



Land Tax and Valuation System – Case Study of Namibia

**Presentation for the Second National Land Conference
From 01st to 5th October 2018**

Safari Hotel, in Windhoek, Namibia.

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Republic of Namibia**

Presentation Outline

1. Rational background to the presentation

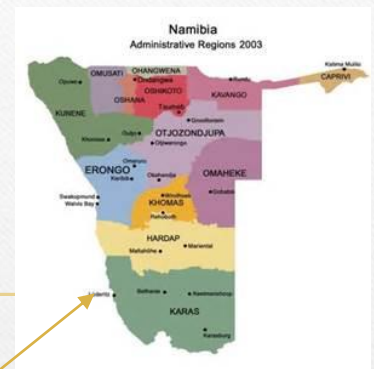
2. Land Tax on Commercial Agricultural Land

3. Challenges to the implementation of land Tax

**3. Bases of valuation/Valuation Systems in Namibia for
Commercial Agricultural land Acquisition**

4. Lessons learned

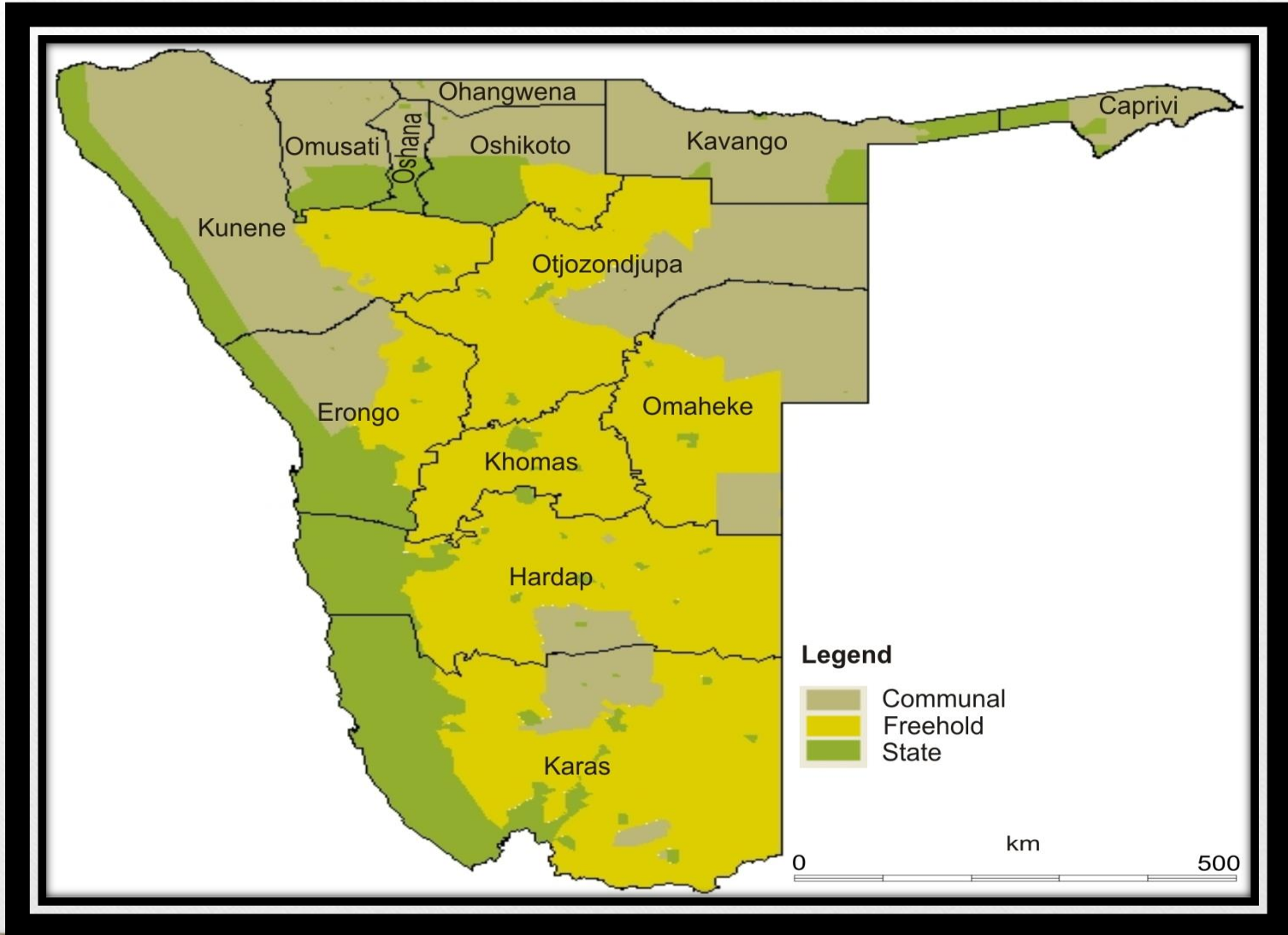
Location of Namibia within African Context



