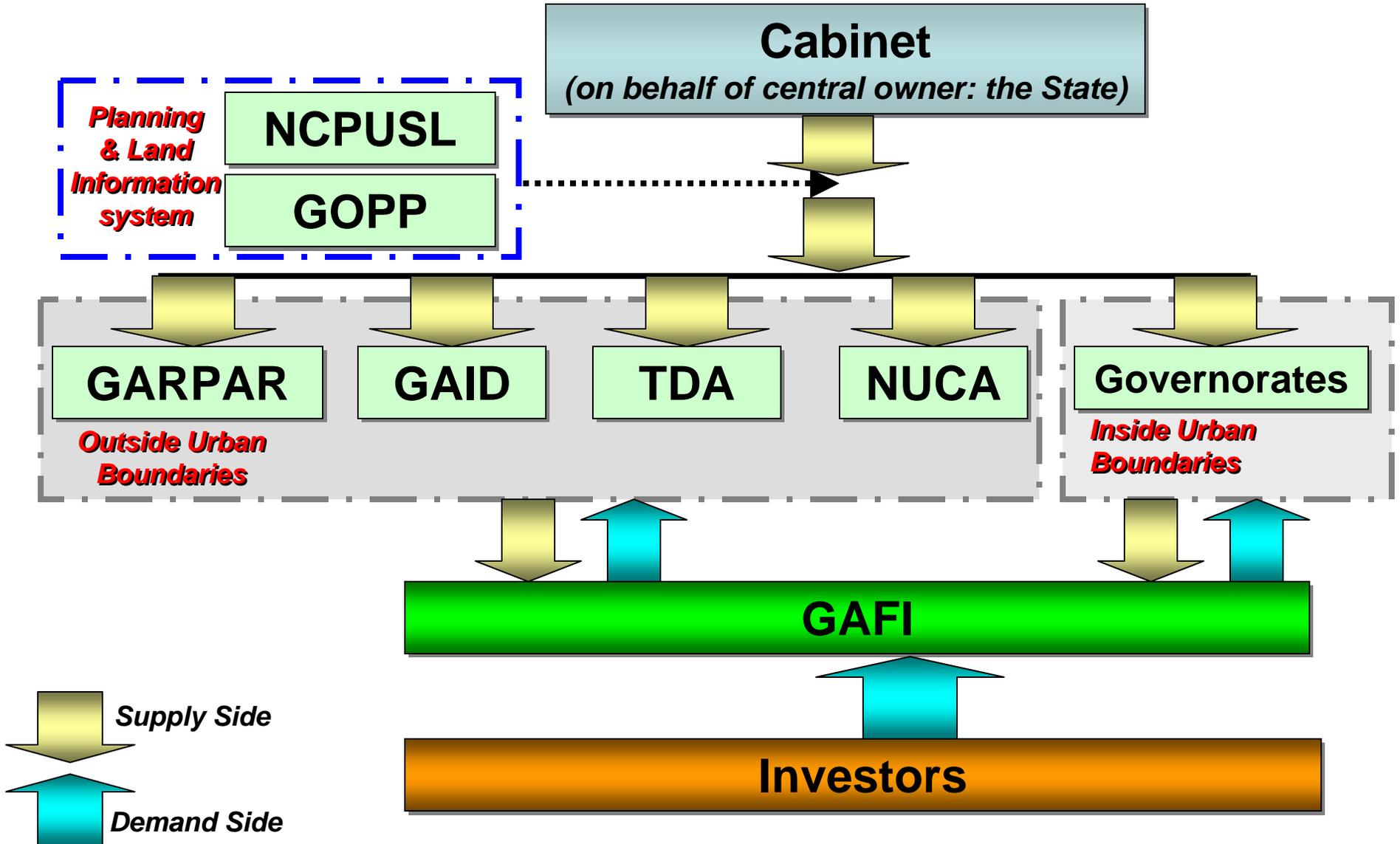
# 3

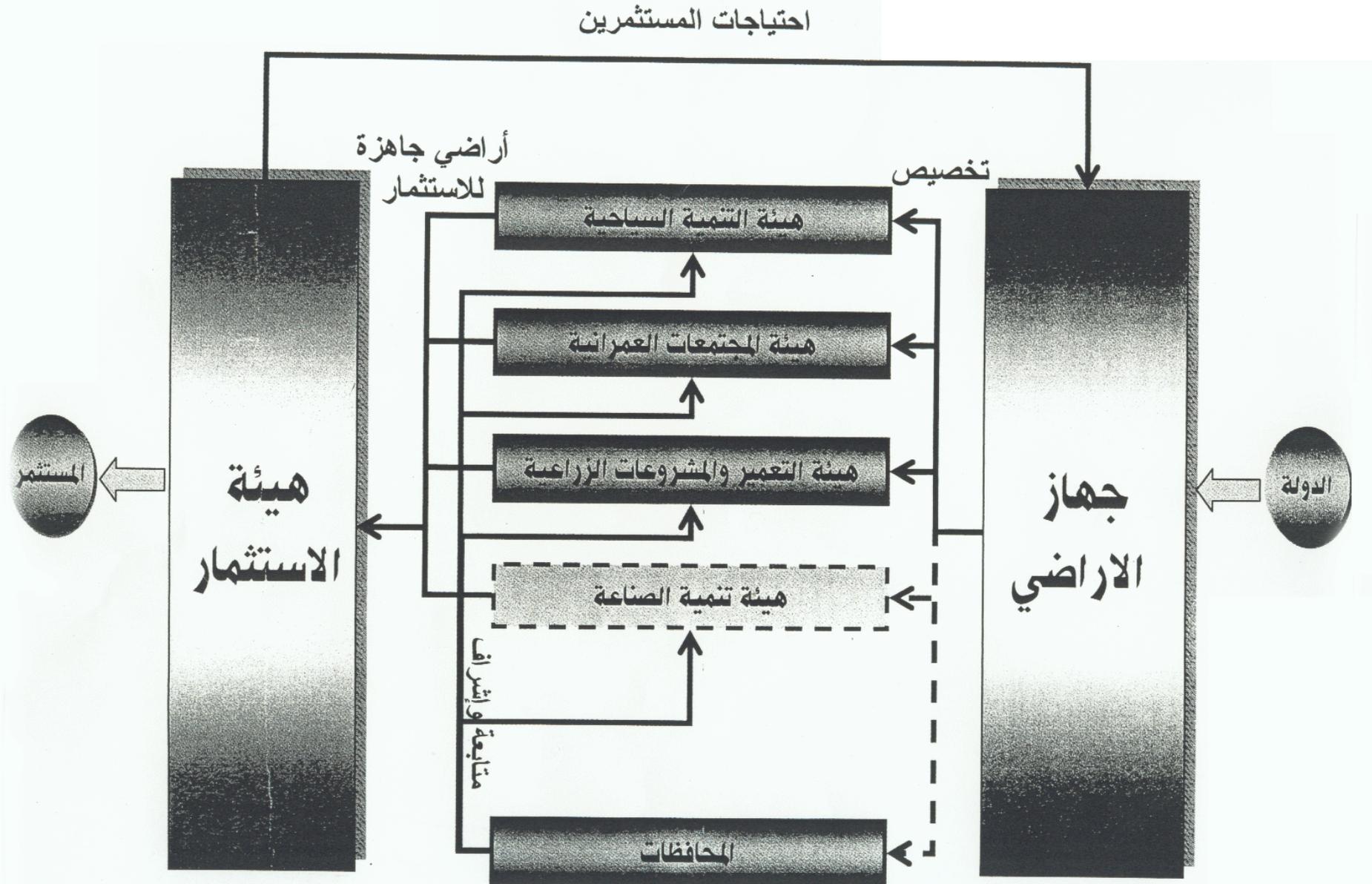
## Main variables affecting public land management policy reform in Egypt

1. **Control over land:** along **Sectoral** or **Geographic** lines?
2. **Control over land:** **Consolidated** or **Decentralized**?
3. **Boundaries delimiting control over land:** **Zimam**, **Cordon** or **Haiez**?
4. **Public Land subject to reform:** designated control & land use (***Arady Mokhassassa***) or non-designated control & land use (***Arady Gheir Mokhassassa***)?
5. **Government agencies' role:** **Regulatory authority** or **Implementing Agency** (economic authority)?

