

7. PROPERTY RIGHTS

7.1 General Provisions

The fundamental laws governing matters relating to real property and real property rights are the *Constitution*,¹³ the *Property Law*,¹⁴ the *Civil Code*, the *Land Code*,¹⁵ the *Urban-Planning Code*,¹⁶ and the *Housing Code*.¹⁷

An owner of real property may (at his own discretion) possess, use, and dispose of that property, as well as the rights to the objects of ownership in his possession. Such objects of ownership in Uzbekistan include: land, subsoil, movable and immovable property, intellectual property rights, money, and securities.

7.2 Limitations on Ownership of Land

The ability to own land (*i.e.*, to have the right to possess, use, and dispose of land) is, in practice, very limited in Uzbekistan.

Legal entities and individuals (including foreigners) may own the land plots beneath small trading and service facilities (*e.g.*, small shops). Individuals and legal entities (both Uzbek and in certain cases foreign) also may own apartments and houses, including the underlying land plot. Uzbek and, in certain cases, foreign citizens, may own small land plots for personal farming, gardening, and dacha construction.

Although the *Land Code* provides the possibility for legal entities (including foreign legal entities) to own land, in practice, ownership of a land plot beneath a medium-sized or large enterprise is not permitted without the authority of a Cabinet of Ministers Resolution or a Presidential Decree. At the time of publication, the only exception to this is with regard to diplomatic representations. Under the Decree

¹³ Constitution of the Republic of Uzbekistan adopted 8 December 1992, as amended.

¹⁴ Law “On Property in the Republic of Uzbekistan” dated 31 October 1990, as amended.

¹⁵ Land Code of the Republic of Uzbekistan dated 30 April 1998, as amended.

¹⁶ Urban-Planning Code of the Republic of Uzbekistan dated 4 April 2002, as amended.

¹⁷ Housing Code of the Republic of Uzbekistan dated 1 April 1999, as amended.

*“On Additional Measures for the Improvement of Activity Conditions of Diplomatic Representations and International Organizations in the Republic of Uzbekistan,”*¹⁸ diplomatic representations may own land in Uzbekistan; however they may do so only for the construction of diplomatic representation buildings, and the construction of residences for heads of diplomatic representations.

Rather than full ownership of land, the enterprise or individual owner (Uzbek or foreign) of an enterprise is typically granted permanent or temporary land use or lease rights. A permanent or temporary land use or lease right includes the right to possess and use the land, but not the right to dispose of it; the state is the ultimate owner of the land subject to permanent use rights. The land use rights of the seller of a structure are transferred, along with any transfer of ownership of the structure.

However, in 2006, the President adopted a Decree *“On Privatization of Land Plots Occupied by Citizens’ and Legal Entities’ Buildings and Structures”*, purporting to permit privatization of land plots underneath buildings and other structures owned by resident individuals and legal entities. The scope of such privatization does not cover vacant land plots or the land plot itself, which cannot be privatized. According to the Decree, all permanent and temporary land use rights shall be either privatized into ownership or converted into long-term leases. The Decree is very general and further legislation is to be adopted to clarify those issues. To date no such implementing legislation has been adopted and therefore the prospects of land privatization are unclear.

The *Law On Foreign Investments* states that foreign investors are entitled to acquire ownership rights to facilities in the commercial and service sectors, and residential premises, together with the land plots on which they are situated, the rights of possession and use of land (including on a lease basis), and natural resources. Land may be leased to foreign investors on the basis of an agreement with the Cabinet of Ministers, for a period of not less than 30 years and not more than 50 years.

¹⁸ Decree of the President of the Republic of Uzbekistan “On Additional Measures for the Improvement of Activity Conditions of Diplomatic Representations and International Organizations in the Republic of Uzbekistan” dated 14 November 1995.

7.3 Securing Obligations

While the legal right to mortgage (pledge) real property rights as security for mortgagors' obligations exists in Uzbekistan, the relevant legislation is limited and inconsistent, and the practice of doing so is largely untested.

The *Civil Code* permits a debtor to mortgage a building or construction only with the simultaneous mortgage of the underlying land plot.

It should be noted that the provisions of the *Land Code* conflict with the foregoing rights to mortgage land, stating that a mortgage of land by the possessors and users of land is invalid, although it specifically permits the mortgage of a land plot lease. The *Land Code* does not prohibit the mortgage of land by the owner, but, as noted above, in practice the ability to own land in Uzbekistan is very limited.

The *Civil Code* also permits an entire enterprise or other property complex (including both movable and immovable property) to be mortgaged as a whole. However, legislation on the registration of mortgages of enterprises as a whole has not been adopted and, in practice, the assets of an enterprise can be registered only separately rather than as a whole.

8. SPECIFIC INDUSTRIES

8.1 Mining, Oil and Gas

Under the *Constitution*, subsoil, minerals, and land are the exclusive property of the State. The mining industry of Uzbekistan is regulated by national laws and implementing regulations. The *Subsoil Law*¹⁹ and the *PSA Law*²⁰ regulate legal issues pertaining to the use, possession, and disposal of subsoil resources in Uzbekistan. In particular, the *Subsoil Law* establishes the general procedure for obtaining a subsoil license, outlines the relevant regulatory authorities and the scope of their rights, and contains provisions regulating subsoil ownership and use. Mining rights are granted by the Cabinet of

¹⁹ Law "On Subsoil" dated 13 December 2002 (new edition), as amended.

²⁰ Law "On Production Sharing Agreements" dated 7 December 2001, as amended.