Gestion des terres domaniales et publiques: les moteurs du changement

Partout dans le monde, la gestion des terres publiques se caractérise par sa mauvaise qualité, ainsi que par le gaspillage et la faible productivité qui s'ensuivent. Deux principaux facteurs sont source de changement dans le secteur public: la nouvelle gestion publique et l'introduction de la comptabilité d'exercice. La nouvelle gestion publique implique que des fonctionnaires situés aux avant-postes chargés soient autorisés à déterminer comment les services publics doivent être fournis. Il s'agit de leur donner un pouvoir de décision accru sur la façon de dépenser les budgets, y compris en ce qui concerne les actifs immobiliers. Les autorités centrales définissent les services qui doivent être fournis et formulent et appliquent des normes. Les contrôles hiérarchiques sont réduits et les fonctionnaires aux avant-postes reçoivent des incitations les encourageant à atteindre des objectifs de performance. Le pouvoir en matière d'actifs immobiliers tend à passer entre les mains des fournisseurs de service. La comptabilité d'exercice consiste à comparer les recettes aux coûts liés à leur encaissement, de façon à pouvoir calculer les excédents ou les déficits. Traditionnellement, le secteur public a recours à des systèmes de comptabilité de caisse qui leur permettent de ne pas payer le véritable coût économique des actifs utilisés. Ces changements obligent à s'interroger sur les actifs dont il vaut mieux être propriétaire, et sur ceux dont on devrait plutôt se défaire et si la location n'est pas une meilleure option pour le secteur public. Les pratiques de gestion des actifs s'en trouvent modifiées. Résultat: la gestion des terres publiques a tendance à s'aligner sur les systèmes de gestion du secteur privé.

Gestión de tierras estatales y públicas: factores determinantes del cambio

La gestión de las tierras públicas en todo el mundo se caracteriza por su escasa calidad, así como por los gastos y la baja productividad consiguientes. Existen factores clave que están cambiando el sector público: La Nueva Gerencia Pública y la introducción de contabilidad en valores devengados. La Nueva Gerencia Pública implica el empoderamiento del personal de primera línea para determinar cómo deben prestarse los servicios públicos. Les ofrece mayor poder de decisión sobre el modo de invertir los presupuestos, incluidos los activos de propiedades inmobiliarias. Las autoridades del gobierno central determinan qué servicios deben ofrecerse, establecen los criterios y los aplican. Se han reducido los controles descendentes y se han introducido incentivos para que el personal de primera línea alcance los objetivos de rendimiento. El poder sobre los activos inmobiliarios tiende a pasar a los proveedores de servicios. La contabilidad en valores devengados implica equiparar los ingresos con los costos asociados a los mismos, de modo que puedan calcularse los excedentes y el déficit. Tradicionalmente, el sector público ha utilizado sistemas de contabilidad efectivos, lo cual ha conllevado que no se pague el verdadero costo económico de los bienes que emplean. Estos cambios generan interrogantes sobre qué activos deben adquirirse, de cuáles habría que deshacerse y si el arrendamiento es una opción mejor para el sector público. Las prácticas de gestión de los activos se modifican. Como resultado, la gestión de tierras públicas ha mostrado una tendencia a ajustarse más estrechamente a los sistemas de gestión del sector privado.

State and public land management: the drivers of change

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A feature of the management of public lands throughout the world is its poor quality and resultant waste and poor productivity. Two key drivers are bringing change in the public sector: New Public Management; and the introduction of accruals accounting. New Public Management involves the empowerment of front-line staff to determine how public services are to be delivered. It gives them greater power over how budgets are to be spent, including over real estate assets. The central government authorities determine what services are to be produced and set and enforce standards. Top-down controls are reduced with incentives for front-line staff to achieve performance targets. Power over real estate assets tends to shift to the service providers. Accruals accounting involves matching revenue against the costs of earning it so that surpluses or deficits can be calculated. Traditionally, the public sector has used cash accounting systems, which have resulted in them not paying the true economic cost of the assets they occupy. These changes raise questions about what assets ought to be owned, which disposed of, and whether renting is a better alternative for the public sector. They bring about changes in asset management practices. As a result, the management of public lands has tended to become more closely aligned to management systems in the private sector.