Background

- ❑ The Namibian Government convened the first National Conference on Land Reform and the Land Question on 24 June – 01 July 1991 [***known as “The Land Conference of July 1991”***];
- ❑ Total of Twenty Four (24) main Resolutions were taken
- ❑ Resolution No. 7 related to imposition of land tax
‘Conference resolves that there should be a land tax on commercial farmland’

Composition of Communal, Freehold & State Land



Objectives of Land Tax

- 1) Encourage efficient use of commercial agricultural land;
- 2) Raise revenue to support land reform that encourages redistribution and development of commercial land;
- 3) Discourage multiple ownership of farms(through the application of a progressive rate of tax);
- 4) Encourage redistribution/diversification of ownership
- 5) Reduce land prices and thus broaden the access to ownership;
- 6) Redress the skewed pattern of land ownership
- 7) Relieve poverty through resettlement and encourage decongestion of communal areas.

The Legal Framework

No land policies related to land tax on commercial agricultural land existed before the establishment of MLR at independence in 1990.

The below policy documents/ legislation were thus formulated/enacted relevant to valuation and taxation of agricultural land:

- ❑ The Constitution: Article 16, Article 23, Article 53
- ❑ Agricultural (Commercial) Land Reform Act No. 6 of 1995
- ❑ *Land valuation and taxation Regulations, 2002*
- ❑ *Land valuation and taxation Regulations, 2007*
- ❑ Property Valuers Profession Act of 2012, Act No.7 of 2012

Agricultural Commercial Land Reform Act No. 6 of 1995

- Section 76 empowers the Minister of Lands to impose land Tax on freehold agricultural (commercial) land outside local authority areas.
- Rate of Land Tax Criteria.
 - Progressive Rate of Land Tax
 - Previous: 0.75% Namibian, 1.75% Foreign
 - Current: 0.4% Namibian, 1.4% Foreign
 - Escalation: 0.25% per additional farmland parcel owned ranked in order of value.
- Concurrence: MoF & MAWF.
- National Assembly Approval.



GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

NS2.00 WINDHOEK - 23 December 2003 No.3116

CONTENTS

Page

GOVERNMENT NOTICE

No. 261 Promulgation of Agricultural (Commercial) Land Reform Second Amendment Act, 2003 (Act No. 19 of 2003), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 261 2003

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 19 of 2003: Agricultural (Commercial) Land Reform Second Amendment Act, 2003.

Land Valuation and Taxation Regulations

- Section 77 of Agricultural Commercial Land Reform Act , empowers the Minister of Lands to make regulations for land Tax.
- The regulations operationalized the implementation of land tax:
 - 2002, 1st Valuation roll prepared; operationalized in 2004/5.
 - 2007, 2nd Valuation roll prepared; operationalized in 2008/9.
 - 2012, 3rd Valuation roll prepared, operationalization affected by court applications.



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N\$6.00 WINDHOEK - 3 July 2007 No. 3870

CONTENTS

GOVERNMENT NOTICE	Page
No. 120 Land Valuation and Taxation Regulations: Agricultural (Commercial) Land Reform Act, 1995	1

Government Notice

MINISTRY OF LANDS AND RESETTLEMENT

No. 120 2007

LAND VALUATION AND TAXATION REGULATIONS: AGRICULTURAL (COMMERCIAL) LAND REFORM ACT, 1995

The Minister of Lands and Resettlement, with the concurrence of the Minister responsible for agriculture, and the Minister responsible for finance, under section 76 read with section 77 of the Agricultural (Commercial) Land Reform Act, 1995 (Act No. 6 of 1995), has -

- made the regulations set out in the Schedule; and
- repealed the Land Valuation and Taxation Regulations published under Government Notice No. 259 of 29 December 2001 and its amendments published under Government Notice No. 128 of 01 June 2004.

