# FIG/FAO International Seminar State and Public Land Management 9-10 September 2008 Verona

### Some concluding themes

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# Why is public land often badly managed?

Private land is often badly managed, even land belonging to public companies with external shareholders

### Possible explanations:

- There are many different types of public land rights and lack of technical ability to manage these?
- There are many different functions of public land and there is a lack of clarity of objectives?
- The public sector manages its relationships with private landowners badly?

# Examples of recent failings in public land management in UK

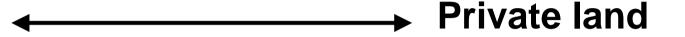
- Land Registry forced to amend rules after losing case in European Court of Human Rights
- Major mortgage bank (Northern Rock) failed in part due to poor state regulation
- Rural Payments Agency serious delay in paying subsidies to farmers due to failure in drawing up agricultural cadastre
- One of the two consortiums in London Underground Public Private Partnership fails
- Inland Revenue entered into sale and leaseback for its properties and the company transferred to a tax haven to avoid paying UK profits taxes

## What is state/ public land?

- Some countries have a tenure called state land, but many do not
- Concept of ownership being a bundle of rights
- State land varies in quantum of rights
- State rents land as well as owning it can be long or short lease or license to occupy

#### **Private - Public Land Continuum**

#### State land



Planning controls
Taxation
Environmental controls
Land registration

State freehold but subject to private easements Privately
owned
land
rented
by state –
private
owner has
obligations
of landlord

Private freehold but stateowned development rights, easements, restrictive covenants Planning controls
Competition policy
Environmental controls
Taxation
Compulsory purchase
Land registration

# A continuum of state land rights

Inalienable land

Registered freehold

Unregistered freehold

Easements and charges

Adverse possession

Long lease

Short lease

License to occupy

Encroachment

### Why there is state land

- To deliver public services that individuals cannot provide for themselves eg defence
- Investment properties to generate income from rents and charges for state or municipal budgets
- To act as custodian of common property resources on behalf of society eg environmentally or culturally sensitive sites
- To act as custodian of trust lands on behalf of a group eg indigenous people
- To be the owner of an important means of production where private ownership is unacceptable

# Relationship between the state and private owners

- Acquisition through compulsory purchase
- Divestment through restitution or privatisation
- Protection of public land from encroachment and land grabbing
- As a facilitator for the private sector eg land consolidation
- With the occupiers of land for which it is custodian or freeholder

# How can the management of public lands be improved?

#### **Technical means:**

- Improving competence and capacity
- Clearer management objectives
- Better management systems
- Better management techniques and processes

# Good governance in land administration:

Legitimate

Responsive

Accountable

Representative

Transparent

Equitable

Consistent and impartial

**Participatory** 

Dedicated to integrity

### **Conclusions**

- Land tenure is essentially a social phenomenon comprising "rules invented by society to regulate behaviour" (FAO 2002)
- The problems of state and public land management are not capable of being solved by technical means alone
- Solving the governance problem is a political and social issue – it is about power relationships