INTRODUCTION

The vesting of the ownership or administration of substantial portions of a nation's land in the hands of the public sector is a widespread feature of many land tenure structures. The public sector is an important supplier of services, such as health care, education and defence. It needs to use land it owns or controls in order to produce them. The state often possesses land so that it can protect it, for example, for environmental or cultural reasons. How the public sector manages the land it owns or controls is likely to have important implications for the well-being of the population. Inefficient or ineffective land management can have serious adverse consequences. Public lands are important assets that, when managed well, can be of great benefit to society. This requires the use of "best practice" management methods.

However, as Zimmermann (2007) has argued, the management of government

property is badly handled across the world. Public property assets are typically mismanaged and it is normal for countries to fail to utilize these assets to their full potential. For example, Kaganova, McKellar and Peterson (2006) provide a number of examples of poor use of public lands: vacancy rates of more than 30 percent of municipally owned floor-space in countries of the former Soviet Union; municipal rents at 22 percent of private rents in Kyrgyzstan; and a US\$5.7 billion backlog of maintenance repairs for the US General Administration Office (which manages 10 percent of government space). A recent report by the National Audit Office into the British government's office property (NAO, 2007) concluded that "central government departments are a long way from achieving full value for money from their office estate." It estimated potential savings at between 14 and 50 percent of the current annual expenditure of UK£6 billion on office property. It found that the average space

per person was 17.1 m², but departments ranged between 13.3 and 21.9 m² per person and the median office costs per person varied between UK£2 592 and UK£12 041 per year. These examples can be multiplied many times over. Few countries in the world have not experienced similar problems. In some cases, the way that public lands have been managed may be a direct contributor to poverty and the undermining of human rights through people being dispossessed of their land by the state.

The problem of the management of state land is not a matter of poor countries failing to manage their resources well compared with richer ones. It is a universal problem, although there are some beacons of good practice. However, a number of countries have been engaged in a major revolution in the management of public lands during the past quarter of a century. They are part of the process of changing the ways in which the public sector delivers public services. While in no case can the process be said to be complete or to have been wholly successful, the changes have been substantial and generally beneficial.

There are two main drivers of change in the management of public lands, the so-called New Public Management (NPM) and the move towards accruals accounting in the public sector. They provide the intellectual underpinning of the innovative techniques for the management of state lands. Under NPM, there is a reduction in top-down controls over the delivery of services in favour of greater freedom for front-line staff to operate within the policy framework set by the government. Responsibility for achieving targets is placed on front-line staff, who have scope to determine how these are achieved, including how best to deploy their budgets and resources such as real estate. Accruals accounting systems require income to be matched with the full economic costs incurred in earning it. These include the costs of using fixed assets such as land and buildings. Costs include depreciation

and amortization as well as day-to-day running costs such as energy costs and maintenance.

Organizations are expected to generate a surplus of income over costs to pay for the cost of capital tied up in them. The combination of the NPM placing budgetary obligations on front-line staff to achieve performance outcomes and accruals accounting requiring that the resources used be paid for at the full economic cost forces front-line managers to examine whether finances should be put into real estate assets or into other resources. Therefore, this brings changes to the ways in which real estate assets are managed as there is considerable pressure on managers to use them efficiently.

Being clear about the reasons why public lands are owned or occupied is an essential aspect of achieving efficient management. Much state land has come into the possession of public bodies by accident or for random reasons rather than as a result of a clear strategy. Fundamental to the efficient management of public lands is the development of a coherent and appropriate strategy. This means answering questions about what public bodies are trying to achieve and the role of public lands in doing this (see RICS, 2008). This should be part of a public body's corporate planning process. Only once a public body knows what it is trying to achieve with public lands, can it determine the best way of accessing these, whether by ownership, renting or other means. Only when the purpose of having public lands is clear, can one produce strategies about asset acquisition, disposal and replacement, and develop the policies and processes by which to achieve these. An implication of the two main drivers of change is that public lands are a means to an end and not the end in itself. The management of public land cannot stand apart from the management of other resources, such as human resources and information and communication technology, but needs to be coordinated with these to achieve the objectives of public policy.

