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**PUBLIC PROPERTY PRIVATIZATION
IN FRANCE**

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PUBLIC PROPERTY PRIVATIZATION IN FRANCE

Abstract

The modernization and privatization of the State's real-estate assets are pivotal for the improvement of the French public sector's global performance: they take part in the national policy for economic efficiency and public management.

Multiple questions arise in the process. How to implement and survey a system of accounting for the State's real property assets? What kind of objectives and indicators are needed and should be targeted? Is privatization needed and how should it be implemented? What would be the basis of a reform in public asset management?

One of the main challenges lies in the identification of state properties. Another issue is a clear knowledge of the expenses and incomes that can be related to public buildings and properties. Also, the highest level of protection provided in France by strong public rules and strict regulation of public domain brings unavoidable difficulties. Indeed, these weaknesses make possible the management of public assets under private managerial rules.

Several key points of a global strategy are emerging through field observation. For instance a comprehensive set of methods is expected in collecting information; a sound management framework calls for well prepared personnel; the decentralization constraint should be considered according to the relocation of public services; a rent policy is to be retained as an alternative of an investment policy. Last, practical considerations end the research document and call for the implementation of Strategic Plans for Public Properties.

Key words: public properties, privatization, public accounting, decentralization.

Résumé

La modernisation et privatisation de la gestion du parc des biens immobiliers de l'Etat sont déterminantes pour l'amélioration de la performance du secteur public en France. Elles participent de la recherche de l'efficacité économique et de l'amélioration du management public.

De nombreuses questions apparaissent : Comment créer et appliquer un système de comptabilité pour les biens immobiliers de l'Etat ? De quels types d'objectifs et d'indicateurs doit-on disposer ? Quelle pourrait être la base d'une réforme du management des biens publics ? Faut-il vendre ces biens et comment le faire ?

Un des défis majeurs à relever est celui de l'identification des biens d'Etat. Un autre tient à la clarification des dépenses et des revenus liés aux biens publics. Par ailleurs le haut niveau de protection attaché au régime légal du domaine public en France crée des lourdeurs inévitables pour gérer les biens publics selon les principes du management privé.

Plusieurs points forts d'une stratégie globale émergent à travers les observations de terrain : une méthodologie opérationnelle est attendue pour la réunion des informations; un cadre de travail pertinent doit intégrer les compétences du personnel ; la décentralisation apporte une contrainte nouvelle dans la relocalisation des services publics ; une politique de location de locaux doit être examinée comme alternative à une politique d'investissement. Des considérations pratiques et la proposition de Plans Stratégiques pour la gestion des propriétés publiques viennent en conclusion du document de recherche.

Mots clés : biens publics, privatisation, comptabilité publique, décentralisation

Summary

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4. Inventory of State Real Property Assets
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6. Acquisition, Use and Management, and Disposition of Public Real Estate
7. Conclusion - Evolution of the French System

I. Introduction and Overview of Ongoing Reforms

The State is the largest real-estate owner in France. The State real-estate portfolio totals approximately 300,000 units and is composed of 120 to 150 million square meters of floor space. Approximately half of the stock is business or office space, while the remainder is composed of warehouses, archive buildings, and residential properties. Nearly 80 percent of this stock is occupied by Ministries and public or administrative organizations.

However, information about the composition and the use of the State property portfolios is not always precise and the State does not have the benefit of a full knowledge of an economic potential and true value of its public properties. The clear links between investment, evaluation, optimization of costs and expenses, and other fiscal decision need to be studied as in the private sector. More flexible and adaptive approaches are needed in order to rationalize the choices between acquisition, rent, cession, current maintenance or renovation decisions.

The present reform and modernization of the State's management of real-estate assets is a key element for the improvement of the public sector's overall performance, and therefore this process of modernization is a key component in the overall framework for administrative reform.¹

Recent reform initiatives associated with property asset management take several key directions, which include (for details, please see next chapters):

- Revision of property budgeting and accounting. In particular, a new law passed on August 1, 2001 affects the national budgeting process associated with property assets: rather than structuring the real-estate portfolios according to the nature of the appropriation, the portfolios should be structured by multi-annual programs and "fungible" decision possibilities. This will facilitate the buying and selling of public properties. In addition, each Ministry - under auspices of the Ministry of Finance - is tasked with implementing accounting reform.
- Development of new policy on and methodology of property asset management. This culminated in a creation of a high level (reporting directly to the Prime Minister) commission, the Inter-Ministerial Commission for State Real Estate Policy
- Initiatives regarding reduction of public property portfolios through privatization.

To date, the State is converging with the private sector asset management approaches and methodologies while² it has committed itself to a process of reform that will fulfill its obligation to improve public services and protect public property interests.

