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 Borrower(s) REPUBLIC OF GHANA

## Implementing Agency

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### 1. Country and Sector Background Background

The different types of land tenure and the land administration system prevailing in Ghana today evolved over time from the interplay of the socio-political organizations of the various tribes, clans and families through trade, wars and incorporation; the advent of colonial rule and subsequent introduction of tree crop agriculture as well as commercial exploitation of timber and mineral resources; post independence politics; and urbanization. Differences in natural endowments between the savanna north, the forest south and coastal littoral have also influenced development in trade and colonization, which have in turn affected developments in land tenure and land administration. The basic land laws in Ghana are, therefore, deeply embedded in the socio-cultural systems and political institutions of its indigenous societies even though they have been fundamentally influenced by administrative and statutory rules of the modern state.

In all the indigenous social administrations, land is communally held in trust for the tribe or clan or family and administered by the chiefs, tendambas or heads of these socio-political entities. 'Indigenes' or members of these entities had guaranteed access to the usufruct right of land. Individuals or groups who were unable to access land in their own societies migrated elsewhere and could readily get land for farming. As long as population densities remained low and land had little commercial value, local chiefs historically sought to enhance their influence by

increasing the number of people under their control through incorporation of non-indigenous groups. The indigenous societies were thus sufficiently accommodating that migrants or 'strangers' were able to establish use rights in land at their new place of settlement through political incorporation, long-term lease arrangement or sharecropping agreement. These arrangements have historically played a key role in making land available to those who needed it, particularly during the first half of the 20th century.

The demand for land and labor for growing cash crops such as cocoa and oil palm and exploitation of mineral resources gave rise to chiefs allocating land concessions to prospectors and migrant farmers under long-term lease arrangement or even outright sale of land. The colonial policy of indirect rule vested in chiefs more exclusive administrative power over their people, removing social restraint over their authority inherent in the indigenous system of authority, allowing chiefs to pursue private gains at the expense of communal interest and progress.

With commercialization of land for agricultural and urban development, chiefs and heads of clans and families became more than mere trustees on behalf of their communities, increasingly allowing them the right to freely dispose of unallocated land. This emphasized the relationship between some of the chiefs and members of their communities into one approximating that between landlords and tenants. Some chiefs and heads of clan and families became unscrupulous and gave out rights on the same land to two or more parties. In urban and peri-urban areas, not only family heads, but also individual family members sold or leased land without reference to their head, resulting in confusing assignment of land rights on the same parcel of land to multiple parties. These malpractices have given rise to lengthy litigation clogging the courts. The Greater Accra region alone is reported to have over 15,000 land disputes pending court adjudication.

Colonial land policy also introduced the notion of eminent domain, providing for compulsory acquisition of stool, skin and family land for public needs. Although compensation was stipulated for fixed developments on the land, the legislation did not provide for compensation of land itself, nor for the inconvenience of people being dislodged from it. Post independence governments used this notion with impunity to establish state farms, plantations, the Volta Lake, the Volta River Authority, airfields and other public utilities and amenities. Some claims of compensation arising out of compulsory acquisition of land by the state in the 1960s are still outstanding. In some instances, while very large tracts of land were acquired by the State for specific purposes their use has been changed and/or subdivided and leased out to non-indigenes, gifted or outright sold without consultation of the land owners. Such grievances have created a great deal of resentment among traditional landowners towards the national and local governments.

The post-independence government enacted legislation that vested stool, skin and family lands in the State in trust for the benefit of the allodial owners and their communities. The State acquired the right of administration over these lands and specified how land revenues will be shared between the state, the local government and the allodial owners. Much to the chagrin of the chiefs and clan and family heads, the Lands

Commission and later, the Administration of Stool Lands were created to administer these lands and their revenues. The operations of these institutions and their bureaucracies have been cause of dissatisfaction and frustration by all parties having to deal with them. The granting of land use rights, their registration and the administration of the land revenues have not always been transparent. Rent seeking behaviors have been rampant in the public land agencies. The allodial owners of land are against the high proportion of land revenues given to district assemblies. In general, there is a strong demand that land should be administered, not by government agencies, but by the allodial landowners themselves. Because of the insecurity surrounding land rights, land figures very little in the valuation of residential and commercial property, thus minimizing their value in the economy and as collateral for loans as well as for tax assessment by both local and national governments. Furthermore it undermines both national and international investor confidence in land and other sectors of the economy.