NEW PUBLIC MANAGEMENT

The term New Public Management (or NPM) has been applied to a series of policies aimed at increasing the efficiency with which public services are provided. The aim is to reduce top-down controls over their delivery in favour of greater freedom for front-line staff to operate within the policy framework set by the elected government. It produces a shift away from central government exercising input controls over finances, premises and staffing towards it using output controls over what is actually delivered. Front-line staff are given targets that they have to achieve. They have to manage their resources, including real estate assets, in such a way as to achieve these within the budget allocated by government or the fee income generated by charges. This results in pressure to reduce the use of real estate assets in production and to increase the productivity with which they are used.

Hood (1991), who was one of the first to use the term New Public Management, argued that NPM was a fusion between the new institutional economics, with its emphasis on public choice, the relationship between principals and agents, and managerialism in the public sector. He argued that the main features of NPM are:

- · hands-on professional management;
- explicit output standards and measures of performance;
- greater emphasis on output controls;
- a shift towards disaggregation of units in the public sector;
- a shift to greater competition in the public sector;
- stress on private-sector styles of management;
- stress on greater discipline and parsimony in resource use.

To these can be added a reduced role for the state with greater use of market-type mechanisms and privatization (Glor, 2001), funding and accounting systems based on the contracted purchase of defined outputs (Chapman and Duncan, 2007), and greater contestability in which public-sector bodies have to compete against the private sector or where private-sector bodies compete against one another to deliver public services or support services for these. The differences between the methods used for managing public-sector and private-sector organizations become minimal, allowing interchange of personnel and methods between the two sectors. It is no longer possible to talk about "public" management. Expertise in public administration systems may be of less importance than management expertise.

The greater autonomy enjoyed by frontline staff means that they do not have to be within a government department or local authority but may be part of an agency contracted to deliver services to a government department. Indeed, they may even work for a private company or a charitable body contracted to deliver public services. This means that they do not have to be public servants and can be paid on a different basis with different terms of employment. An implication of this is that they may receive performancerelated pay and thus be incentivized to meet performance targets. They need not have the job security that public servants enjoy. In the event of failure to meet targets, they can be held accountable and lose their jobs.

The reason for the adoption of NPM is because of the belief that the public sector is not efficient. The countries that have tended to adopt NPM do not experience many of the problems found elsewhere in the public sector. Their public sectors generally behave ethically and operate in accordance with well-defined laws and regulations. These countries have very strong systems of formal control over the public sector. Appointments and promotions are made on merit. Financial and system audits are used to check on the implementation and effectiveness of controls and to root out corruption. Public-sector employees have a good total employment package of pay, pensions and working conditions. The public sector is normally able to attract qualified and skilled employees and generally does not have capacity problems.

In spite of these advantages, there are efficiency problems in the public sector. The systems used for controlling the public sector are designed to ensure that resources are used only for the purposes for which they have been allocated and that public servants operate in accordance with defined policies and procedures. Unfortunately, the systems lack mechanisms to promote efficiency. They promote the mindset that public servants must operate within the rules rather than show initiative, innovation and economy. Public money is spent on the purposes for which it has been allocated but may not be spent wisely. The problem is not with the public servants but the incentive environment in which they have to operate (Bale and Dale, 1998). They tend not to operate in a businesslike way - that is, to produce the services that customers want as economically as possible. The professionals delivering the services may have colonized them so that they act as a producers' cooperative (Ackroyd, Kirkpatrick and Walker, 2007). Indeed, recipients of public services may not be regarded as customers or clients as they often have no choice and little redress against inefficiency. This is what NPM seeks to address.

New Public Management has been a feature of public-sector reform in a number of richer countries, including Australia, Canada, the Netherlands, New Zealand, Sweden, the United Kingdom and the United States of America (Glor, 2001). However, countries as diverse as Botswana, Latvia, Namibia, Nepal, Rwanda, Thailand, Turkey and the United Republic of Tanzania have also shown an interest in adopting it (Levy, 2007; Bryld, 2003; Kiragu and Matuhaba, 2006). Although the approach is given the label of NPM, there are some important differences in policy and execution between countries. For example, New Zealand has tended to use contracts between government ministers and service providers (Christiansen and Lægreid, 2001). By contrast, the United Kingdom has placed greater emphasis on citizens' charters and entitlements of individuals. Rather than

relying on ministers to enforce contracts, individual citizens have been provided with means of redress if services are unsatisfactory (NAO, 2005a). Differences in approach mean that, in some respects, NPM is a convenient label under which to bring together a diverse series of changes in public administration rather than being a coherent philosophy of public management. However, at the heart of NPM is the identification of efficiency problems faced by governments.