¹ « Projet de Loi de finances pour 2003 », Sénat ; Travaux parlementaires, Rapports législatifs, December, 2002

² « L'Etat va vendre son patrimoine pour réduire son déficit », AFP, Les Affiches Parisiennes, n° 65, June, 11th 2003

II. Legal and Regulatory Framework

Definition of Public Real Property

Public property is composed of all real property assets and, in addition, of what is referred to in France as personal property.³ Public assets can be classified according to a variety of principles. For example, public real properties can be distinguished according to the body that has ownership of them. If a property is owned by the State, region, département, commune, etc., then it falls into the specific public portfolio (public patrimony) of the State, region, département or commune. Another classification would distinguish properties that are at the use of the public or devoted to public services – on one hand, and properties without such purposes – on the other hand.

Legal and Regulatory Specifics of Public Property

The property in public patrimony is, in general, indispensable. It is governed by a special legal and institutional system that is aimed at protecting it against (i) dismemberment, (ii) infringement, and (iii) damage. This leads globally to the inalienability of the public real property, unless a special process is completed. In particular, a transfer of a public patrimony property from a public to private owner is possible either by a special law or through a two-step process:

- First, a public entity that owns the property has to make the "disaffectation" decision, and
- Second, the property has to be brought through the "declassification" decision, which puts it out of the public domain.

With respect to the use of public real property, the administration has the authority to more precisely define access to and use of each property. For instance, the administration has the right to deny access to a building or land, except to another administrative service. It can also charge a fee for access to and use of its assets. The administration may also impose special restrictions that private owners are generally unable to control:

- The administration has the power to unilaterally determine the boundaries of public real assets, as well as to use special repressive rules in order to protect its assets.
- Public real assets cannot be acquired by prescription⁴ and cannot be seized by legal action.

However, the administration has some limitations on its power over real estate. Each administration is required to pay taxes on its assets under the provision offered by the fiscal regulation.

Given the roles that the State has in owning real estate, three categories of properties can be distinguished:

³ In French law, "personal property" is classified as movable property, goods, or rights. Real estate property is immovable and has its own legal attributes.

⁴ Acquisition by prescription is defined as obtaining legal title by default of extended possession. Occupancy for a period prescribed by the code of civil procedure bars any action for the recovery of the property and gives title by prescription.

- Buildings directly used for public service purposes. These properties are the most easily distinguished as State property and are most often used both by the general public and governmental employees
- Buildings which are not used for public service purposes. These properties may be managed according to "internal rules", but as State property they still fall under the overall State management framework. Such internal rules are set up at the national level through State or ministry instructions. More specific adaptation may be allowed at the practical level but always under the a posteriori administrative control (more often diligent at the prefect request).
- Undeveloped land. The State often owns this type of property because of its responsibility to protect or conserve certain types of land or ecosystems.

As indicated above, the patrimony of the public domain is identified with property rights (which may include issuing construction permits, usufruct or equitable ownership, real property servitudes, etc.) of various public persons, such as State, region, département, municipality, or public establishment⁵. This approach is useful as it supports a precise definition for the legal ties and differences between private property and public property. Thus, regarding the property rights, there are several public domains in question:

- The State's public domain includes fluvial domain, maritime domain, "national" roads and highways, military domain, some telecommunication networks, administrative buildings and goods, etc.;
- The region's public domain is now commonly accepted, since the passage of the law on decentralization (2 March 1982) that defined the region as a "local" collectivity. Its domain comprises buildings and regional works, but not roads⁶;
- The département's public domain includes départemental roads, some railways tracks, buildings for public services - hospital, tribunal and court, museum, etc. - and movable properties;
- The commune's public domain has long consisted of properties affected to public use - communal roads, market places, religious buildings, cemeteries- or affected to public services - hospitals, some airports, water distribution network, etc.; and,
- The public establishment's property also belongs to public domain, but with limitations introduced by the State Council:
 - The land or buildings built by the public establishment cannot be directly registered as public domain property if not bought from a public person. However they are private properties of the public establishment.
 - The properties obtained from State public domain or territorial public domain, which are transferred to a public establishment, remain public properties as long as they are affected to a public service or can be used by the public.

⁵ « L'avenir de l'autonomie financière des collectivités locales », Conseil Economique et Social, Avis et rapport, Le Moniteur Cahier détaché n°2, n° 5177, February, 14, 2003

⁶ A new phase of decentralization is presently under discussion and if adopted, will extending the competencies of the region.