### The Government's Land Policy

Overtime, as land became more scarce, indigenous arrangements under which individual members of the lineage enjoyed general rights of access to land have been rendered untenable. Indigenous tenancies have been generally replaced by sharecropping (abusa and abunu systems) that enabled local landowners to gain labor for their farms. Commercial transactions in land and the transformation of inheritance rules compounded by population pressure have given rise to increased litigation over land as individuals sought to exclude those they believed to hold illegitimate claims, and especially migrant farmers. Post-independence governments enacted a multiplicity of legislation to deal with specific problems in an ad hoc basis, not forming part of a comprehensive policy of land acquisition or land use administration. It was the realization of the need for more coherent long-term lands policy and its effective administration that instigated GOG to develop a national land policy in 1999 as amended in 2002 and seek ways of implementing it.

The specific objectives of GOG's land policy are to: (a) harmonize statute and customary laws to facilitate equitable access to and enhance security of tenure of land through registering systematically all interests in land; (b) create and maintain effective institutional capacity and capability at the national, regional, district and where appropriate, community levels for land service delivery; promote community and participatory land management and land use planning within a decentralized planning system; (d) minimize and eliminate where possible the sources of protracted land boundary disputes, conflicts and litigation in order to bring their associated economic costs and socio-political upheavals under control; (e) formalize land markets where appropriate and instill order and discipline to curb the incidence of land encroachment, unapproved development schemes, multiple or illegal land sales, undue land speculation and land racketeering.

A number of issues that require immediate attention have been identified in many previous land administration related studies and are summarized in the National Land Policy document. The main sector issues can be characterized as: (i) inadequate policy and legal framework; (ii) fragmented institutional arrangements and weak institutional capacity; and

(iii) underdeveloped land registration system and inefficient land market. It is interesting to note that inequity in land holdings is not an issue because the rules governing access to land allowed families to claim land roughly proportionate to their total labor endowment, resulting in generally little disparity in land distribution. The absence of development of a large number of large scale commercial farms in Ghana has also helped check inequities in land distribution.

**Inadequate Policy and Legal Framework:** Land administration in Ghana is governed by both customary and enacted legislation. Some 166 laws that regulate land administration and establish mandates for different agencies exist in the statute books. Many of these laws and regulations conflict with one another and some are outdated and/or irrelevant. Their existence is used often to confuse issues, delay implementation of programs and prolong land litigation in courts. While lack of a comprehensive land policy framework that has bedeviled land administration is addressed by the 1999 National Land Policy, it has not been implemented. Inadequate security of land tenure due to conflicts of interest between and within land-owning groups and the state, and the slow disposal of land cases by the courts adds to land transaction costs and frustrates potential indigenous and foreign investors. Compulsory acquisition by the state of large tracts of lands that have not been fully utilized and for which payment of compensation has been delayed has created intractable problems. This policy has left landowners almost landless, denied their source of livelihood and made them tenants on their own lands, giving rise to poverty and disputes between the state and the stools, as well as within the private land sector. Lack of consultation with land owners and chiefs in decision making for land allocation, acquisition, management, utilization and development of state acquired lands has generated intractable disputes between the state and the private land owning groups and within communities.

**Fragmented Institutional Arrangements and Weak Capacity:** In most parts of the country land is communally owned, held in trust for the community or group by a stool or skin as symbol of traditional authority or by a family. Stool or skin lands are a feature of land ownership in almost all the Akan traditional groups in southern Ghana and in most tribes and clans in northern Ghana. Sandwiched between the public and private lands are vested lands whose administration are a form of split ownership between the state and the allodial owners. Scattered all over Ghana are also a number of social groups that do not recognize a stool or skin as symbolizing private communal land ownership. In such instances, the traditional arrangement is normally that of vesting land ownership in the clan, family or individual. This practice is prevalent in the Volta Region and in some traditional areas in other regions. The state has responded to this situation by creating a number of land sector agencies with fragmented land administration responsibilities. The main agencies are the: (i) Lands Commission, (ii) National/Regional House of Chiefs; (iii) office of Administrator of Stool Lands; (iv) Land Valuation Board; (v) Survey Department; (vi) Land Title Registry; and (vii) Department of Town & Country Planning. Enabled by enacted legislation, the different agencies and offices administer public lands, stool lands and vested lands and maintain land records, without appropriate mechanisms for coordination of land use policies, plans and programs. The relationship among these has been dominated by the public sector that defines the rules and enforces