# 3 The First Scenario: Retention & improvement of status quo

Rationalize mandate/jurisdiction of sectoral & geographic entities & improve coordination

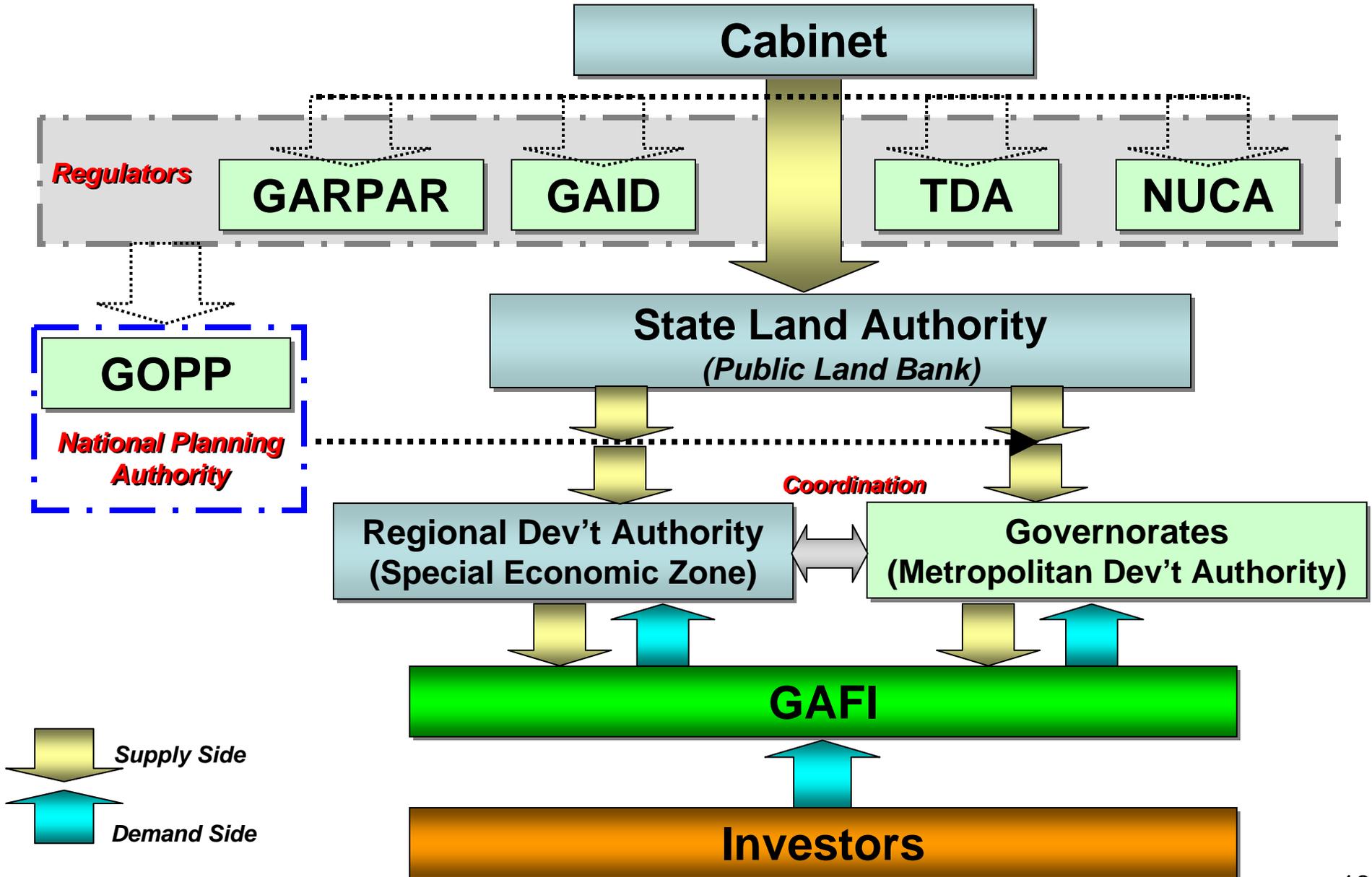




# 3

## The Second Scenario: Consolidation & rationalization

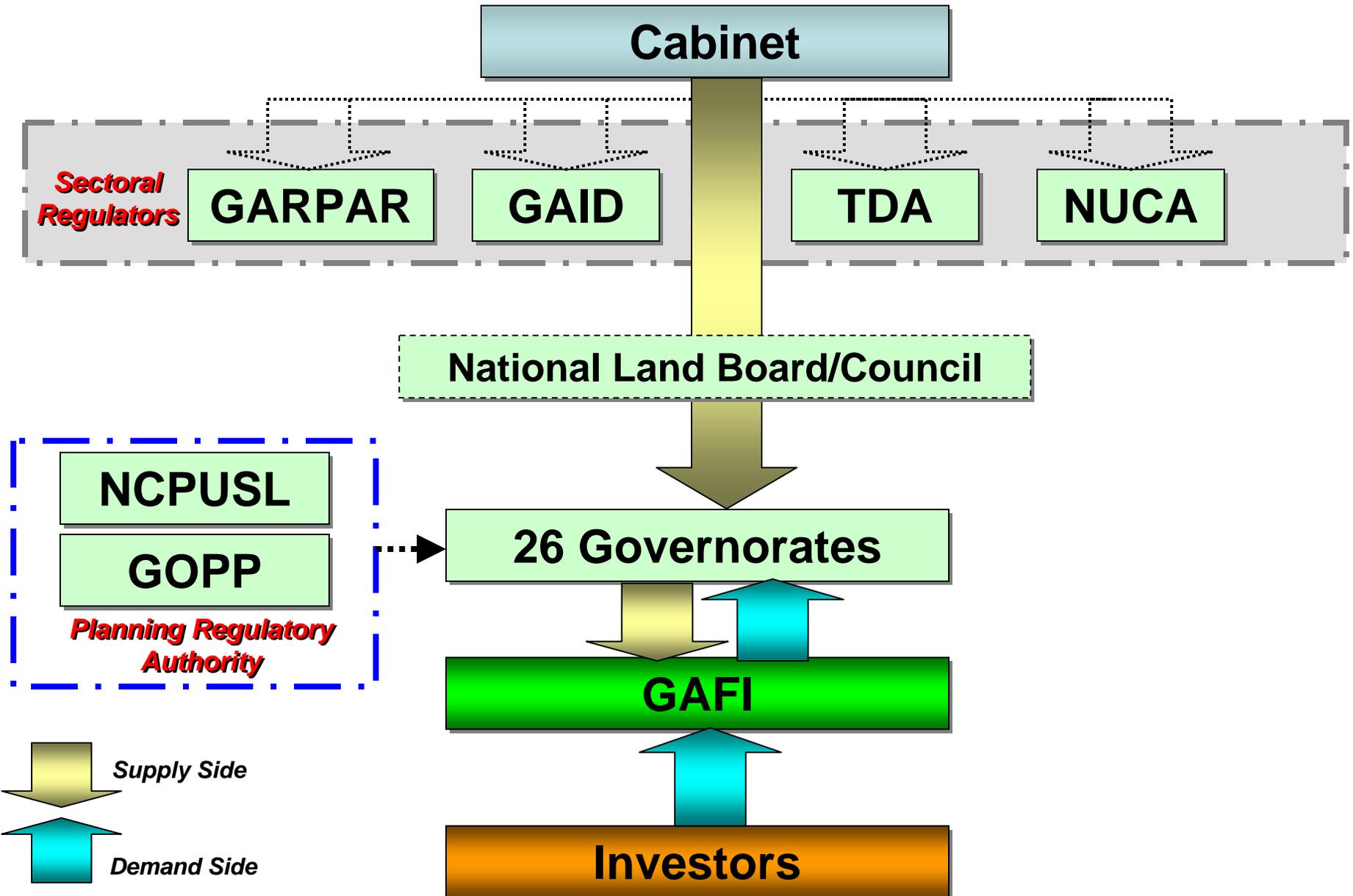
Establish State Land Authority to control & release public land to geographic entities



# 3

## The Third Scenario: Decentralization

Empower Governorates to own public land & plan for development within their jurisdiction



