

## TECHNICAL ASSISTANCE COMPLETION REPORT

Division: PAHQ

|   |  |                                   |   |                                 |
|---|--|-----------------------------------|---|---------------------------------|
| TA No. and Name<br>TA 3941-RMI: Mobilizing Land   |  |                                   | Division: TA/RM   |                                 |
|   |  |                                   | Amount Approved: \$520,000 (including \$100,000 of Government counterpart)<br>Revised Amount: |                                 |
| Executing Agency<br>Office of the Attorney General (OAG)  |  | Source of Funding:<br>Bank (TASF) | TA Amount Undisbursed<br>\$53,262   | TA Amount Utilized<br>\$366,738 |
| Date<br>Approval<br>16 Oct 2002<br>Signing<br>17 Oct 2002<br>Fielding of Consultants<br>01 May 2003   |  |                                   | Completion Date   |                                 |
|   |  |                                   | Original<br>30 April 2003   |                                 |
|   |  |                                   | Actual<br>31 August 2005  |                                 |
|   |  |                                   | Closing Date  |                                 |
|   |  |                                   | Original<br>30 April 2003   |                                 |
|   |  |                                   | Actual<br>29 Nov 2005   |                                 |
|   |  |                                   |   |                                 |
| Description<br>Since its independence in 1979, the Republic of Marshall Islands (RMI) has struggled to develop a more dynamic private sector-driven economy, But the availability of land has continuously constrained private sector investment, and hence economic growth, and poverty reduction. The existing land tenure system in RMI remains complex and entrenched in traditional and customary rights which prohibit land alienation or disposition without approval by the traditional chiefs ( <i>Iroij</i> ). The immobility of land serves as a hindrance to (i) establishment of efficient property markets and productive use of land; (ii) timely implementation of public projects that require land; and (iii) the development of a collateral and commercial capital market. In view of this, the Government of RMI requested ADB's technical assistance (TA) to help create an environment conducive to increased private sector investment and employment creation by improving the availability of land and its utilization for development purposes, as well as by simplifying public sector land transactions to ease public investment.   |  |                                   |   |                                 |
| Objectives and Scope<br>With the goal of providing a reliable and workable legal and administrative infrastructure to support and stimulate investments in private sector enterprises leading to economic productivity and poverty reduction, this TA aimed to assist the Government of RMI in: (i) operationalizing the Land Registration Authority (LRA) and implementation of new land legislation; (ii) strengthening the capacity of the LRA by developing procedures for the registration of land interests and recording land transactions; and (iii) creating public awareness of the LRA through media and public consultations. The objectives, scopes, and terms of references were maintained throughout the TA implementation.   |  |                                   |   |                                 |
| Evaluation of Inputs<br>The TA was adequately formulated, no major changes were made in the original scope and objectives of the TA. A team of four international consultants were recruited through a consulting firm. The total consultants inputs was increased from 10 to 11.8 person-months during TA implementation to accommodate government request for providing guidance at critical period during the first LRA Board meeting to review and evaluate applications and objections, organizing public hearing, and making decision on it. The performances of the international consultants were generally satisfactory. The TA implementation was extended from 6 months as originally designed, to 27 months due to unavailability of LRA personnel during national elections, adjournment of the Nitijela (Parliament), budgetary constraints of the LRA, and late enactment of the new land laws, which affected the overall TA implementation. TA extension also needed to enable the LRA staff to undertake further community awareness campaigns and dissemination of information about the LRA and land registration processes and procedures in the outer islands.  |  |                                   |   |                                 |
| The consultants team successfully delivered their tasks as defined in their terms of reference particularly: (i) broad analyses on how to mobilize land, which included assessments of traditional, customary, socio-political, and gender factors that affect land mobilization, as well as the viability of introducing a land tax; (ii) institutional assessments and functional analysis of the LRA; (iii) preparation of a model land lease contract; and (iv) preparation of information and education campaign (IEC) materials and conduct of actual information campaigns to raise the level of awareness of the local leaders and traditional landowners on issues related to land mobilization. The quality of inputs provided by the consultants has been satisfactory. The Government provided counterpart staff (from the LRA) to assist the consultants in the implementation of the TA. Key government officials such as the Minister in Assistance to the President, Minister of Justice, and the Attorney General interacted with the TA project as did the Legislative Counsel of the Nitijela, particularly in the drafting of new land laws. Adequate office space and logistical support were provided by the Government. Equipment such as computer hardware and software, multi-purpose printer/scanner/facsimile machine, scanners, wireless network equipment, external modem, and telephone were acquired through the TA and successfully installed in the LRA and are now being used in its operations. The Executing Agency (EA) expressed its appreciation to ADB that has made the LRA fully operational. The EA's performance has been satisfactory. TA administration and supervision undertaken by ADB staff is adequate and satisfactory, including fielding an inception assessment (June 2003), and a review mission (December 2004). Aside from that, review of the TA progress was made when staff undertook other missions to the country (e.g. programming missions). The midterm review was done through teleconference. These missions were adequate and able to review and evaluate the TA progress and made the necessary adjustments in TA implementation. |  |                                   |   |                                 |

