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**Introduction**

The utilization of customary land in the Agricultural, sector has been slow to be taken full advantage of despite favourable leasehold systems in place. While Government Agricultural leasehold systems are deemed attractive the complication of land tenure systems, coupled with Government Bureaucracy have contributed to this slowness in Agricultural development in general.

Major development in commercial Agriculture has been primarily beef, coconut plantations, cocoa and coffee leaving the bulk of total land area under developed, but geared toward subsistence. The commercially developed areas are largely expatriate privately operated or Government owned.

Measures to prevent land degradation and conservation are new phenomena in the eyes of traditional custom owners except for certain islands in Vanuatu who have traditionally observed cultivation techniques due to limitation of available cropping land.

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This paper is going to be presented in three parts.

1. Case studies
  - a) Vanuatu Livestock Development Ltd (VLD)
  - b) Metenesel Cocoa Estate Ltd
  - c) Beleru Agricultural Co-operative project
  - d) Logging Companies
2. The challenges and issues facing customary land use using illustrative examples from the case studies.
3. Management issues in the light of these case studies
4. Conclusion

## Case study 1 (VLD)

This is a cattle farm that occupies some 1300 hectares in Efate. VLD as a Government company is the lease holder to this land. The custom owners are distributed between three villages with out clear boundaries resulting in continuing dispute over ownership. Under the provision of the Land Acts where there is dispute the Minister of Lands can act on behalf of claimants to issue a lease. To date lease payments(annual) have been held in a trust account for the land owners pending settlement of the land dispute. This trust account is administered by the Lands Department. The life span of this lease becomes the responsibility of the Minister and individual land owners to resolve without impacting the conditions of the lease.

### Challenges & Issues

- The challenge for the Government is to develop the Beef Industry utilizing VLD as a facility to improve breeding stock therefore initiated negotiations with landowners to secure the asset as a national priority. Having acquired the lease the Government is obliged to deliver the objectives of the proposal under the terms and conditions of the lease, hence all obligations under the terms and conditions are to be observed by the Government including payment of rent.
- Due to the lack of economic viability of the company and perceived mismanagement the Government for the past ten years has not been able to keep up with payment of the lease. In those circumstance and by law the lease is technically void.

However due to obvious vested Government interests and the advantage of the Minister of lands having ultimate responsibility naturally refrain the Government from acting against their own interest. However this should not negate the fact the lease should be paid or discontinued to the benefit of the landowners regardless.

- A failed company technically should be deregistered and leases void. In the past this has not always occurred as this case illustrates.
- The eventual distribution of the trust fund which is currently managed by the department of Lands becomes a real dilemma in whether proper land owners will ever be identified or not and by what process. At this point in time the only recourse is by legal action unless the lands tribunal can prove effective to address this issue.

## **Case study 2 (Metenesel Cocoa Estate)**

This is a cocoa plantation covering approximately 3000 hectares. Metenesel also a Government company is the leaseholder. The custom owners are identified individuals with undisputed boundaries. The annual lease payment is paid directly to the land owners account, managed by themselves and distributed to the beneficiaries as they see fit. The operation of this property to date is undisturbed by land owners. In the case of a dispute the land owners have the responsibility to resolve without having to disturb the lease. Where there is a difficulty to resolve the Minister has the vested power to intervene.

### **Challenges & Issues**

- Like VLD the challenge for Metenesel is to engage a large scale cocoa commercial venture with the ability to facilitate a central distribution center for all cocoa in Vanuatu. The lease is therefore negotiated by the government on behalf of the company with the landowners. After 20 years the Company is still in question as to whether or not it can deliver its mandate or not as initiated by the Government. Apart from keeping up with the lease payments the property is technically insolvent which raises a dilemma as to its ability to deliver versus the status and terms of the lease.
- In the event that the company is sold land owners in this respect would have a very powerful say as the ultimate use of the leasehold in which case the Government will be obliged to renegotiate the terms of the sale. The dilemma that presents here is what if the land owners refuse to agree to a sale as versus liquidation.

## **Case study 3(Beleru Agricultural Co-operative project)**

This proposed project was to have encompassed an area of approximately 1000 hectares. Land belonged to three family clans. The land owners and the chiefs were very instrumental in initiating this idea. The aim of this project was to subdivide into 80 different plots and then distribute the plots equally on a lease basis to tenant farmers supposedly from all areas of Vanuatu. The tenants were to get established and carry out farming activities for a co-operative society under co-operative principles using common marketing and distribution channels. The project was to provide a model for land owners with large tracts of land to make accessible to land poor persons opportunities to engage in commercial agriculture on a co-operative basis.