III. Institutional Framework

Administrative reform in France obeys a simple principle: each Ministry is responsible for the management of its assets and the modernization of its administration, which implies a high level of independence in decision-making regarding property within line Ministries.⁷ For example, after some property is acquired in the name of the State and allocated to a specific Ministry, the Prefect of the département on whose territory this property is located is usually in charge of day-to-day property management functions. This kind of separation of ownership from use/management creates numerous difficulties and tensions between public owners and public users. Often, the owner will prefer to change the affectation of the property for a new use by another administrative entity. The change of the affectation can be initiated by the ministry or the prefect or the commune. Compensation may be organized between the two parties (the previous and new tenant).

The key institutions with special roles regarding public property include:

Ministry of Economics, Finance and Industry (MINEFI) is the Ministry with overall responsibility for administration and evaluation of the State public domain. These services fall with the General Directorate of Taxation. The Ministry will define in the future and to some extent, the public property policy through its budgetary and accounting policies. It is also responsible for establishing an overall national management framework.

Domain Administration (*Domaine*) within the General Directorate of Taxation (*Direction Générale des Impôts or DGI*)⁸ is the main administration for management of state immovable property. It is organized by a central office and offices of domain administration in each département, as part of the départemental fiscal services of the DGI. In particular, the Domain Administration is in charge of the property information system, on which taxation is based, the General Table (or List) of State Properties - *Tableau Général des Propriétés de l'État* or TGPE (see below). Its key functions are as follows:

Policy orientation, development of the doctrine domaniale, legislative drafting (laws, decrees, ordinances, etc.),

- Domain Administration handles disputes related to state public property
- It is tasked with verifying all transactions with public property greater than \$75,000 (or \$12,000 for a lease contract) engaged by the administration of any public entity.
- Any transfer of public property undertaken by a municipality with a population greater than 2,000 should be declared to the domain administration of the département (sub-regional).
- Domain Administration also defines the monetary conditions for occupancy of any public domain properties (national, regional, départemental, municipal domain) by private tenants; specifies the price to be paid and verifies the legal condition of occupancy. Typically the cession or renting of any public property is undertaken by private transaction in front of a notary.
- Handles sales of any declassified public property.

⁷ « La politique immobilière de l'Etat pour les bâtiments publics », Ministère de l'Economie et des Finances, Délégation à la Politique Immobilière de l'Etat, April 1997

⁸ Within the DGI is the Sub-Directorate of Real Estate Affairs (Sous-Direction des Affaires Foncières), including the bureau "F3 - Domaine".

National Directorate of Public Domain Interventions (*Direction Nationale des Interventions Domaniales or DNID*). This is an external service of the DGI, which carries out much of the domanial activities and management for state public property located in Region of Ile de France (Paris and surrounding areas). In particular, the activities of the DNID comprise:

- Evaluation of public property operations carried out by the State development agency for Ile de France;
- Evaluation of immovable property value for sales by local governments;
- Handles sales of immovable property in the region Ile de France
- Handles sales of movable property for which State agencies no longer have any use, as well any movable property obtained through seizure, abandonment or other procedures;
- Management of private domain state immovable property in Ile de France.

Inter-Ministerial Commission for Real Estate Policy. This is a special support body at the inter-ministry level created to assist the Ministries in their task to develop and implement reform of their real-estate functions. This special inter-ministerial commission reports directly to the Prime Minister and provides a framework for compliance with activities of the General Directorate of Taxation, the Inter-Ministerial Delegation for the State Reform, the General Secretary of the Government and the Directorate of Budget. The Commission is expected to:

- Develop a coherent methodology for improving and monitoring asset management, which should include terminology, property typology, technical concepts, maintenance standards, main indicators, etc.;
- Suggest possible savings in three directions: cost of occupancy, cost of maintenance, and operating expenses (heating, security, etc.); and,
- Suggest more rational (economically and financially) approaches to decision-making regarding construction or acquisition, leasing, sales, and maintenance/renovation.

Administrative Court considers and decides on all legal issues associated with public property (see above). Real estate competencies of public entities ⁹

1. Acquisition (purchase). Each level of territorial organization (commune, département, region, State) can acquire public properties. This can be done with organization's existing funds or with the financing of another administrative entity. The public domain administration controls the price of land acquisition.
2. Leasing. Each level of territorial organization (commune, department, region, State) can rent public properties. The Prefect supervises the legal conditions, the feasibility and the cost.
3. New construction. Each level of territorial organization (commune, département, region, State) can built new real estate and renovate public properties. For instance, construction of a high school can be financed by the region with a co-financing from the State. The public domain administration controls the price and the Prefect supervises the legal conditions.
4. Architectural design for new construction. Only architects with State diploma can compete for the conception and for the survey of construction of public buildings.