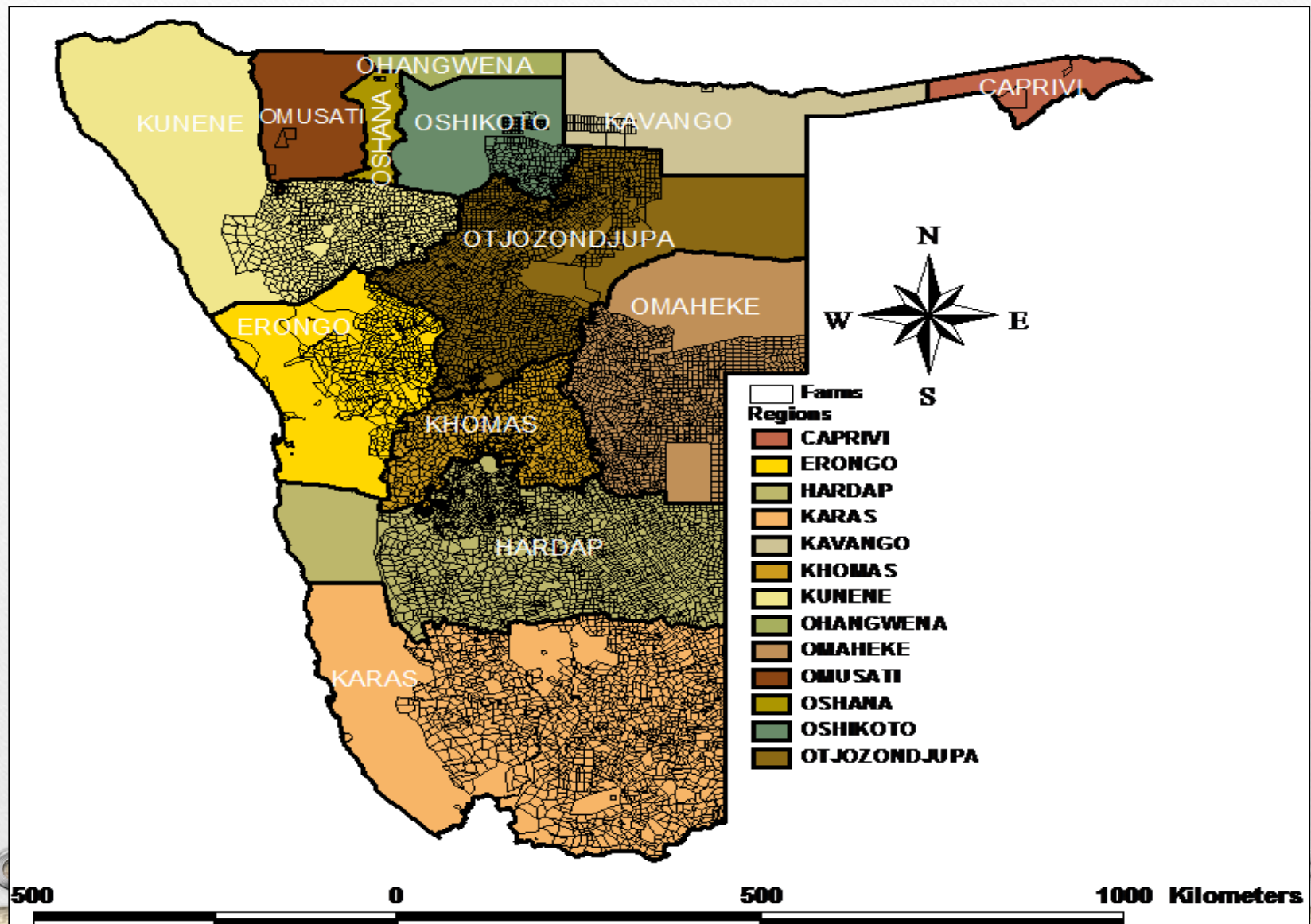
J. EKANDJO
MINISTER OF LANDS AND RESETTLEMENT

Windhoek, 18 June 2007

Key Drivers Of Land Tax Implementation

- Functioning cadastral system (LIS)
- Functioning deeds registry system (CDRS)
- Carrying Capacity & AEZ information
- Computer Aided Mass Appraisal System (CAMA)
- Land Tax Payment & Reconciliation System (LPTRS)