NEW PUBLIC MANAGEMENT AND THE MANAGEMENT OF PUBLIC LANDS

The provision of real estate assets for public services involves a number of distinct processes - design, building, financing, operation and ownership. These are capable of being delivered by different bodies. Under NPM, the public sector commissions services and determines specifications. However, the delivery of a service can be by a number of different types of body. These include direct provision by the public body itself, delegation to another public body operating in a semi-autonomous fashion as a public trading company, or contracting out to a private company or charitable organization. Like large privatesector companies, the public sector is faced with questions about which parts of its processes it should deliver itself, which parts to contract with others to supply it with inputs, and which to outsource to others to supply direct to its clients.

Separation between the body that commissions public services and the contractor that supplies them is at the heart of the NPM and has particular implications for the management of real estate:

- There is a drive for increased efficiency in the use of real estate and parsimony in the allocation of resources to it as the commissioning body seeks greater output from reduced resources. The result is to generate surplus properties that can be disposed of.
- The control of real estate resources is likely to pass into the hands of front-

line service providers who are not real estate specialists, e.g. head teachers or doctors. Real estate professionals may have to justify the use of land and buildings to those who are likely to have other priorities and may be biased towards favouring expenditure on other resources, such as staff.

- Emphasis is placed upon activities rather than ownership. The means by which access to land is gained for the provision of public services is less important than the achievement of the targets for the services. Ownership is not an objective in its own right and real estate assets may be rented if this is more effective.
- Real estate is likely to be seen as a non-core activity by public-service providers and, therefore, an activity that can be contracted out.
- Performance targets are likely to be used for real estate, such as space standards, the quality of premises and periods of downtime.
- Greater customer orientation of publicservice facilities is likely to mean their redesign and refurbishment to make them more user-friendly.

THE MOVE TO ACCRUALS ACCOUNTING

The move to NPM has gone hand-in-hand with a second major change in public management, the introduction of accruals accounting. Arguably, the impact of accruals accounting on the management of public lands is even greater than that of NPM. Accruals accounting is a system under which income and costs are matched so that the income earned in an accounting period is recorded together with the costs incurred in earning it. It enables companies to compute the profit (or loss) for each trading period with the costs incurred being deducted from the revenue earned as a result of their expenditure. An important aspect of accruals accounting is that revenue is treated as having been earned when invoiced rather than when it is paid. This enables advance sales and sales on credit to be allocated to the correct

accounting period. Similarly, costs are treated as occurring when they are incurred and not when paid so that prepayments and sums owed to creditors are allocated to the correct trading period. An important technical problem is what to do about the costs of fixed assets, such as machinery and buildings, which are used over a number of trading periods. These must be apportioned among the time periods in which they are used. This enables their cost to be recovered so that they can be replaced at the end of their economic life. The use of accruals accounting is a requirement of International Accounting Standards and local Generally Accepted Accounting Principles (GAAP). Such accounts show whether companies are going concerns, meaning that they are able to meet all their liabilities and costs, including the costs of their fixed assets.

Traditionally, governments have not used accruals accounting for their own accounts. Instead, they have tended to use cash accounting systems. Public bodies account for the appropriations they receive. Unused appropriations typically have to be repaid. Costs are charged against the year when they are paid and not when the assets are used. The combination of costs being charged against the year in which they have to be paid rather than incurred and the inability of public bodies to either carry a surplus or a deficit forward to the next financial year results in practices such as spending sprees at the end of the financial year to use up appropriations and delaying certain payments until the new allocation is received. The result is that costs are not matched against income.

A particular problem is the cost of fixed assets. Revenue accounts are often only charged with the direct costs of using fixed assets like buildings, such as energy and security costs. They are not charged for depreciation or amortization and so no contribution is made to maintaining the capital stock. Nominal or no rent is charged for the use of the land and buildings. This means that fixed assets are often "free" goods for government bodies,

which may not pay the true economic cost of using them.