⁹ « L'Etat actionnaire – Rapport 2002 », », Rapport au Parlement, Ministère de l'Economie et des Finances, October, 2002

5. Maintenance, security and other property management functions. Each level of territorial organization (commune, département, region, State) has the duty to maintain and guarantee security of its buildings and public properties. The Prefect performs a control function in most of the cases.
6. Sales. Each level of territorial organization (commune, département, region, State) can sell its public properties under the conditions expressed above.
7. Conservation of historic and architectural patrimony. Each level of territorial organization (commune, département, region, State) should protect its "classified" public properties and artistic goods. A very detailed legal and administrative framework defines duties and responsibilities of various parties for (i) protection management, (ii) maintenance and repair activities which are to be executed under a very close control of a State body of architects, archeologists, arts experts.

IV. Inventory of State Real Property Assets¹⁰

The objectives of the inventory records of State properties are dual and represent two roles of the State: as an owner and real estate user. The inventory of real property assets is called the *Tableau Général des Propriétés de l'État* (TGPE) and is developed and managed by the Domain Administration, which was described in the previous section. The TGPE includes only property of State services and of State public agencies; it does not include properties owned by the local governments (region, département, commune).

The TGPE information has been primarily used for legal and fiscal purposes and is less suitable for asset management per se. For example, the system does not provide accurate information on building and land size¹¹, their use, level of occupation, and state of maintenance.

Each Ministry is responsible for submitting information to the TGPE, and a low rate of data submission and imperfection in data quality has been the main reasons for information improvement in the TGPE.

The current inventory system has led some divisions in the central administration to develop their own inventory systems. The Ministry of Finance hopes to integrate these multiple inventory records into a complete and unified system. One of the key aspect of reform is to computerize and put on-line in real-time the TGPE.

Reform of the Tableau Général des Propriétés de l'État (TGPE)

Suggestions for improvement address both the content of the system and its management and include the following:

- The new TGPE have a "domestic" stratum, including legal information: new construction, modification of the zoning code, change in the occupant, etc.
- Surface is indicated as "useful" or "not useful" space, according to a precise definition.
- The updating is done directly by the Domain Administration, no longer by the Ministries.

¹⁰ « Amélioration de la présentation des comptes de l'Etat », Ministère de l'Economie et des Finances, Direction du Budget, 2002

¹¹ A statistical survey has shown that data collection for 20% of buildings and 16% of land surfaces could be inaccurate.

- A unique identification number is created for each building and is kept as reference for any decision with financial consequences.
- A summary of the overall situation and status of assets is prepared by the Domain Administration and sent to each Ministry and the municipality, département or region.

As a part of information management reform associated with public property has been developed to computerize the TPGE (called the STPGE, or server TPGE). The computerized system includes the following information:

- A detailed stock inventory of the public properties, with four subdivisions of the data: technical, legal, administrative, contracts
- Registration of maintenance projects in both the short and medium term
- Recording construction, maintenance, and improvement works on buildings. This information should offer the possibility to monitor the progress of these works
- Creation of a registry to chronicle projects undertaken
- Optimization of the technical management of the constructed properties and of their use of energy
- Graphic, media and photographic database
- Evaluation of the maintenance quality
- Improvement of the real estate strategy of the bodies responsible for public property

The computerized version of the TGPE is still in an development phase and will take several years to be fully implemented. One of its final goals is to enable the State to establish a complete balance sheet and to record the present property values of its holdings.¹² The remaining task with inventorying public property is to make the Domain Administration, in its tasks and through the TGPE, primarily focused on the goal of optimal asset management.

Another Attempt to Inventory Property: Real Estate Master Plans at the Département Level

Real Estate Master Plans for Départements were prescribed in 1992 and 1997. The data collected in 6 pilot départements was sufficiently detailed to define the occupancy of the buildings. However, the data on both the floor area and land area is still considered unreliable and clarifying this data will likely be one of the most difficult aspects of the process. Tables below provide sample information on public property currently available from the General Directorate of Taxation.

Recent trend of State buildings for the functioning of the Public services, Floor area - Millions of m2

	1992	1993	1994	1995	1996
State properties occupied by state users	79.7	78.4	79.8	80.4	80.8
Rented out or given for free to other tenants	19.3	19.4	19.4	19.4	19.3
Given for free of charge use to other tenants	0.8	0.8	0.8	0.8	0.9

¹² Recent accounting reform for local governments now obliges them to establish asset – liability balance sheets of their holdings, including immovable property.

Total	98.8	98.6	100.0	100.1	100.9
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Source: General Directorate of Taxation

State public buildings represent roughly 100 million square meters, 80% of which is occupied by State users, 19% is rented out or given for free to other tenants, and 1% is given for free of charge use to other users. Over the four years detailed in the table above, the floor area of the State properties has increased by 2.6%.

