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Consultancy Services to
The Government of the
Republic of Trinidad & Tobago

LAND USE POLICY AND ADMINISTRATION PROJECT (LUPAP)

REPORT ON A LAND MANAGEMENT ENTITY FOR STATE LANDS:

The legal, institutional, administrative and technical responsibilities, resources, capabilities of State land management entities and recommendations for restructuring into a viable State lands management entity.

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LIST OF ABBREVIATIONS

COSL	Commissioner of State Lands
CDA	Chaguaramas Development Authority
PIDCOTT	Property and Investment Development Company of Trinidad and Tobago
PRESD	Property and Real Estate Services Division
SILWC	Sugar Industry Labor Welfare Committee.
GIS/LIS	Geographic Information Systems/Land Information Systems
GORTT	Government of the Republic of Trinidad and Tobago
IDB	Inter American Development Bank
LAD	Land Administration Division, MALMR
MALMR	Ministry of Agriculture, Land and Marine Resources
TCPD	Town and Country Planning Division

1 INTRODUCTION

1.1 *Term of Reference*

As part of Government's efforts to rationalize the functions of various offices dealing with land matters, it proposed in a Cabinet Minute No. 2192 of 25 August, 1994 that a Land Management Authority (LMA) be established as a statutory body responsible for the management and divestiture of State Lands, the containment of squatting on these lands, the acquisition of private lands for State purposes, performance of all State mandated surveying (including hydrographic) and mapping activities. It has been further proposed that the LMA also consolidate the responsibilities for the regularization of tenure on State agricultural land, the registration of land rights, land valuation and government based land information management.

As this proposal may pose duplications with recent legislative reforms and institutional decisions, LUPAP is providing technical assistance needed in developing a rational land management framework and implementing the required institutional reforms.

1.2 *Methodology*

The Terms of Reference for this project suggested that technical assistance will be provided to the Ministry of Housing and Settlements /Lands and Surveys Division in the form of developing the conceptual framework and an implementation plan for the establishment of an entity responsible for land management. In pursuing this task, the LUPAP team found it necessary to provide itself and its readers with working definitions of the terms "State land", "land management" and "land administration".

It is ironic that the term "State land" is not defined in the State Lands Act Chapter 57:01 of the laws of Trinidad and Tobago. An examination however, of the various other pieces of legislation reveals that there are varying definitions of the term as it appears in these Statutes in Trinidad and Tobago. The term "State land" is defined in these Acts to suit the ends and objects of each particular piece of legislation. Generally however, the term is intended to mean lands in Trinidad and Tobago which are not privately owned or held, and over which the State through a government agency, a specially chartered authority, or a wholly State owned corporation exercises ownership. That exercise of ownership can be directly through the Commissioner of State Lands under the State Lands Act, or through various State enterprises, e.g. Caroni (1975) Limited and PETROTRIN and other entities which are either wholly in the main, funded by the State. In respect of the latter however, it is these entities, which exercise management functions over the lands, though in many instances, there is no formal vesting of proprietary interest in them.

We define the term "**land management**" to describe decision making by the owners of the land about the use and enjoyment of land. The term "land" includes land parcels and buildings attached to the land. In a functional way, land management, including the management of State owned land, should be a very inclusive activity, spanning both the direct use of that land by State

agencies, or the leasing of State land by the State to private holders of the land and also the supervision of those leases by a State agency. State land management functions also include the acquisition of private land for public purposes.

By the term “**land administration**” we mean the processes of recording and disseminating information about the ownership, use and value of land (a United Nations definition).

1.3 State Land Management

In the conceptual framework under which LUPAP is operating, State land management agencies carry out some or all of the following functions:

- 1) locate the land under management
 - parcel surveys and maps
 - identify reserves and other areas that cannot be alienated;
- 2) evaluate its value/capability;
 - determine rent prices with and without subsidies
 - assess capabilities of land for specified uses
- 3) conserve the land for designated purposes;
 - monitor adherence of users to terms of allotments
 - manage squatting and informal uses
 - foreclose on those in violation of allotment agreements
- 4) distribute and allocate the land to identified and contracted users;
 - select recipients
 - choose tenure forms
 - formalize rights and responsibilities
 - transfer of land to other agencies when use changes or should change
- 5) collect rents and other debts;
- 6) acquire land when required.