Under accruals accounting systems, public bodies compile balance sheets and account for the costs of using fixed assets such as buildings and premises. These are depreciated or amortized as wasting assets that have to be replaced at the end of their economic lives. Depreciation has not been a traditional aspect of government accounting (CIPFA, 2002). If the value of an asset has declined, there should be an impairment charge. Public bodies are expected to generate a return on their capital, including real estate assets, equal to its opportunity cost. Their liabilities include the equity owned by taxpayers. Buildings and premises are no longer "free" goods. How much of them to use and whether to own or rent them become significant issues when real estate is no longer a free good.

The income and expenditure accounts produced under accruals accounting differ significantly from those produced on a cash accounting basis (HM Treasury, 2005). They are similar to those produced by companies. Alongside accounts that reconcile expenditure to appropriations, public bodies must also produce operating cost statements or income and expenditure accounts, balance sheets and cash flow statements. These require governments to develop and adopt new public-sector accounting standards against which these accounts can be audited. Various countries use accruals accounting: New Zealand since the mid-1990s (Dow et al., 2006; The Treasury, 2005); Australia for departments of state since 1994/95 and for the whole government since 1999/2000 (Conway, 2006); the United Kingdom since the 1990s, with accounts following the GAAP since 1998/99 (HM Treasury, 2005); and Canada since 2003 (McKellar, 2006). The spur to change was budgetary crises, and accruals accounting was intended to ensure that these would not be repeated. For example, in the United Kingdom, it was to cement self-imposed government expenditure rules adopted in 1997 about only borrowing over the course of an economic cycle to fund

investment and the need to distinguish between borrowing for investment and borrowing for current expenditure (CIPFA–Audit Commission, 2004). However, in order to implement accruals accounting across the whole of government, the government had to produce a manual that set out government accounting standards (HM Treasury, 2005, 2007) and to create an independent financial reporting board that reports to parliament on compliance with the national GAAP.

ACCRUALS ACCOUNTING AND THE MANAGEMENT OF PUBLIC LANDS

Accruals accounting has brought about some important changes to the way in which public lands are managed:

- The maintenance of accurate records of public lands, because these are essential for compiling public-sector balance sheets.
- The valuation of real estate assets.

 A balance sheet requires not just a list of assets but also their values. In New Zealand and the United Kingdom, governments have adopted valuation standards, which are compliant with International Valuation Standards (The Treasury, 2007; HM Treasury, 2007).
- Charging public bodies the full economic costs of using real estate assets.
- Obliging public bodies to pay for the cost of capital tied up in real estate.
 In the United Kingdom, a charge of 3.5 percent in real terms is applied (HM Treasury, 2007).
- The employment of discounted cash flow investment appraisal. The target return on capital is used to determine priorities for capital investment (e.g. HM Treasury, 1997, the so-called "Green Book").
- The use of formal risk management techniques to take account of potential inaccuracy in projected cash flows in investment appraisal and how risks can be managed or shifted on to other parties (e.g. HM Treasury, 2004, the so-called "Orange Book").

• The development of performance measures for real estate assets. These are essential to ensure that users do not economize on the use of real estate assets to meet financial targets at the expenses of the quality of public services and the satisfaction of their users with these. For example in the United Kingdom, HM Prison Service is obliged to provide prison accommodation in accordance with a measurable standard, which is audited through a cell certificate checked on a daily basis.

A central question for the public sector is whether it should own property. There are few property services that the public sector cannot, in principle, purchase from the private sector. Its property needs could be met by leasing or some form of partnering arrangement with the private sector. The adoption of accruals accounting makes explicit the costs of owning real estate assets. It forces public bodies to be clear about why property should be owned. For example, the Government of Australia states that the circumstances in which property should be owned include where the yield from its benefits exceeds the opportunity cost of capital, where the property has national symbolic significance, where it is needed for national security or has a highly specialized use, and in situations of market failure (Conway, 2006).

THE CHANGING MANAGEMENT OF PUBLIC LANDS

Public bodies have real estate assets that perform different functions including:

- to deliver a direct service to the public, e.g. schools and roads;
- to support service delivery, e.g. administrative offices;
- investment properties to generate income;
- properties whose ownership is vested in a public body as the trustee or guardian, e.g. heritage buildings and reserves set aside for indigenous peoples.

The issues raised with the first two types of property are essentially matters

of efficiency, and NPM and accruals accounting are central to these. The last two raise issues of values and principle.