Distribution of the State buildings among the Central administration, deconcentrated services and State public establishments, 1996, Thousand of square meters

	National Assembly National Bodies	Central administration	Deconcentrated Services	State public establishments	Total
Thousands of m2	235	2389	79958	21148	103730
% of total	0,2	2,3	77,1	20,4	100

Source: General Directorate of Taxation

This table shows that the central government institutions occupy about 3% of State properties, while the deconcentrated services and State public establishments occupy the rest 97%.

Distribution of the Public buildings according to their use, 1996, Thousand of square meters

Office	Building for public visitors	Technical construction	Military properties
18013	35280	12174	38159
17%	34%	11%	37%

Source: General Directorate of Taxation

It is important to note that the floor area of the military properties represents 37% of the State public properties' total.

Activity Status Report for Public Real Estate, 1999 to 2001

Activity according to the number of files related with the State real-estate domain	1999	2000	2001
Authorization for occupation and concession for the State public domain	96137	97421	N/A
Number of State residential units legally occupied	87145	88093	N/A
Real-estate units registered at the General List of State Properties (TGEP)	107,771	109,910	112,007
Real-estate transactions: Sale	4,772	5,103	2,741
Acquisitions (including leases)	12,433	12,514	11,900
Real-estate intervention: Real-estate evaluation at the request of public authorities for expropriation, public acquisition of private properties, preemption price evaluation, servitude value, etc.	206,175	205,275	202,306
Expropriation	3,200	3,084	N/A
Public "non real-estate" goods: Numbers of sales	70,258	57,145	N/A
Quantity of private properties of the State	21,238	21,953	21,973

Source: General Directorate of Taxation

V. System of Fiscal Administration and Accounting

Budgeting¹³

A recent revision of property budgeting and accounting affects the national budgeting process associated with property assets: rather than structuring the real-estate portfolios according to the nature of the appropriation, the portfolios should be structured by multi-annual programs and "fungible" decision possibilities. These changes were included in the new Organic Law on Finance Laws (adopted August 1, 2001), which grants each Ministry additional authority to allocate resources among civil-servant expenditures, functional budgeting (programs or services), and real-estate investment or sale. This will facilitate the buying and selling of public properties. In addition, each Ministry - under auspices of the Ministry of Finance - is tasked with implementing accounting reform. ¹⁴

According to the law, the new approach should encompass an overall evaluation of assets, including new construction. Also, the real-estate program of each Ministry should have clearly defined objectives and performance indicators. However, these provisions will not come into effect until 2005.

The tables below provide some insights on the expenses and revenues associated with public buildings and their recent trends.

Capital Expenditures on Real Estate by Civil Ministries, Millions of Dollars

Kind of expenditure	1995	1990	VARIATION 90 to 95
Construction works and capital repair	2,742	2,637	+ 4%
Acquisition of buildings	70	199	- 84%
Total investment in civil real-estate	2,812	2,822	- 0,3%
Total out of investment in road	1,329	1,350	- 1,5%

Source: General Directorate of Taxation

Capital Expenditures on Real Estate by Ministry of Defense, Millions of Dollars

Kind of expenditure	1995	1990	VARIATION 90 to 95
construction works and capital repair	991	916	+ 8%
acquisition of buildings	2	3	

¹³ « Instruction P-R sur la comptabilité de l'Etat – Tome 1- Système comptable et nomenclatures », Direction générale de la comptabilité publique, February, 2003

¹⁴ « Nomenclature d'exécution : modifications prévues pour 2001 et 2002 », Ministère de l'Economie et des Finances, Direction du Budget, circulaire, February 19, 2001

total investment in military real-estate	993	919	+ 8%
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Source: General Directorate of Taxation

Total capital expenditures on public real estate, Millions of Dollars

Base	1995	1990	Variation 90 to 95
total real-estate	3805	3756	+ 1,3%
construction	2322	2269	+ 2,3%

Source: General Directorate of Taxation

Expenses for renting, Millions of Dollars

1995	1990	Variation 90 to 95
744	564	+ 32%

Source: General Directorate of Taxation

Operating Expenses related to public real estate, Millions of Dollars

Kind of expense	1995	1990	Variation 90 to 95
Water distribution	253	257	- 1,6%
Repair and maintenance	478	384	+ 24%
Security	17	8	+ 113%
Cleaning	130	84	+ 54%
Total	878	733	+ 20%

Source: General Directorate of Taxation

The significant increase of rental expenses between 1990 and 1995 seems to have been spurred by an increase in rent values and not from an increase in the rented space.