# 3

## Reforming Public Land Management in Egypt: Rapid Assessment of the three scenarios

	Pros	Cons	Risks
<b>1</b>	<ul style="list-style-type: none"> <li>▪ More politically acceptable &amp; thus likely to materialize</li> <li>▪ Limited fiscal implications</li> <li>▪ Faster delivery of results due to maintained familiarity with system</li> </ul>	<ul style="list-style-type: none"> <li>▪ Less impact in terms of reform: better coordination is no new policy</li> </ul>	<ul style="list-style-type: none"> <li>• Business as usual</li> <li>• Inter-ministerial planning commission ineffective</li> <li>• Some Governorates without capacity/clout to influence development</li> </ul>
<b>2</b>	<ul style="list-style-type: none"> <li>▪ Rational control framework</li> <li>▪ Downstream control over land by agencies with coherent boundaries</li> <li>▪ Policymaking &amp; regulatory role for central agencies</li> <li>▪ Resolves land disputes between government entities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significant political resistance if agencies give up controlled land. Otherwise, 2 coexisting systems</li> <li>▪ Complex &amp; costly to set up new entity</li> <li>▪ Past regional planning experience unsuccessful</li> <li>▪ Significant legal changes</li> </ul>	<ul style="list-style-type: none"> <li>• Past sectoral allocation creates unsolvable problem</li> <li>• Business as usual among sector agencies limits SLA</li> <li>• Mismanagement /corruption more costly</li> <li>• Limited capacity/willingness to change</li> </ul>
<b>3</b>	<ul style="list-style-type: none"> <li>▪ Rational control framework</li> <li>▪ Assigns control to entity that knows best local needs</li> <li>▪ Financing of service delivery</li> <li>▪ Policymaking &amp; regulatory role for central agencies</li> <li>▪ Resolves land disputes between government entities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significant political resistance</li> <li>▪ Limited capacity</li> <li>▪ Difficult to monitoring proper asset management</li> <li>▪ Not aligned with current gradual decentralization policy</li> <li>▪ Governorate boundaries not necessarily coherent</li> </ul>	<ul style="list-style-type: none"> <li>• Prone to mismanagement due to limited capacity</li> <li>• Prone to corruption</li> <li>• Unhealthy competition &amp; lack of coordination between Governorates' planning &amp; implementation efforts</li> </ul>

# 3

## Reforming Public Land Management in Egypt: Common Features to All Scenarios

- Rationalize land use planning function between GOPP & NCPUSL (quick-win)
- GAFI's OSS investor service role (quick-win, ongoing reform by GOE)
- Clarify policymaking & regulatory role of sectoral/line agencies from implementation role, which should be minimal
- Legally adopt urban development boundaries & set mechanism to revise & periodically update them (quick-win)
- Better land information system (Land registry or public LIS, ongoing reform by GOE) & policy on public access to land information

### 3 Reforming Public Land Management in Egypt to improve the investment climate: Preferred Scenario

**Preliminary indications that Scenario 2–State Land Authority—is preferred option. A hybrid approach, including decentralized public land management in main cities upon approval of strategic development plans, is proposed.**

1. Control over land: along Sectoral or **Geographic** lines?
2. Control over land: **Consolidated** or **Decentralized**?
3. Boundaries delimiting control over land: Zimam, Cordon or **Haiez**
4. Public Land subject to reform: *Arady Mokhassassa* or *Arady Gheir Mokhassassa* 
5. Government agencies' role: **Regulatory authority** or Implementing Agency (economic authority)

# 3

## Reforming Public Land Management in Egypt: Important Issues & Notes

- **Many feasible combinations in between these “ideal type” scenarios, e.g. central government SLM role with decentralization in main cities**
- **No blueprints but asset management principles, esp. recognizing cost of ownership (from free good approach to opportunity cost of land) & undertaking better accounting practices**
- **Major land ownership by government often distorts land markets. Most OECD countries with limited public land stock assemble land via negotiated purchase, preemption &/or expropriation with fair compensation**
- **Need explicit public land management policy with clear objectives re economic efficiency, fiscal policy & environmental sustainability**

## **4 Public land management reform: key elements & lessons learnt from international experience (1)**

- **No one model but trend toward meaningful delegation of decision-making to local authorities**
- **Define State land as public (non-alienable) & private (alienable) domain with regulatory process for classification/reclassification**
- **Review processes of government agencies empowered to dispose of State land, regulatory framework & M&E mechanisms**
- **Develop integrated land policy framework & consolidated land laws**
- **Strengthen land information system (including State land inventory, in addition to recordation at Land Registry)**

## 4 Public land management reform: key elements & lessons learnt from international experience (2)

- **Systematic & efficient approaches to allocate & price State lands:**
  - *Generally*, market-based allocation through auctions (market price)
  - Except in well-defined policies, e.g. affordable housing, competitive allocation to affordable housing developers (priced below market with subsidy recapture for non-compliance) and/or direct administrative allocation to beneficiaries in sites-and-services schemes (priced at infrastructure cost recovery with adapted planning standards)
  - Except in strategic locations, e.g. large city center or coastal sites, Request for proposals (best mix of technical & financial offers)
- **Define comprehensive strategies to leverage State land to achieve policy objectives**
- **Support city development strategies/land use plans prepared locally with participation. After plan approval by National Planning Agency, transfer to Local Governments State land needed for future growth**