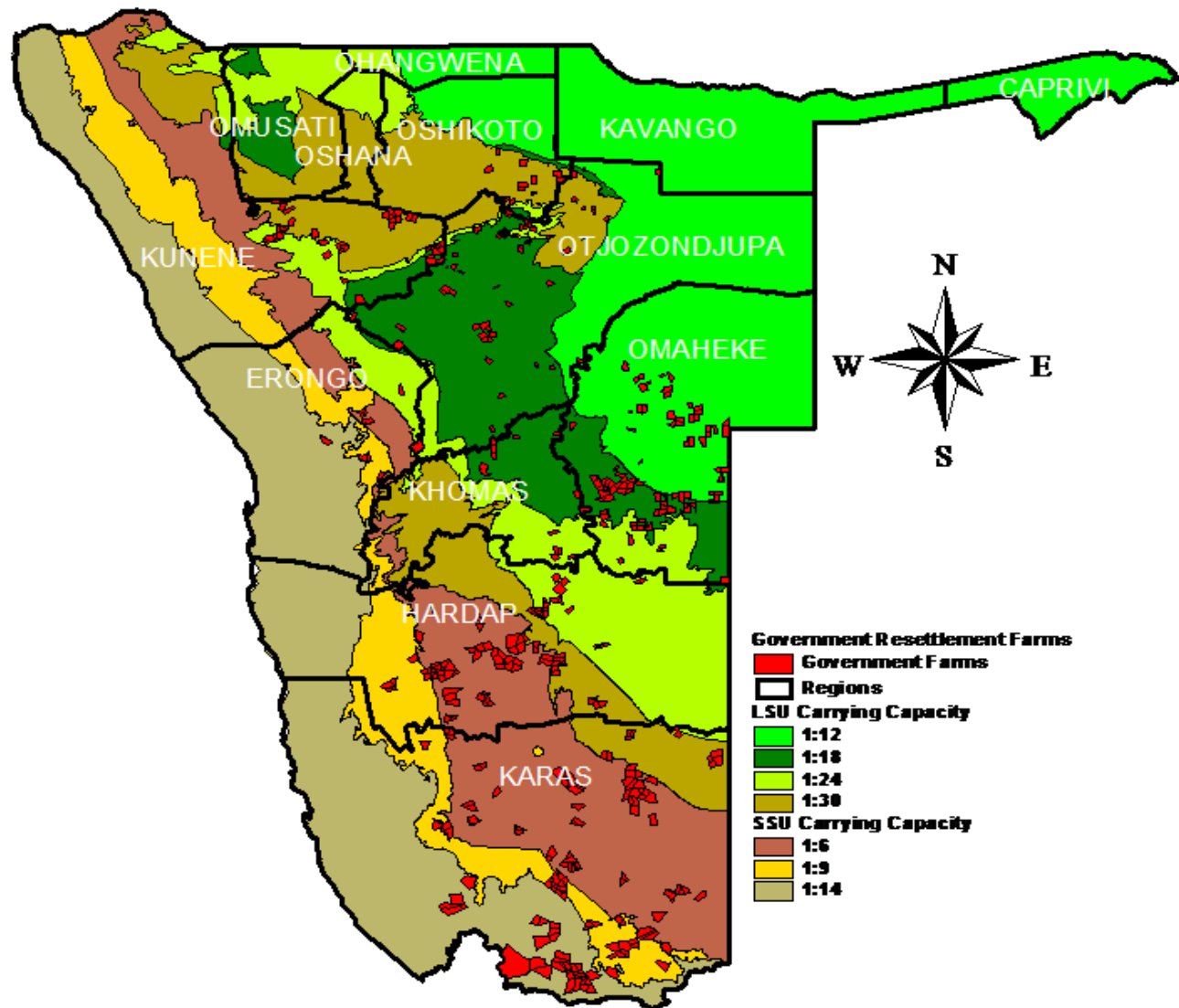
Map of Commercial farms in Namibia



Number of Rateable Agric. Land Parcels by Region, Size & Unimproved Site Value

Region	No. of Farms	Expressed as %age of Grand Total No. of Farms i.e. 12,313	Extent (Ha.)	Expressed as %age of Grand Total No. of Hectares i.e. 39,658,996(HA)	Unimproved Site Value (2012-2017)	Expressed as %age of the Grand Total Unimproved Site Value (2012-2017)
OSHIKOTO	88	1%	398,963	1%	243,090,000	1.38%
KUNENE	691	6%	2,900,831	7%	1,422,852,400	8.06%
ERONGO	694	6%	2,591,954	7%	1,093,902,100	6.19%
KHOMAS	1,010	8%	2,486,902	6%	1,380,905,600	7.82%
OMAHAKE	1,166	9%	4,486,387	11%	3,020,504,700	17.10%
//KARAS	1,674	14%	10,305,270	26%	2,482,345,400	14.05%
OTJOZONDJUPA	2,309	19%	6,673,892	17%	4,424,838,180	25.05%
HARDAP	4,681	38%	9,814,798	25%	3,594,325,700	20.35%
Grand Total	12,313	100.00%	39,658,996	100.00%	17,662,764,080	100.00%