Public budgets' revenues attributed to public real estate originate from two main sources:

- revenues brought by municipal budgets on an annual basis. The municipal budget is composed of local taxes and State payments allocated each year. The municipality has the freedom of its use.
- revenues from public real-estate sales, which are transferred to concerned Ministries.

Revenue of Municipalities affected to local investment of the State¹⁵, Millions of Dollars

Land		Building		total	
1995	1990	1995	1990	1995	1990
262	282	133	160	395	442

Source: General Directorate of Taxation

For all the civil Ministries, the total amount of real estate sale proceeds is shown the table below:

Cessions of administrative buildings, Millions of Dollars

1993	1994	1995	1996
8,1	8,1	8,3	6,3

Source: General Directorate of Taxation

The issue of recognizing the true costs of real property

As a part of public budgeting reform, the idea to recognize the opportunity cost of public property through a generalized rent is currently being examined. Indicators for the internal budget of the State would be introduced, or rental expenses would be introduced for administrative organizations, which occupy public buildings and land. There are two objectives for this measure:

- To motivate property occupants to look for the best use of buildings or land, and
- To increase the responsibility of the State as the property owner.

These two objectives are interrelated, because in this situation, tenant Ministries would be cautious to pay a rent if the State would not behave as a good owner by undertaking the necessary maintenance and improvement projects. For the State, this system would help define an upper limit for property investment, as well as the timing and condition for selling the properties. Two designs can be considered here:

Imputed rent

A calculation of imputed value of the property would be made. The idea is to compare the amount of new expenses incurred by the State - on the one hand, and the savings which could be made if a "pseudo value or/and rent" would be charged from tenants - on the other. Negotiation would be permitted between the State and the tenant.

True rent

Under this system, the Government will create a special public agency that will play the role of an owner of public buildings for the State with the task of maintaining, renting and selling the properties.

¹⁵ It could be participation of local collectivities to the State investment expenses

However, there is some concern about the impact of such a system on the property values in the private sector, which could be deeply affected by a sudden extension of the rental stock. Also, this system would not work for public buildings with very special possible use -as military buildings or health equipment for instance- or located in places where no market demand exists.

Accounting, Property Valuation, and Reporting¹⁶

Within the system of administration and management state property, the only competent authority to assign a property value to state immovable property is the Domain Administration 17. This value may be a venal (sale) value or a rental value. The exclusive competency for property valuation is the reason that the Domain Administration has been placed under the authority of the MINEFI.

As part of the ongoing administrative reform in France, each Ministry is responsible for the management and modernization of its administration. Therefore, each Ministry is required to implement a program for the development of internal auditing and monitoring of its activities. A common resource center is provided by the Ministry of Finance and by the Ministry of Administrative Reform.

The Ministry of Finance has suggested the following steps for reform:

- the integration of multiple accounting and statistic systems into a single system
- a procedure for the allocation of resource which organizes a match between the information gathered for each activity and the assessment of the financial resource
- an optimization of the means in consideration of the political objectives given by the Ministry. An impact evaluation of the objectives and performance should be possible

Objectives and indicators

Most of the Ministries have attempted to measure the activity in management of public properties, which again has demonstrated comprehensible discrepancies in the measures and statistics between true values and reported values. It has occurred to observers that data to be gathered for the indicators should not be too large or too complex to impede useful data collection; 30 to 40 data entry seems to be the maximum amount of data that any particular service for real estate property management can handle. Large accounting books and instruments of analysis are not useful when they are provided with too much detailed information.

The system which is under implementation by the MINEFI includes the following four principles:

- use of rigorous methods for information collection and data interpretation;
- setting up of an entity, which would be able to implement – throughout the Ministry and local agents - procedures for collecting and analyzing data;
- establish methodological approaches useful for achieving improvements in asset management; and,

¹⁶ « Contrôle de gestion dans les administrations de l'Etat », Ecole Nationale d'Administration, journée d'études du 26 septembre 2000, ENA, 2000

¹⁷ « Le Bilan de l'Etat », Rapport de la Cour des Comptes, Cour des Comptes, 2002

- set up simple and well defined tasks for the agents assigned to collect and analyze information.

The MINEFI has been prepared a guidance booklet, which takes in consideration these four principles and consists of three parts:

1. objectives of the system of information accounting;
2. implementation procedures within the Ministries and local agents and tools for making the system work; and,
3. procedures for auditing the proper functioning of the system of information management.

VI. Acquisition, Use and Management, and Disposition of Public Real Estate

Two kind of situation can occur:

Transfers of Public Assets Between Public Entities

Each territorial collectivity (nation, region, département, commune, public establishment) has its own public property regime, and transfers are allowed between them, with or without changes in the use of the public property. Often, these changes are implemented by law.