compliance. The state agencies have not developed good mechanisms for active collaboration with the traditional authorities and all land stake holders to ensure proper land records are kept and maintained. This results in lengthy land acquisition procedures for agricultural, industrial, commercial and residential development purposes due to conflicting claims to ownership and varied and outmoded land disposal procedures.

Underdeveloped Land Registration system and Inefficient Land Market: Except in few urban centers that have benefited from earlier urban renewal and development projects, there is no systematic cadastral mapping, registration and titling program in Ghana. Indeterminate boundaries of stool, skin and family lands resulting from lack of reliable property maps and/or plans and the use of old inaccurate boundary maps, lead to protracted litigation and freezing of land for development. Frequent encroachments on both public and private lands, multiple-sales of residential parcels, unapproved development schemes, resulting in haphazard developments, environmental degradation and frequent violent confrontations between and among opposing claimants. The inefficiency of the land markets is manifested by the unmet demand, in the urban market, for housing, industrial and commercial land because of shortage of secure unencumbered lands. This shortage has led to high urban land prices and subsequently influenced the development of peri-urban lands in a haphazard manner not supported by appropriate infrastructure services like roads, drainage, water and electricity. Many such transactions are informal and therefore the revenues that could be generated for national and local governments are lost, but these governments bear the costs of such developments through increased demand for social services and abating environmental and health problems associated with such settlements.

## 2. Objectives

The government of Ghana issued its Land Policy in June 1999. This was subsequently amended by the current National Patriotic Party administration in 2002 as summarized in Annex 13. The long-term goal of the Government's land policy is to stimulate economic development, reduce poverty and promote social stability by improving security of land tenure, simplifying the process for accessing land and making it fair, transparent and efficient, developing the land market and fostering prudent land management. This will be achieved through implementation of a long term (15-25 years) land administration reform program. The Ghana Land Administration Project (LAP-I) will be the first phase that would lay the foundation for implementation of this long-term land administration reform.

The specific objective of the project is to develop a sustainable and well functioning land administration system that is fair, efficient, cost effective, decentralized and that enhances land tenure security. It would seek to (a) harmonize land policies and the legislative framework with customary law for sustainable land administration; (b) undertake institutional reform and capacity building for comprehensive improvement in the land administration system; (c) establish an efficient, fair and transparent system of land titling, registration, and valuation; and (d) issue and register land titles in selected urban and rural areas as a pilot to test (b) and (c) above and innovative methodologies, including community level land dispute resolution mechanisms.

### 3. Rationale for Bank's Involvement

The value of the Bank's involvement would be its proven ability to integrate technical, institutional and policy considerations at both the working level and the higher levels of Bank/GOG dialogue, and particularly across ministries and agencies and with participating development partners. The Bank has been active in the natural resources sector and has funded a number of projects covering forestry & wildlife, environment, agriculture and water resources. It has established a strong relationship with the key Government agencies, the Ministries of Lands, Forestry & Mines, Food and Agriculture, Finance and Local Government, the Lands Commission, the Survey Department and the Land Valuation Board . It has also funded and aided the development of land titling and registration projects in many other countries, including Cote d'Ivoire and Thailand. The Bank has considerable experience and comparative advantage in encouraging institutional development, long term sustainability and ensuring appropriateness of the investments. In addition, improving the land administration regime to ensure security of tenure in land for development fulfills the Bank's role in enhancing growth and reducing poverty in Ghana.