The land was identified surveyed and marked out for allocation and to create the appropriate infrastructure. The 80 individual farmers were identified and officially registered. A Funding of almost Vt120,000,000 was secured from the French Government and disbursed to the account of Beleru. Upon negotiations with the co-operative members and the land owners to pay the lease a split between the land owners occurred some claiming. Some were dissatisfied and agreement could not be reached. This was mainly due to the following

1. The lease payment was to be Vt200 per hectare for undeveloped Agricultural areas was considered too small by the beneficiaries.
2. The land owners themselves wanted to displace the listed tenants
3. There were overlapping boundaries under dispute with another village and legal actions were instituted
4. The eldest members of the families were accused of not consulting with the younger members on major decisions affecting this project.

It took the last two years of constant meetings between the four stakeholders namely the Government the funding agency the land owners and co-operative members.

No resolutions have been forthcoming. To date the funding of this project has been frozen while the Government is left with the responsibility to identify another land area to implement this project. The seriousness of the project has thus been brought into question bringing the whole project to a standstill.

### **Challenges & Issues**

- The challenge is whether a project of this magnitude and scope is feasible and whether Agricultural development based on this concept will ever work in the future as to date no successful Agricultural co-operative operates as versus cooperative ventures in retail shops.
- Vanuatu is dependent on private individual efforts in commercial Agriculture apart from subsistence, the challenge is therefore to move to a more commercial orientation. The challenge is whether the future of Agriculture in Vanuatu is feasible in a commercial co-operative association taking into account land tenure issues.
- A dilemma that exists is also whether land owner themselves are capable of engaging in commercial agriculture taking into account the scope of capital investment in commercial agriculture let alone infighting within family groups. Vanuatu family behaviour is such that engagement of commercial agriculture by individual members would be normally perceived in terms of jealous rivalry which can at time become a source of family and thus land dispute.

#### **Case study 4 (Logging Companies-contract area Port Olry)**

Following prescribed procedures for logging operations two companies have entered into contracts with individual land owners in Port Olry area. In one instance one land owner would sign contracts over the same area with two different parties. In another instance one member of the custom owners family would sign a contract with one company whilst another member of the same family would enter into a contract with a competing company.

The two companies carried out logging operations without realizing they had both contracted with different parties over the same area until a cyclone in 1998 when a lot of timber was brought down and companies were asked to make emergency salvage logging operations by the forestry department.

The Forestry Department then requested companies to salvage on their respective contracted areas which to the Forestry Departments surprise discovered the friction over claims to the same timber. The tension intensified and eventuated in assault confrontations where police had to intervene.

#### **Challenges & Issues**

- Identification of land boundaries are very much noted by traditional methods whereby boundaries are identified by landmark objects such as trees, hills, rocky outcrops, shoreline and creeks. In the absence of written records land inheritance is handed down by word of mouth. All logging contracts in Vanuatu are drawn and carried out using this traditional method with the assistance of maps. Spear line surveying would be deemed to be too expensive.
- The Forestry Department's role in logging operations is limited to formalizing of contracts and monitoring of logging practice according to established codes. All negotiations of logging contracts are done by individual companies directly with land owners with the assistance of the Lands department.
- In the event that there is a dispute over the land boundaries and contract, the Forestry Department normally would act as a middle person to resolve these disputes using the provisions of the Forestry Act This has always proven to be the most difficult and most frustrating experience for all stake holders.
- In the exercise of the powers under the Forestry Act, the Forestry Department 's use' of discretionary powers could become an issue in bureaucratic decision affecting stakeholders particularly the private sector and land owners in the business of logging operations.

- The multiplicity of claims resulting from unclear word of mouth records and the complexity and nature of family relationships makes it difficult to draw up clear logging contract boundaries which leaves it open for dispute.

## **Conclusion**

The favourable leasehold system for utilization of customary land for Agricultural purposes has not resulted in the expected development because of the issues highlighted in these four examples namely: Management issues, unclear policy guidelines, family and landowner dispute, conflict of traditional land tenure versus surveying and land recording. The situation is not normally assisted by the discretionary use of Government Departmental powers under prescribed Acts of Parliament.

**Note: views presented in this paper are those of the presenter and do not necessarily reflect the position of the current Government.**