Public to Private Transfers (Privatization)

As described above, sales of public property require special arrangements, such as a law or the special procedures of "disaffectation" and "declassification", which remove property from the public domain. After these procedures are completed, the Domain Service may proceed with the sale. Another, and simpler option for properties deemed unnecessary for public domain and not used for a specific length of time, is to rent them out, rather than sell outright.

Disposal Incentive Reform

A special regulation was introduced in 1992, with the goal to encourage services or organizations occupying or holding State properties to dispose the properties no longer of immediate use to them. The central incentive of this regulation was an ability of a public entity, which used the property, to retain proceeds from property disposal.

Thus, prior to 1992, all revenues from property disposal were transferred to the General Budget, while now, a part (90%) is kept as a credit inscription by the administrative service or the organization that used the property. The remaining 10% is transferred to an "equalization fund", whose function is to mitigate the inequality between the "large landlord" Ministries and the "small owner" Ministries.

Similarly, the change in the user of public real estate properties now requires the payment of a fee. A new public sector tenant should pay the former tenant an allowance based on 90% of the total market value of the property. This allowance is also defined by the administration as a credit opening.

It appears that the implementation of the rule that allows the selling Ministry to keep 90% of the sale proceeds has accelerated the process of identification of useless public properties (see the example on housing sales below).

A difficulty in this system is that property sales are sometimes correlated with an immediate need for finance at a particular agency and that a thorough evaluation and decision based on the utility of a certain property is uneasy to forecast.

Privatization Initiative of the Prime Minister

In April 2003, the government announced its intention to sell in the coming 3 to 4 years about 1,000,000 square meters of public offices and obtain for this space about \$1.5 billion (while the total office market turnover in France in 2002 was \$11.3 billion).

However, various parties (such as the private real estate companies and investors, the Domain administration/owner ministries, and local authorities) investigate the idea of a quick large-scale disposal of public real estate.

The main concern is that such disposal will exceed the absorption capacity of local real estate markets and result in the reduction of private real estate investment attached with a decline of real estate prices.

In recent years, France undertook and announced a number of initiatives targeted on reduction of public property portfolios and improvement of property asset management. The main of these disposal initiatives are listed below, along with some typical examples.

Case 1: City of Angers: Improvement in Overall Property Management Structure 18

In 1983, the City of Angers (pop. 200,000) took the initial steps toward improving control of its management practices, including management of real estate properties. The first step was to mobilize fifty City Executive Agents to participate in training sessions (the first was a 12-day session). This program was well received by the agents, and to a certain degree it was the agents themselves who provided the motivation for the program launch.

The second step consisted of the implementation of an accounting framework. A quarterly reporting system was chosen because it allowed enough time to collect and analyze data, but with a frequency that indicates that data presented could always be trusted to be up to date. A matching master plan for computing equipment and activities was developed.

The third set of decisions and actions was related to the sustainability of the process, which undoubtedly was the most challenging of the tasks undertaken. Annual meetings to prepare a public statement were organized. In these meetings, local elected officials and civil servant agents (from General Directorate of Services and Service delegation) agreed upon and prepared a report on public management activities and finalized a summary statement. The management of public properties, in particular with regard to maintenance, acquisition and taxation, was a primary focus of these meetings.

The city implemented a system of sanctions and rewards to encourage participation in and compliance with this program. Fiscal instruments, such as budget and credit allocation, are the primary incentive. Professional promotion of agents who employ and advocate this system is also considered.

The number of local personnel involved in this program has stabilized at 6 agents. The total cost for the program is approximately \$ 300,000 a year, or 1/1,000 of the annual City budget.

Case2: Privatization of Non-Essential Real Estate by Charbonnage de France (a National Coal Mining Company) 19

¹⁸ Demeestere, R. 2002. Le Contrôle de Gestion dans le Secteur Public. Paris. LGDJ

¹⁹ « Charbonnage de France parachève la vente de son patrimoine immobilier », La Tribune, July 11, 2002, p.9

Charbonnage de France is undertaking privatization of some of its real estate properties, primarily housing. The most recent sales have occurred in the Center and the South of France, where over 8,000 dwellings have been sold. The buyer is HLM de Franche- Comté, a subsidized housing firm that specializes in social housing. Over 68,000 houses have been sold to date.

Typically the buyer assumes responsibility for protecting the current tenants and maintaining their previous benefits. Thus, one of the main difficulties of this kind of transfer is to find a buyer sufficiently large not only to pay the price of the acquisition, but also to properly manage its new housing stock.