### 4. Description

The Ghana Land Administration Project will comprise the following components:

Harmonizing Land Policy and Legislative Framework

Institutional Reform & Capacity Building

Cadastral Mapping and Land Administration Information Systems Development

Pilot Sub-Projects in Systematic Land Titling and Registration

### 5. Financing

Total ( US\$m)

BORROWER \$0.00

IBRD

IDA \$25.00

Total Project Cost \$40.00

### 6. Implementation

Project Coordination: The project would be implemented over five years (June, 2003 to July 2008). Overall implementation would be the responsibility of MLF which will provide financial disbursement and control, procurement, monitoring and evaluation and reporting services. Because of its breadth and cross-agency involvement, the project's overall management will be exercised through the Policy Planning, Monitoring and Evaluation Department (PPMED) of MLF. A Land Administration Programs Unit (LAPU) has been created within PPMED. The head of this unit will be the Project Coordinator who will be designated to manage the day to day activities of the project under the guidance of the Technical Director (Lands) of PPMED.

The financial and procurement management capacity of PPMED will be strengthened prior to project effectiveness. The computerized accounting and financial management system of MLF will be modified to accommodate accounting and financial management of LAP activities and train staff in

its operation as well as in the Government's procurement policies and procedures. Since this project involves several departments and decentralized agencies, the financial accounting manual of the Ministry will be reviewed and modified to provide for effective and efficient flow of funds to all implementing agencies. All regular staff in PPMED and all other agencies implementing the project will be staff under the civil service.

**Project Oversight:** MLF will be assisted in the implementation of the project by Land Administration Project Steering Committee (LAPSC), comprising members from MLF as well as the Ministries of Justice, Local Government and Rural Development, Food and Agriculture, Environment and Science, Finance, Lands Commission, National House of Chiefs, and the public land agencies as restructured during project implementation (i.e., Office of the Administrator of Stool Lands, Land Valuation Board, Survey Department), and the Institute of Land Management and Development. The Technical Director (Lands), MLF and the Project Coordinator would be ex-officio members with the latter acting as the Secretary to the committee. The LAPSC would be chaired by the Minister, MLF or the Deputy Minister (Lands). It would meet on a quarterly basis to review progress made in the implementation and resolve any policy issues that may have arisen.

**Project Execution:** The project components will be executed on the ground (district to regional and national levels) by the various implementing agencies (the public sector agencies as restructured under the project, traditional authorities, Attorney General's Department, KNUST, professional associations, etc.) on the basis of agreed upon annual program and budget approved by the (LAPSC). The responsibility of the Project Coordinator will be to (a) facilitate the work of these implementing agencies and to service their needs through the timely disbursement of funds and procurement of goods and services; (b) arranging for training of staff in accordance with the human resources development plan; (c) ensuring that the monitoring and evaluation work are carried out properly and reported upon promptly; (d) ensuring that the public awareness and education and public relations activities of the project are conducted in collaboration with project implementing entities; (e) generating financial and project implementation reports for GOG, development partners and the public at large; (f) act as secretary to the LASP and (g) liaising with the Ministry of Finance and development partners on project related activities.

## 7. Sustainability

The main risk for the sustainability of the policy, legislative and institutional reforms envisaged in the project is the political will to carry them out to their completion. The current government has shown its strong commitment to reforming the land administration system in Ghana. It has decided to return vested lands to the traditional owners as a confidence building measure of its seriousness and commitment. This will win the support of the paramount chiefs in harmonizing statutory land laws with customary laws and instituting an accountable system of titling and registering interests in land and arranging for their smooth transfer through inheritance, gifting and the land market. Nonetheless, land administration reform is of necessity a long-term program that will need to have continued relevance and priority spanning over several

administrations, thus demanding their continued commitment and support.

Although the increased efficiency arising out of the land administration reform will reduce costs as well as the land disputes clogging the courts, and the project is expected to increase revenues derived from service fees, land rent and land taxation by the national and local authorities, financial sustainability would not be a short-term goal. A more important consideration would be to price land administration services at a level that will not discourage documenting land transactions through official channels. Once a critical mass of titles have been registered, subsequent derivative transactions will generate the revenue that in the long-term will make land titling self financing. A public awareness campaign will be waged, with community and NGO participation, to educate the populace on the social and economic advantages of land title registration to pave the way for systematic land titling in areas where it is deemed suitable. A study will be undertaken to develop appropriate tax and fees on land transactions and services, taking into account their impact on people's decisions to use formal channels to ascertain their interests in land.