Carrying Capacity Map



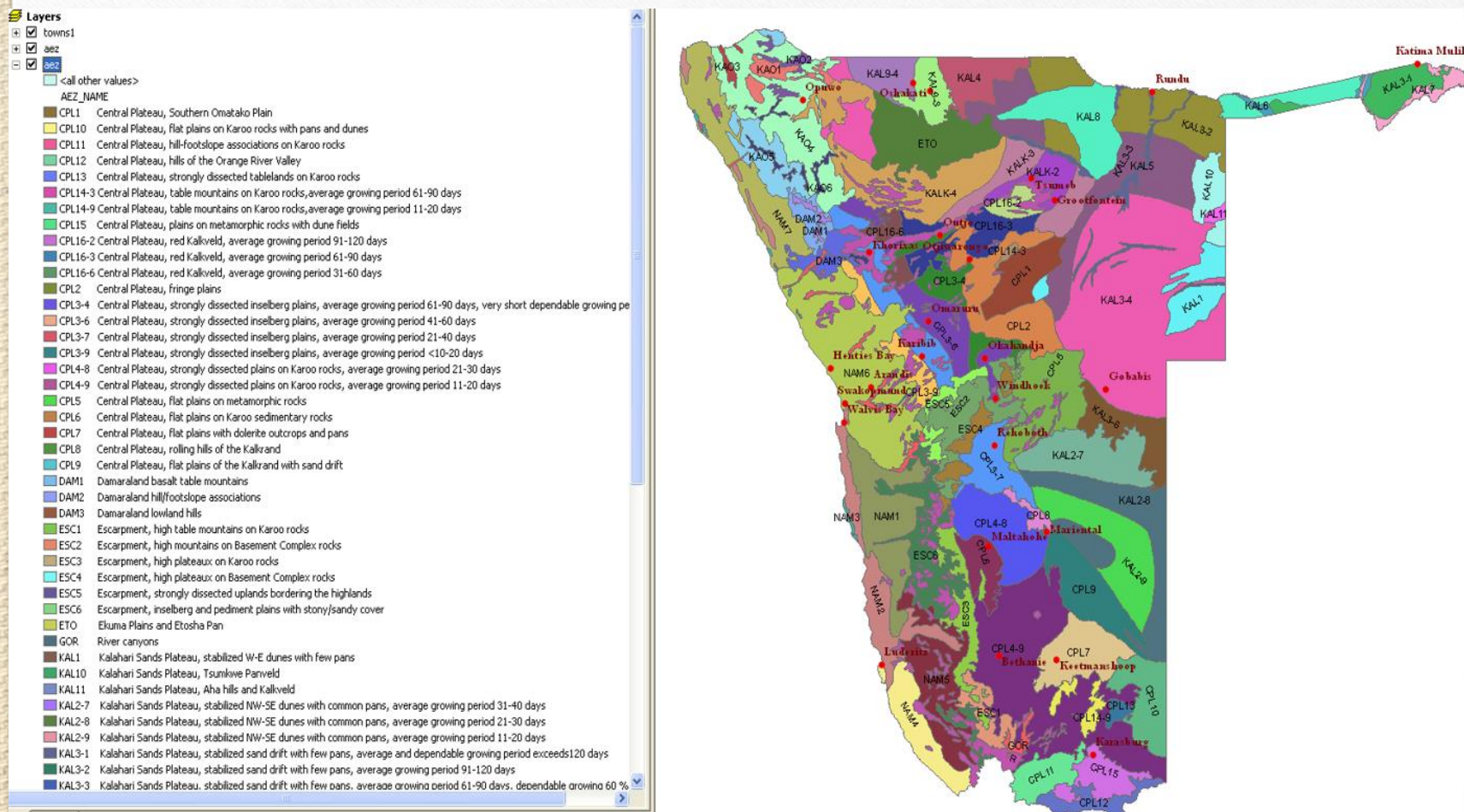
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1000 Kilometers