The strong trend toward selling non-essential real estate by "national" public firms can be explained by their lack of and need for cash, as privatization and rapid capitalization occur. Many of these large firms are deeply indebted and, due to the rapid change in their economic basis, they are no longer concerned with the accommodation of their current or former employees. Also, many firms now lack the skilled personnel to effectively manage their real estate properties. Furthermore, the current high values of real estate add an additional incentive for putting property on the market.

Other "national" firms have also conformed to this trend. In a similar situation, France Telecom recently sold the bulk of its real estate property to a French-American consortium for more than \$3 billion.

Case 3: Asset Management Trends at the French Railways 20

A separation in two parts of the former "SNCF" national rail-track system has created two entities (both - public establishments): one that holds the tracks and real properties "Réseau Ferré de France - RFF" , and the second that exploits the equipment "Société Nationale des Chemins de Fer -SNCF".

In the 1990's, a regional structure for the real estate management was designed that included establishment of 23 Regional Real Estate Agencies. Today these agencies are working on a contractual basis with RFF. They deal exclusively with real estate properties, both developed and undeveloped. They take care of acquisition and sale below \$150,000 and tenants' contracts below \$15,000 per year, and also improvement and maintenance of the properties.

In addition, there are 350 tenants' contracts above \$15,000 that are directly managed by RFF.

The RFF would like to begin experimenting with outsourcing some activities, for instance the management of the advertisement billboards on the station platforms. More and more the SNCF is able to successfully compete against private firms for such contracts.

However, debate may appear between SNCF and RFF. This is due mainly to the difficulty in clearly identifying their property rights and the rights on revenue streams generated by fixed assets. The two entities are under the control of two different Ministries -Civil Works and Finance- and the settlement regarding property assets takes coordinating action.

RFF has developed an entrepreneurial attitude to investment. It invests only at the due value of what could be recovered, and it updates the flow of fees. 21

²⁰ « Création de l'Établissement public Réseau Ferré de France », Loi n° 97-135 du 13 février 1997, J.O n° 39, February 15, 1997, p.2592

Also for rail track construction, RFF invests to the ceiling value of 20% while the other investors are municipalities for most of them.

Case 4 : Methodology of management and disposal of military properties²²

In the case of public real estate built for military purposes, which are mainly located at the out-limits of the cities in France, a process is extended, with preparations well in advance before a factual offering of the properties on the market. This leads to the question of the anticipatory value of these properties and of the process of improving properties' marketability.

An operational and pragmatic policy is "valorization" of these State military properties. Often these properties have no prior value because of:

- (i) their public affectation (no market reference); and,
- (ii) the existing zoning code which forbids any "private" use or re-use of the property.

Then a strategy has to be drawn for offering these public properties on the market. As noted above, various public and private-sector actors are concerned about negative market implications of potential mass sales. In addition, most ex-military property and land cannot be sold directly without some anticipatory decisions and, sometimes, up-front investment and works, which, in turn, requires specific initiatives.

First of all, a future use of the property is projected, which allows planing several interim steps for the redevelopment of the site and/or the buildings. If possible, various stakeholders, including local authorities, are involved in consultations and search for solutions. Further, quite often, cleaning-up of contaminated land and reshaping of buildings are required before the property can be sold, which imposes additional financial constraint and risks on the public owner. For creating an environment conducive to investment in such properties, some tax break can be discussed as a form of a financial incentive. At the end of the process, the properties are offered to the market under the control of the very precise rules for public to private transaction.

²¹ « RFF : cinq années d'une existence associée au renouveau du rail », Revue Générale des Chemins de Fer, J.M.J., April, 2002, p.39-43

²² « Les armées continuent à acheter des terrains, surtout en zone rurale », Jacques Isnard », Le Monde, July 24, 1998, p.7

VII. Conclusion - Evolution of the French System

As indicated in section V above, there is now an official national inventorying or management framework for State public properties. Legal and administrative rules are highly precise and efficiently define the use of public properties. The difficulty arises from the fact that each organization (département, Ministry, etc.) has established its own set of specific rules. Accordingly there is a policy for harmonization of these rules throughout the public sector.

Another challenge is to integrate the procedure for property valuation introduced by the Domain Administration into the national asset management framework. An ongoing issue is to introduce rules for property re-valuation based on market information.

France faces specific property-related challenges during the decentralization process, as it unavoidably requires some re-distribution of public domain properties, in particular in connection with relocation of public services. Accordingly, the municipalities are required to include the value of public fixed assets in their annual balance sheet, which perhaps foreshadows a particular target of future reform.

In particular, France is aware of the fast devolution of public properties to the private sector can provide some fast results in short-term. But in longer-term, devolution without the strategic planning may produce insufficient investment in public-interest buildings, constructions and equipment. Accordingly multiple tasks associated with public property is originating the creation of local Strategic Plans for public properties.

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