



REPUBLIC OF KENYA

MINISTRY OF LANDS

Remarks of the Honorable James Orengo, Minister for Lands, as delivered by the Assistant Minister, the Honorable Sylvester Bufwoli Wakholi, on the occasion of the closing ceremonies for the SECURE Project Workshop on the Community Land Rights Recognition Model at Kaskazi Beach Hotel, 16th September, 2011.

Mission Director, USAID/Kenya
Hon. Assistant Ministers,
Hon. Members of Parliament,
Heads of Departments from Ministries represented,
Local Leaders,
Ladies and Gentlemen,

It gives me pleasure to officiate over the closure of this workshop on the Community Land Rights Recognition Model and take the opportunity to share my thoughts on the Model and the Government direction.

Over the years, the Ministry of Lands has been working towards the protection of citizens rights to land and providing security of tenure to individuals and groups. These rights were formerly derived from Government lands and trust lands, which have since been reclassified as Public Land and Community Land respectively by the Constitution of Kenya 2010.

As a system of land tenure in Kenya, "Community Land" is a new category introduced by Article 63 of the Constitution. This Article strengthens the various provisions in the National Land Policy regarding the recognition of all modes of tenure, including customary and community land ownership. Almost all previous statutes on land were geared towards individualization of land with few or no provisions for recognizing communal rights and interests to land.

To secure community lands, it is necessary to document and map existing forms of communal tenure, whether customary or contemporary, rural or urban, in consultation with the affected groups and incorporate them into broad principles that will facilitate the orderly

evolution of community land law. For this reason, there is need to lay a clear framework and procedures for recognition, protection and registration of community rights to land and land-based resources taking into account multiple interests of all land users.

As part of the Land Reform Support Programme of the Ministry of Lands and with support from the Development Partners Group on Land, the Community Land Rights Recognition Model has been developed to lay down the procedure for recognizing community land rights. The model is not a legal framework but a sequence of actions to be undertaken by Government in collaboration with communities towards the recognition of their rights to land.

Essentially, the Model provides steps and processes that will enable the divestiture of land from public land category to the community land category as per the provisions of the Constitution and the National Land Policy that reclassify all Trust Lands to Community Lands, and the provision in the Policy to convert Public Land (formerly Government Land) in the Coastal strip to Community Land.

It acknowledges that the community land rights may incorporate overlapping claims to land rights and therefore ensure that all layers of overlapping claims are captured while at the same time, serving to provide evidence for any conflicting land claims that require special attention to be resolved.

For the first time in Kenya, the CLRR offers opportunity to take politics out of land administration. The Model could also be used by the communities to document their historical land claims to be presented to National Land Commission when operational and to the Truth, Justice and Reconciliation Committee (TJRC) for consideration and re-dress. The model will also contribute immensely to the development of the legislation on land that the Ministry of Lands is currently undertaking notably the Land Act and the Community Land Act.

It is therefore clear that the Secure Project has made major contributions towards implementation of both the Constitution and the National Land Policy. The ultimate success of this process will be enhanced by adoption of the Model by the stakeholders and the approval of the same by my Ministry. This will facilitate pilot-testing in the field of the model as soon as possible.

Considering the pivotal role that the CLRR Model will play towards implementing the provisions of the Constitution and the National Land Policy, the Ministry of Lands hereby approves the CLRR Model to be pilot-tested immediately in the project area, starting with the Boni-Dodori corridor, and the lessons learned be incorporated to improve the Model. In addition, a Cabinet Memorandum be prepared to seek Cabinet approval to convert Public land (formerly Government Land) in Lamu that has not been alienated and registered to community land as we await Parliament to enact legislation that will allow for conversion of land from one category to another.

My Ministry appreciates the support from our Development Partners and reiterate our commitment to this project and the continued partnership with our Development Partners.

With these few remarks, it is my pleasure to declare this workshop on Community Land Rights Recognition Model officially closed.

Thank you.