# 4

## International experience in Land Policy Reform (1)

- Many countries have either completed or are currently undertaking broad land policy reforms (Thailand, Indonesia, Philippines, China, Turkey, and all transition economies, etc)
- Reform is focused on four areas:
  1. Improving security of property rights
    - Complete registration of rights (Thailand, Turkey, Indonesia, Vietnam, etc)
    - Improve security of registered rights (Macedonia, Cambodia)
    - Improve service delivery & reduce transaction costs
  2. Improving land use planning & development control systems (Vietnam, Indonesia, Albania)
  3. State Land Management (Indonesia, Cambodia, Albania, Turkey)
  4. Property valuation & taxation (Thailand, Indonesia, Philippines, Turkey)

# 4

## International experience in Land Policy Reform (2)

- Objectives of reform:
  1. Improved investment climate & private sector development (all countries)
  2. Increased revenue generation (Philippines, Turkey, Laos)
  3. Improved productivity as a result of full utilization of land resources (Thailand, Indonesia, Vietnam)
  4. Harmonization with EU policies (Turkey, transition economies)
  
- Key success factors in land policy reform:
  1. Commitment for reform at the highest level (Philippines, Thailand)
  2. Comprehensive approach (Philippines, Indonesia, Albania)

## **4 Reforming SLM in Indonesia through decentralization of issuance of long-term leases for investment to Local Authorities**

- **No central authority over state land.**
- **National Land Agency (BPN) registers state land but does not have power to distribute or lease it.**
- **BPN used to issue *Izin Locasi* (long term lease for investment) on public land.**
- ***Izin Locasi* key mechanism used by Suharto regime to provide land for investors. Process however criticized widely because of corruption and mismanagement.**
- **Ministry of forestry manages all land not under private domain.**
- **In urban areas, several ministries including defense, education, health, etc, occupy and use prime locations of urban land.**
- **Major agriculture, forest, and mining concessions were awarded on what is considered forest land.**
- **Since 1998, government has enacted several laws and regulations to improve transparency in the use and lease of state land. The most significant is the transfer of Issuance of *Izin Locasi* to local authorities.**

## **4 Reforming SLM in Cambodia: Drafting new policies & regulations & establishing social & economic land concessions**

- **Private land is only 20% of Cambodia land mass, mainly in rural areas**
- **Government embarked on major State land management reform including policy of transferring non-forest state land to private use through concessions to both landless small farmers and big agricultural plantation purposes**
- **New basic land law was drafted as well as laws on State Land Management, Social Concessions, & Economic Concessions**
- **Guidelines established at national level through Social Land Concession Council**
- **Local authorities identify land for distribution and beneficiaries' lists; application is submitted to the National Social Land Concession Council for approval. Implementation of distribution is done at local level.**
- **Concession of large agriculture land plantations recommended by State council for agriculture concession and approved by council of ministers.**
- **Public Land around Angkor Watt transferred by law to Siem Riep Development Authority, which awards long term leases to investors in tourism industry.**

# 4

## Turkey: An urgent need for reforming SLM

- Turkish Registration and Cadastre Agency (TRCA) is one of the most efficient in Europe. Agency responsible for registering private rights.
- Registration is completed within three days, and in many offices in one day. Government also initiated major program to align land system with EU requirements through completing registration of all land, and computerizing all land offices.
- State land management is under authority of Treasury Department.
- Government could not protect State land and major invasions take place almost every day.
- No mechanism to transfer State land to private use or for investment. This resulted in two main problems: unregulated development around main cities (Istanbul and Ankara); and artificial increase in property values resulted in shortage of registered private land for investment.
- Government is currently studying a reform agenda to better manage state land

## **4 Reforming SLM in Albania through decentralization of management functions to local governments upon approval of city development plans**

