Standardization in the Cadastral Domain

Sub Working Group 1:

Legal Aspects
Framework

- 10 participants
- 8 countries
- 2 sessions

- Updates from the different countries
  (mainly as to the legal aspects of cadastre)

- Discussions on specific issues
  (pre-defined list of legal aspects questions)
Canada:

- Many different jurisdictions in property management
- Problem: is compounded by devolution of property rights management to individual aboriginal groups with vastly different notions of land and land tenure
- Development of tools – What is suitable should be user-driven
- …..
Updates from the different countries

Switzerland:

- 26 Different models in property management
  - not technical different but historic and tradition
  - is different in language regions
- Not a central land registry in Switzerland
- Land register (belong to courts) is separated from cadastre (part of administration)
Updates from the different countries

**Sweden:**

- Property register – for property and credit market
- Land register and surveying authority feed the system
- Surveying authority: organize the land and legal unit (geometry)
- Surveyors can create, change, erase easements and mortgages
Updates from the different countries

Finland:

• Very similar system to the Swedish system
• Property register called cadastre
• One system in whole country - one database
Updates from the different countries

Netherlands:

• One organization for land registration and cadastre
  – Working on single deed registry (registration by email from notaries)
  – Efficient system

• Prize competition between notaries - only 2 years
  – First result: more errors in deeds
  – Expected: specialization
Updates from the different countries

Austria:

- One law for whole of Austria
  - Subdivision land register (courts) and cadastre (ministry of economy)
- Old system - legal definition of boundary
  - is reality (stones, agreement of owners)
- New system (since 1969) –
  - Boundary by coordinates (no boundary stones)
- Approx 9 to 10% in new system
Updates from the different countries

Israel:

- Separate cadastre and land registry
  - two different ministries (housing & construction; justice)
- Current cadastre - graphical
  - map is not the legal basis, only original measurements
- Future cadastre – analytical (digital definition)
  - Boundary by coordinates (no boundary stones)
  - Coordinated will have legal validation
- Timetable: 10-15 years
Updates from the different countries

Greece:

• Mortgage offices, regional, small, registration of deeds
• Since 1996 creation of cadastre –
  − mortgage office becomes interim cadastral office,
  − afterwards consolidation
• Timetable for implementation:
  − depends on funding, hope to be completed 2015 - 2020
  − At the moment 6% of country is completed
• Implementation: 1 – 1.5 Billion Euro (original 2.6 Billion)
Discussions

§ One general legal model (or many models)?

• Procedure should be in common,
  – differences may occur in methodology.
  – Is legal model part of culture?
  – Can we thus unify?

• Could be possible from the technical side
  – how to obtain the data
  – What steps in the workflow are common?
  – To handle this we need to model the legal situation.
Discussions

Is One general legal model (cont.)?

• Do we need to change the national models?
  – This would be necessary if we create a common model
  – Differences may occur in methodology
• A single standard model might not be possible
  – A core should be achievable
  – We should have common concepts
  – This allows talking across boundaries.
• Society needs are not the same for all of the world
Discussions

§ One general legal model (cont.)?

• Development of common core
  – For legal aspects for all countries,
  – Common core for IT aspects.

• Society needs are not the same for all of the world

• Common model for ownership is possible
  – We are more or less in the same system in Europe
  – Are we in the same system outside of Europe?
Discussions

Has modern IT an effect on the model?

• No
  - because law is not influenced – only the process is.

• Would it be possible to enlarge the model
  - Handle more detail?
  - Paper-based databases is only more difficult to access
  - No difference in the data which can be stored
  - Digital copies simplify searching
Discussions

Should we have a separation between cadastral mapping and land registry?

• First step: a single database is needed
  – the data should not contradict
• How it is organized is not interesting for the user
• User would need one front office
  – Going to two offices take time for the user
  – This should be handled internally
Discussions

Separation - Cadastre/Land Registry (cont.)

- Database is 'easy' to merge
- Having the employees sitting in the same office is more difficult but possible (one front office)
- Completely merge the organizations seems to be impossible
- Samples
  - Netherlands: Customer goes to one place
  - Other countries (e.g. Israel, Austria) - different procedure:
    - User goes to one place to get the map and to another place to register the change
Discussions

Focus on static side or on dynamic side of the legal model?

• The question is what to use them for!
• Both alternatives are important
• The question should be “what is the target?”
• According to the answer - the static or the dynamic side can be selected
Discussions

 Enumeration of rights

• In core model rights should be limited
  – one type for derived rights
  – in detailed model is should be separated

• Core model shall clarify the concept and not go into the details

• Problem is where to draw the boundary between core model and expansions

• Guidelines necessary to move from the core model to the expansions
Discussions

Positive and negative rights/restrictions?

• Should include both parts –
  - rights for one person,
  - restrictions for another person

• In terms of UML these are two different things
• Simple concept with private rights,
  - problems with public rights (who is the beneficiary)
• Public rights should be registered
  - usually it is a restriction
Discussions

§ Same type of question for 3D-cadastre?

• Sweden:
  - real space can be explicitly excluded from ownership

• Switzerland:
  - ownership includes ownership and space above and below that you need to use the land.
  - Decision if a tunnel is allowed is based on the case.

• Several countries:
  - If you can survey the 3D-cube then you can register it

• 3D cadastre should be handled in the coming years
Discussions

Effect of several actors involved in the process

- NO
- Procedures may be quite similar but the actors are different
- Actors may change over time for the same step
- Netherlands (for example) – obtaining of land registration data is possible for everybody, you do not need a notary
Discussions

Ownership model from the center of the earth up to heaven

- For land parcels it is true
  - Not for objects (buildings, apartments etc.)
- Only two different definitions seem to exist –
  - this one; and,
  - the definition as in Switzerland (space that can be used)
  - Both models seem to work
- Problem of boundaries could be more difficult
Thanks

to all participants in SWG 1
for the discussions
and their fruitful contributions

Special Thanks

to Gerhard Navratil
for taking the notes