Agro Ecological Zones Map

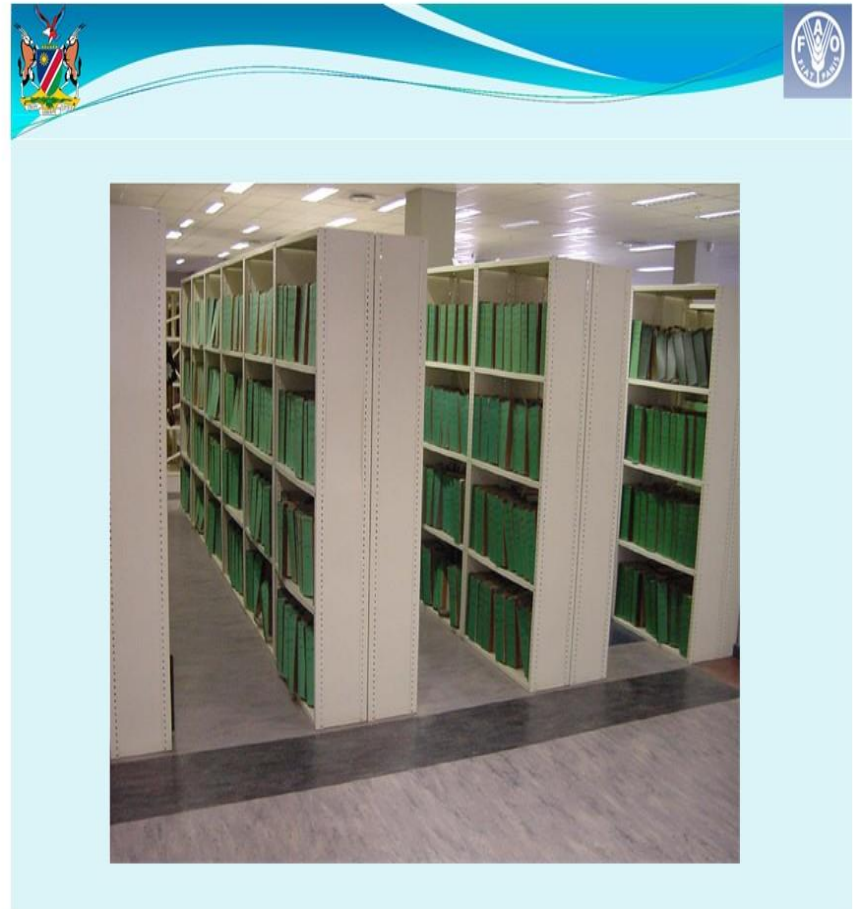


Sources of Farm Prices Evidence

- Primary sources of commercial farm price evidence are:
 - the Deeds Registries in Windhoek and Rehoboth.
- Secondary sources:
 - Estate Agents.
 - Banks.
 - Other.

Functioning deeds registry system

- ❖ Books in the Deeds Registry
- ❖ Dating back from German colonial era as far back as the end of the 19th Century (1895).



Computer Systems

- Developing computerized systems for tax assessment, such as Computer Aided Mass Appraisal System (CAMA) is vital for effective and efficient rating valuation purpose.

- CAMA is meant for MLR to migrate from manual preparation of valuation rolls to computer based preparations of the rolls;
- MLR with the assistance from EU invested N\$4 million in the development of this system.
- Land Tax Payment & Reconciliation System (LPTRS)
 - Developing computerized systems for tax *revenue collection* and *verification*, is vital for implementing a land tax efficiently.

Land Tax Collection 2004/5 -2017/18

- Cumulative collection by 31 March 2018 – end of financial year (to the nearest cent)
 - **N\$ 350,043,854.40.**

- Or
 - An overall average of
 - **N\$25,003,132.46**
 - per year (over 14 years)
- Actual Land Tax Collection Average over the Period
 - **About 62-66%**

Land Tax Collection 2004/5 - 2017/18...collection landscape

Land Tax FY	Average No. Assessments issued per Year	Average value of the Land Tax Assessments (N\$) per Year.	Average value of Actual Land Tax Collected per Year	Value of Land Tax Collected as a %age of Value of Land Tax Assessments (N\$)	Valuation Roll
2004/5	-	-	3,689,351.18	- 1 st implementation, teething issues	2002-2007
2005/6 – 2007/8	8,264	33,695,909	26,955,866.00	80%	2002-2007
2008/9 – 2011/12	8,509	46,891,984	37,587,217.00	80%	2007-2012
2012/13	8,292	46,052,314	22,307,003.29	48% Drought year	2007-2012
2013/14 – 2015/16	8,145	44,134,254	19,858,453.00	45% Refunds for Drought year	2007-2012
2016/17	7,208	80,000,000	20,828,627.00	23% Court Challenge	2012-2017
2017/18	100	80,000,000	12,427,047.00	100% Court Interdict	2012-2017

Land Tax Collection 2004/5 - 2017/18...collection landscape.....continued

- 2004/5; 1st year of implementation of collection of land tax.
 - Budgeted for collection: **N\$18 million.**
 - Just over **N\$3.6** Million was collected due to a number of legal and administrative teething issues which still had to be overcome and finalized.
- 2005/6 – 2007/8; an average of nearly **30 million** collected each year.
- 2008/9 – 2011/12; collections increased to nearly N\$ 40 million per year;
- 2012/13: Drought year, Government declared a state of emergency.
All farmers granted a 100% land tax relief.