- **Albania initiated property reform since 1993 with support by EU, USAID and OSCE**
- **Laws and regulation of public land management and disposition done at national level**
- **Local authorities required to prepare city development plan (called regulatory plan), and identify public land within city boundaries**
- **Once city development plan is approved, public land management within city boundaries in the approved plan is transferred to local authorities.**
- **Not all public land is transferred. Public land used by national government agencies is not transferred**
- **Local authorities authorized to auction under-utilized public land according to approved land uses, in line with national procurement law**
- **National government has an oversight function and inspector general ensures that local authorities follow national guidelines**

# 4 Reforming SLM in Botswana through Local Land Boards

- **Creation and Authority**
  - District Land Boards created in 1968 & regulated by Ministry of Lands
  - Make all urban and rural land allocations, both statutory and custom-based
  - Approve town and country land use zoning plans
  - National capital excluded, with land administered directly by municipality
  - In deep rural areas, Boards still informally rely on traditional authorities
  - Minister retains power to overrule and instruct boards in particular cases
  
- **Structure and Functioning**
  - Chaired by Ministry of Lands District Officer
  - Ex-Officio membership by four relevant ministries
  - Four local members elected in non-party vote for four-year terms
  - Lands District Offices serves as Board Secretariat
  - In some areas, ex officio membership for traditional leader
  - Later Stage Development
    - Sub-district land boards created in areas of more intensive land use
    - Elected members increased to six, made subject to party votes
    - Traditional leader ex-officio participation eliminated
  
- **Assessment**
  - Low cost approach to local land administration
  - Significant local input to and some local control over land decisions
  - Strong central authority retained, generally exercised through regulations
  - Central authority rarely used in particular cases
  - System works well in part because of democratic ethos in Botswana
  - Botswana does not have urban areas of Egyptian size or complexity

## **4 Reforming SLM in China through decentralized management to Local Authorities & municipal land banking: Important local development tool but needs regulation**

- **In 1998, Central Government delegated the management of state-owned urban land to Local Governments. A Party directive mentioned land banking as a tool for state land management**
- **Many Local Governments created municipal land banks using land from failed or privatized SOEs & new land created from converting collectively-owned rural land on urban fringes for urban development**
- **Significant demand from investors for use rights auctioned by local governments created a very active “primary land market”**
- **Up-front land use fees from recipients of land (i.e. capitalized leasehold) became major (off-budget) revenue source in fast growing cities**
- **Revenue permits rapid expansion of urban infrastructure & expansion of land supply for urban development.**
- **Central government now reasserting right to share in land revenue.**
- **Central government now pressing for more adequate compensation for rural communities absorbed into urban areas.**

## **4 SLM in the Philippines: Auctioning of urban public land**

- **Public land is classified as alienable and disposable land, non-alienable and disposable land; and forest land.**
- **Boundaries of forest land are defined by law and managed by forest Bureau of Environment and Natural Resources Dept.**
- **Alienable and Disposable agriculture land is being distributed by Department of Agrarian Reform for landless farmers.**
- **Non-agriculture land (urban public land) is distributed through auctioning process through Public Reclamation Authority (PRA), under Ministry of Finance.**
- **PRA mandate is to identify, reclaim and auction under-utilized public land.**
- **Reclamation is done by submission to President**

- **Set up high level Land Policy Task Force with representatives from central government, local authorities, investors, banking associations, etc (Government)**
- **Prepare policy discussion paper on issues, reform options, key policy principles & recommendations (LPTF)**
- **Consultations on policy discussion paper (Government & LPTF)**
- **Prepare land policy paper incorporating input from public consultations (LPTF)**
- **Submit policy paper to Cabinet for approval (Government)**
- **Draft regulatory framework – e.g. new land law & revised laws governing different land-related institutions (Government)**
- **Submit to Parliament for approval (Cabinet)**

## Public land management policy reform in Egypt: The Way Forward? Questions for Discussion

- Is Egypt ready to:
  - Move from sectoral to integrated public land asset management?
  - Give local authorities meaningful decision making power over public land management?
  - Share proceeds of sale of public lands with the Treasury and/or local authorities?
  
- What level of oversight central government authorities should maintain?
  
- Is Scenario 2 (State Land Authority, which delegates power to local & regional authorities over public land management) a promising direction & worth developing further?
  
- What is the appropriate process to develop needed policies (action plan, timeframe, next steps)?

# **The Management of Public Lands in Egypt to Improve the Investment Climate**

**Existing Situation and Options for Reform**

**Presentation of Preliminary Findings**



**The World Bank**