There is a tension between the occupational and investment requirements of real estate assets (McKellar, 2006; Edington, 1997). Those front-line staff who need public lands for operational reasons desire operational autonomy to acquire and dispose of real estate as they see fit. They seek to gain access to it by whatever means they deem appropriate, whether by lease or ownership. For them, land is just another facility, like vehicles or computers, for which costs need to be minimized. They have no incentive to invest in real estate assets beyond the contribution they make to current service output. By contrast, central institutions have an ownership and portfolio perspective. Their objectives may include income, capital growth and the avoidance of having vacant properties. Income from rents and other charges is an alternative source of revenue to taxes. They may wish to invest in real estate where there are potential future benefits rather than just to secure improvements to current services.

Much of the operational property used to deliver public services is of a specialist nature for which there is no general market, e.g. schools, hospitals and prisons. It is not easily converted to another use. Their design influences how the services are provided and is an integral part of the delivery of the service itself. How the real estate assets are to be managed is, therefore, closely connected to questions about how the service itself is to be managed. The traditional model of providing public services is that the public sector should deliver them through direct management and own and manage the real estate for doing so. There are a number of alternatives to the traditional model that have implications for the way in which operational real is estate managed:

 Public sector agencies: The use of semi-autonomous public agencies to deliver public services is a feature of NPM. These function as publicly owned trading bodies managed by boards and quasi-directors. Their income is derived from the commissioning bodies or charges on users. For example, in the United Kingdom, only 5 percent of the civil service worked for agencies in 1988 but by 2002 this had increased to 78 percent (OPSR, 2002; NAO, 2003). In 2002, there were 127 executive agencies. Agencies can also work at local government level. Agencies function within an accruals accounting framework and have to produce a return on the capital they employ. They seem to work best when given a narrow range of tasks to fulfil for which precise key performance indicators can be set.

- Outsourcing or strategic partnership arrangements: The service is delivered to citizens free at the point of consumption but is provided wholly or partly through contract with a private company.
- Private Finance Initiative (PFI): PFI projects involve the private sector providing and maintaining the infrastructure for the delivery of public services (HM Treasury, 2003). They mainly involve the construction or refurbishment of real estate assets like schools or hospitals. A private consortium finances and constructs (or refurbishes) the facility and undertakes to make it available for a period of time under specified conditions, with the public body paying an annual charge.
- Public-works or public-service concessions: The concessionaire constructs and operates a facility, such as a road or bridge, in return for receiving the fees paid by users. At the end of the contract, the facility reverts to the public sector.
- Privatization: Privatization has been used to introduce contestability in services that were once the preserve of publicly owned utilities.
- Deregulation: In some industries, governments have ceased to provide what was a public-service monopoly service. Instead, private companies compete to offer the service.

Support assets are not unique to the public sector. For example, offices can have many different types of user. The public sector can supply them but this means it will retain the risk of doing so, such as obsolescence or redundancy if the pattern of public services changes (PricewaterhouseCoopers, 2004). The public sector has an incentive to shift the risk on to the private sector. Different solutions have been tried to this problem. In Australia, non-defence government property is leased to public bodies by the Department of Finance and Administration at market prices with service standards being guaranteed by contract (Conway, 2006). In the United Kingdom, the government has used a PFI approach to sell support properties to the private sector that it then leases back (NAO, 2004, 2005b). A number of leading private companies have followed the government's lead and outsourced their own real estate in exchange for taking on contracts for longterm supply of serviced accommodation.

CONCLUSION

The combination of charging public bodies the full economic costs of real estate assets plus greater power of front-line staff over how their budgets are spent and incentives has meant that public bodies are motivated to search for the most efficient means of providing real estate assets for public services. It is tending to result in the disposal of underperforming assets, a debate about whether assets should be owned or rented, and attempts to shift risk on to the private sector. Comprehensive asset management strategies are needed that are part of a public body's strategic planning process. How universally applicable these changes are is open to debate. Hood (1991) has argued NPM assumes a culture of public service with honesty and neutrality as given. Schick (1998) has argued that these reforms depend upon internal markets and internal contracts, which in turn require robust markets and means of contract enforcement. Surely the last thing to be recommended in

a country in which governance is weak is to loosen controls over front-line staff? The analysis of requirements for good governance in land administration by FAO (2007) showed that many of the policies that can be used to enhance the quality of governance are compatible with NPM and accruals accounting. The pursuit of good governance and improved efficiency may well go together.

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