Land Tax Collection 2004/5 -2017/18

- 2013/14 – 2016/17, dip in land tax collection due to:
 - 2012 valuation roll prepared (high increase in land values), implementation of land tax contested all the way to the Supreme Court as to its constitutionality (matter only disposed of in the 2nd quarter on 2018).
 - Approval of the 2012 roll by Valuation Court also subjected to review in the High Court (matter still pending).
 - Collection of land on the basis of the 2012 roll interdicted until the finalization of the review case, except for those landowners who out of their own free will chose to pay the tax in order to transact their properties.
 - In this regard, over N\$ **12.4 million**, collected based on the 2012 valuation roll.
- 2017/2018 - onwards: issuance of Land Tax Assessments withheld pending finalization of the High Court case to review the decision of the Valuation Court.
 - Review date set for May 2019.

Land Tax Exemption

- Article 23 of the Namibian Constitution, Articles under which a state of emergency may be declared;
- Section 76B of the Agricultural (Commercial) Land reform Act;
 - 2012/13: 100% drought-related exemption granted to all farmers;
 - Normal exemption, all the years: an average of N\$3.5 million exempted per year;
 - This exemption is not automatic but is on application to the Minister within a prescript period.

Achievements

- Basis of Land Tax established through legislation (Agricultural Commercial Land Reform Act, Act 6 of 1995 and Land Valuation and Taxation Regulations of 2007.
- Establishment of Directorate of Valuation and Estate Management.
- Cumulative collection of land tax since 2005 is N\$ 350,043,854.40 million
- Training of Valuers at the Namibian University of Science and Technology institutionalized, Namibians now able to undertake international standard valuations.
- Enactment of Property Valuers Profession Act, Act No. 7 of 2012
- Draft National Valuation Standards developed, pending launching
- Continuous Constitutional and legal challenges resolved.
- Rating Valuation costs money, but land tax is self-sustaining.

Challenges

- Legal challenges to the approval process Valuation Rolls:
 - E.g. Basis of valuation: Productivity Value or Market Value (willing seller, willing buyer)
 - 2012 - 2017 Valuation Roll
- Lack of up to date data and at times outdated information for land tax implementation:
 - E.g. CC & AEZ not owned by MLR but by MAWF

Conclusion on land Tax

- Land Tax implementation has been declared legal and constitutional by the Supreme Court in its Judgment in July 2018

- Namibia is the only country that has successfully implemented land tax on commercial agricultural land on the African Continent if not in the world.
- Cumulative contribution since 2005 to land acquisition and development fund as at March 2018 is N\$ 350,043,854.40.

2. Valuation Systems in Namibia for Commercial Agricultural land Acquisition

- **Guided by provisions in the Constitution, Legislation & International valuation best practices.**
- **Article 16 Property**
 - Private property rights, ownership by foreign nationals may be prohibited or regulated by legislation.
 - Expropriation of property in the public interest subject to the payment of just compensation, in accordance with requirements and procedures determined by Act of Parliament – ACLRA, in this case.
- **PART IV of ACLRA Section 20.**
 - Willing seller, willing buyer.
 - Expropriation

2. Valuation Systems in Namibia for Commercial Agricultural land Acquisition continued.....

- PART IV OF ACLRA, SECTION 25.
- Basis on which compensation is to be determined - Aggregate of:
 - Market Value at the date of notice (*willing seller, willing buyer principle*)
 - An amount to compensate for any actual financial loss caused by the expropriation;
 - where the property expropriated is a right, an amount to compensate any actual financial loss caused by the expropriation of the right.
 - On the recommendation of the Commission (as appropriate), add to the total amount payable in accordance with preceding bullets an amount equal to 10 per cent of such total amount, but not more than N\$10 000.
 - Interest at the standard interest rate determined in terms of section 35(a) of the State Finance Act, 1991 (Act 31 of 1991).