The systematization and decentralization of land administration services, involving customary land owners and their land secretariats, the participation of the community in alternative land dispute mechanisms and the establishment of land tribunals will, in the first place, reduce land disputes. It will enable speedy resolution of those that will arise, bringing decision making on land issues closer to the communities and giving them a high degree of ownership and enhancing sustainability of the system. Finally, the institutional reform and capacity building activities of the project will lay the foundation for continued sustainability of subsequent land administration reform programs.

#### 8. Lessons learned from past operations in the country/sector

The World Bank has assisted many land reform and titling projects since the formulation of its "Land Reform Policy Paper" in 1975. Three major lessons can be drawn from the Bank's experience in this projects over the past 25 years. First, land policy should be viewed as an integral element of a broader policy dialogue rather than as a string of narrowly oriented technical interventions. Experience shows that a lack of consensus on the broader subject of land policy has often compromised the effect on development of specific interventions such as land titling. Moreover, the social and political sensitivity of land issues and the need to adapt to site-specific conditions often require that carefully designed, small circumscribed area experiments should be conducted and evaluated before any fundamental nationwide policy change is implemented. Second, land titling should be area-based, that is, it should cover an entire area at once (systematic registration), and fit within a broader strategy of rural development. Otherwise, imperfections in other factor markets may undermine or even eliminate the advantages from possession of title. Third, there is a rediscovery of the value of traditional land rights arrangements. In some areas, comparing with freehold titles, traditional tenure arrangements may be more cost-effective in increasing tenure security and even in providing a basis for land transactions. The proposed project takes into account the above lessons by emphasizing broader policy dialogue, systematic registration, and decentralization of land services taking into account local situations and participation of the stakeholders including traditional or customary land councils operating under



chieftainships.

Community involvement in development projects in agriculture, water and forest management in Ghana has seen considerable progress. There is need to encourage such stakeholder participation to obtain their input in land dispute resolution, titling and registration of interests in land. In the Ghana Urban II mapping programs, the private sector has facilitated the effort and freed the Survey Department to concentrate on other aspects of map production. The role of the private sector will be expanded to include not only surveyors but also solicitors and private contractors and NGOs in decentralization of land management and capacity development in customary land administration. The proposed project will facilitate this and build the capacity of the private sector through the training institutions offering diploma and degree courses in surveying and land administration and management and through professional associations of chartered surveyors, land valuers, real estate agents and land lawyers.

#### 9. Environment Aspects (including any public consultation)

Issues : The project is classified as Category B because it does not pose any major environmental issue. The Borrower has prepared an environmental impact assessment report and a resettlement policy framework. The project would provide more secure land tenure arrangements and dynamic land markets, that are conducive to investment in land improvement and better land management techniques, resulting in positive environmental impact. This is borne out by several land administration projects the Bank has financed in different parts of the world (e.g. Thailand, Indonesia and Brazil). Transparent and efficient land administration systems and coherent and transparent land management policies have provided incentives for investment in improved long-term land use such as soil conservation and tree crop production in rural areas and investment in environmental infrastructure like improved kitchen and bathrooms in urban areas. Project outputs including spatial data such as aerial photographs and cadastral maps have been useful inputs into environmental management. The demarcation of forest and wildlife reserves and gazetting of globally significant biodiversity areas (GSBAs) is being carried out by a separate IDA financed Natural Resources Management Project and the GEF supported Forest Biodiversity and Savanna Biodiversity Protection Projects. The proposed project would complement these projects by titling and registering the holdings of communities and individuals surrounding the reserves and GSBAs, thus rendering encroachment of these reserves difficult and facilitating the maintenance and ensuring the sustainability of their environmental integrity. The production of maps will enable the land use planning agencies to provide more appropriate land use and zoning maps to the communities. Civil works are envisaged in constructing offices for the public sector land agencies, the Kwame Nkrumah University of Science and Technology and selected customary land secretariats. Environmental impact assessments would be conducted for the specific sites chosen. Resettlement issues would be minimal because the sites selected would be on state lands. Should any resettlement issue arise, the project would ensure that those affected would be fairly compensated by the government.

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11. For information on other project related documents contact:

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Note: This is information on an evolving project. Certain components may not be necessarily included in the final project.

This PID was processed by the InfoShop during the week ending February 14, 2003.