### **Evaluation of Outputs**

The TA completed an extensive review of existing laws relating to land tenure, land transactions and registration and found them to have substantial shortcomings. In particular, the Development Land Registration Authority Act (DLRA Act) and the Real Property Mortgage Act of 1987 (RPM Act) were found inoperative. Through the TA, a new law, the Land Recording and Registration Act (LRR Act) was enacted to replace the DLRA Act, while a new Real Property Mortgage Act 2003 was passed to replace RPM Act 1987. These two new legislations provided the legal basis for operationalizing the LRA as well as other related government agencies, such as the Land and Survey Division. An LRA Board was established to guide the LRA operation. It comprises one member of the Bar association, the Chamber of Commerce, the Council of *Iroij* and two members selected by the Cabinet from the community. Its tasks include reviewing and evaluating land registration applications and objections, organizing public hearings, and making decisions on registration. In addition, the TA also identified the need to enact new laws relating to bankruptcy, insolvency, land valuation, and land reclamation. A Model Land Lease contract was prepared and made available to legal professionals and the general public.

LRA staff were trained in using the database program and procedures for recording and registering documents, using the Land Recording and Management Software (LRMS) developed by the TA. Procedures and forms for the operations of the LRA were developed and incorporated in the Operations Manual also developed by the TA. The LRA staff were also mentored on how to handle objections related to land registrations. The current system of surveying and recording interest in land was assessed. There was no official manual being used in land surveys, hence, the TA drafted a Survey Manual incorporating a number of improvements to existing practice to guide and standardize the activity. A 30-minute video, two radio programs and several written articles were produced informing the general public about the new land laws, the LRA, and all related information. These may convince the *Iroij* and other recognized traditional leaders, as well as landowners, about the merits of land registration system. Substantial amount of TA outputs have been produced in efficient manner and it even exceed the target. The quality of TA outputs was satisfactory and it has substantially strengthened the LRA, therefore EA expressed its satisfaction.

### **Overall Assessment and Rating**

Overall, the implementation of the TA is rated successful. It has attained its major objectives of operationalizing the LRA; has formulated necessary LRA mission statement, laws, procedures, manuals, all packaged into a land registration system that now guides the operations of the LRA. It has informed the general public about the merits of the new land registration system, although full acceptance of the system has yet to be attained and will take many more years to achieve. While there are still some impediments to be addressed (e.g., apathy and opposition of some of the land owners and leaders to the new land laws), in general, the TA has provided a viable foundation for the new LRA to function well, i.e., new staff have been recruited and trained, equipment and software and other logistical support have been installed, and legal and institutional requirements have been provided. The government now has to build on and harness these initiatives for the new land registration system to work and become sustainable.

### **Major Lessons Learned**

Strong support of the key officials like the Minister in Assistance to the President, Ministers of Justice, and Attorney General facilitated the implementation of the TA. Strong commitment, influence, and credibility of counterpart staff in the persons of the Registrar and his Assistant, who worked hard during the information dissemination process, were instrumental in the successful implementation of the TA. Use of local and traditional and cultural practices helped a lot in carrying out an effective information campaign about the new land laws and the LRA. Complementing government agencies' mandates, related to land registration, is critical to land mobilization. This was seen, for instance, in the case of LRA and the Land and Survey Division with regard to land surveying. Political affiliation and cultural orientation influenced the acceptance of the new land recording and registration system. Those who opposed the present administration also opposed the LRA and the LRR Act, while those who were identified with it, have demonstrated interest in registering their lands.

### **Recommendations and Follow-Up Actions**

While foundations have been laid down for the operation of the LRA, the new land registration system is not yet widely accepted. Strong efforts must be exerted to demonstrate the advantage of the new system. There should be more awareness campaigns conducted to convince the majority of local leaders and land owners about the merits of the new land registration system. A follow-up TA has been approved and under implementation, i.e. "Improving the Environment for Private Sector Development." It will help create an environment conducive to private investment. The TA consists of three complementary components: (i) continued support to LRA, particularly assisting in simplifying private and public sector land ownership, transactions, and the use of secure titles as security for finance; (ii) establishing a movable asset ownership registration, simplify ownership transfer, and allow the private sector to use secure titles as security for finance; and (iii) help RMI stakeholders further reduce legal and regulatory impediments to private sector development. Areas of concerns of the TA should include harnessing stronger government and political support, and reducing the expenses for land registration, particularly the advertisement costs. Improving the cadastral survey in RMI, as well as creating digital archives of existing land records, indexes, and record maps would be extremely necessary to ensure an effective land recording and registration system.