International Valuation Guidance

- Namibia Government (through MLR) is affiliated to/member of:
 - International Valuation Standard Council (IVSC);
 - African Real Estate Society.
- MLR subscribes to the two bodies code of good practice in terms of valuations.
- Some staff members subscribe to the RICS

International Valuation Guidance

- Namibia Government (through MLR) is affiliated to/member of:
 - International Valuation Standard Council (IVSC) standards adapted to Namibia;
- MLR subscribes to the body code good practice in terms of valuations but staff members need to subscribe these bodies in their own capacities.



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**Namibian Valuation Standards
1st Edition 2016**

Valuation Approaches

- Valuation approach general definition:
 - methodology used to determine the market value of a piece of real estate.
- Five common valuation approaches in practice (in Commonwealth countries) are:
 - The Sales/Direct Comparison Approach
 - The Income or Investment Approach
 - The Profits or Accountants' Approach
 - The Cost Approach
 - Residual Approach

The Sales/Direct Comparison Approach

- Uses market sales price data to estimate the value of real estate property.
 - Directly comparing a property to other similar properties that have been recently sold in the same locality is taken to be indicative of market value.
- Comparable properties, must share certain features with the property in question.
 - E.g. physical features such as square footage, number of rooms, condition, and age of the building)
- Adjustments done for:
 - Location e.g. corner plot with a returned street frontage.
 - Differences as no two properties are exactly the same.
 - Age/Obsolescence, etc.
- MLR uses mainly the sales comparison approach for farm valuations, houses where there are typically many comparables available to analyze

The Cost Approach

- Model: value of a property = land value (market obtained) + cost of replacing the property (construction costs) minus the physical, economic, functional obsolescence, etc.

- Land value can be estimated using the sales comparison approach by studying recent sales of land close to the subject property, and these sales should be comparable in size and location.
- There are different ways to estimate replacement costs:
 - the most common being finding out the cost to build a square foot of comparable properties multiplied by the total square footage of the building.
- Used to value real estate properties that do not easily sell (have no market) like schools, hospitals, museums, libraries, etc.
- This method is also used by MLR both on its own and in combination with the Direct Comparison method, as the case may be.

The Income/Profits Approach

- Used to value rented or income producing properties.
 - E.g. commercial real estate such as offices, retail properties, guest farms, etc.
- In its simplest form, the method takes into account the net income of a property and a return on investment.
- There are two variations of the method:
 - Property Rental approach.
 - Profits or net operating income approach – estimated from gross receipts.
 - The property's value is then estimated using a property market related capitalization rate, or cap rate, and net operating income.
- This method is also used by MLR depending on the type of property being valued e.g. game farms or grape farms.

Residual Method of Valuation

- Used to estimate the value of a bare development site or an existing property ripe for redevelopment.
- The model: residual value = Gross Development Value – Gross Development Cost, professional fees, etc.
 - The numbers that go behind the equation may be more complex but once these have been determined the residual method of appraisal is a fairly straight forward approach.
- This method is occasionally used by MLR due to the nature of the mandate of MLR

- Each of the Five principal valuation approaches require different detailed methods of application;
- The goal in selecting valuation approaches and methods for an asset is to find the most appropriate method under the particular circumstances;
- No one method is suitable in every possible situation. The selection process should consider, at a minimum, the following:
 - (a) the appropriate bases of value, determined by the terms and purpose of the valuation assignment. ***Sometimes this is by regulation e.g. valuation for land tax;***
 - (b) the respective strengths and weaknesses of the possible valuation approaches and methods;
 - (c) the appropriateness of each method in view of the nature of the asset, and the approaches or methods used by participants in the relevant market; and
 - (d) the availability of reliable information needed to apply the method(s).

Conclusion

- Valuation of Agricultural land for land reform purposes is regulated;
- Government of Namibia as an affiliate member of IVSC is guided by the best practices of this institution in matters of valuation of real property;
- Benchmarking with continental and international community very important if you want to succeed;
- Need for institutional strengthening with requisite levels of competences is required; and
- A dedicated amount of human and financial resources is required.

Lessons learned

- A strong political will at high levels is indispensable;
- Strong technical leadership of core staff important;
- The legislation driving the implementation of land tax should be clear, transparent and thorough e.g. whether valuations for land tax is based on 'market value' (willing seller, willing buyer) and which the approach is provided for as per article 16 and ACLRA to purchase farmland;
- Institutions involved in the implementation should have roles that are properly defined and enforceable.

Lessons learned

- Implementing agencies should be in place. (MLR);
- If tax is to support a specific programme, there is need to earmark the funds and to establish a specific Fund. (LADF);
- Revenue can support and supplement the funding from Treasury for land reform programmes;
- Land tax has a potential to generate funds for land reform instead of relying on donor funding;

....and I thank

You