Using these terms as guides we identified sixteen (16) core agencies, scattered within seven (7) Ministries and the THA, which exercise some functions of State land management in Trinidad & Tobago. These are listed in Appendix A: In a similar fashion, we have identified nine (9) major land administration units. (Appendix B:)

Our study examined a sub-set of the State land management institutions in respect to four topic areas:

- a) Their legal authority to manage state lands
- b) The resource they manage
- c) How well they perform basic estate management functions
- d) Their administrative and technical capability to manage state lands

The LUPAP team then conducted four “collective determination” sessions involving both researchers and members of our Steering Committee. These sessions addressed the following questions:

- a) What should be the minimum set of comparative indicators to use in assessing the management of state lands?
- b) What have we found out from our assessment?
- c) On the basis of our assessments what are the feasible options for the reconstitution of an administrative and legal framework for state land management?

The LUPAP team (including consultants and their counterparts) initiated a review of past land management policy documents and studies, and gathered supplementary information pertaining to State land management by the agencies selected for the LUPAP study.

After this document review, the specialists have undertaken a legal, institutional administrative and technical review of government land management entities, attempting to answer two general questions:

- 1) Without any administrative merging, what can be done to improve the effectiveness and efficiency of the main state land management agencies?
- 2) Is the merging of 2 or more state land management agencies and/or some land administration functions from land administration agencies into a Land Management Entity justified?

Since the information linkages among these land management and land administration agencies are of critical importance, the GIS/LIS experiences of agencies in Trinidad and Tobago have also been assessed.

The first deliverable under the LUPAP for the LME theme is this report, that is:

Report on the legal, institutional, administrative and technical responsibilities, resources, capabilities of the entities and recommendations for restructuring into a viable State Lands management entity.

2 Background

This document is a discussion paper on State land management, excluding from the detailed discussion forest and protected land. State lands other than constituted forests cover 129,288 hectares in Trinidad and 3,665 hectares in Tobago. The State is responsible for the management of this large estate, preservation where needed lands for posterity, and promotion of development of land for various purposes determining the competing demands of the various sectors, be they agriculture, industry, commercial, housing, recreation, wildlife conservation or tourism. This makes it incumbent upon the State to erect an institutional structure by virtue of which land resources may be located, evaluated, conserved and distributed so that they may be utilized on a sustainable basis and to the greatest national advantage.

At the same time, land has great social and political meaning, which gives rise to a powerful concern for the availability and access to land by the poor and landless as a form of social empowerment. This philosophy uses as its base the argument that the Constitution of the Republic of Trinidad and Tobago recognizes that there is the fundamental right of each citizen to the use and enjoyment of property and the right not to be deprived thereof except by due process.

There is a recurring policy conflict about land management, when policies, which are based on land as an economic resource, collide with policies based on land as a form of social empowerment.

The paper presents an analysis of the complex issues surrounding land management by the State and suggests possible alternative actions which may create a pathway to the achievement of Government's objectives for development as enunciated in the New Administration and Distribution Policy for Land (NADPL) of 1992.

2.1 Some Historical Notes on State Land Management

The Crown Lands Ordinance of 1918 provided that the administration and disposal of Crown Lands should be exclusively vested in and exercised by the Governor as Intendant of Crown Lands, who appointed a Sub-Intendant of Crown Lands whose duties were defined as:

Section 6(1) The Sub-Intendant shall, under the direction of the Governor, have the management of all lands of the Crown, and shall be charged with the prevention of squatting and encroachment upon the same and of spoil and injury to the woods and forests on such lands, and shall superintend the settlement and allotment of Crown lands and the laying out of village lots in such districts as the Governor from time to time directs.

(2) The Sub-Intendant shall also take possession of, and shall be charged with the care and letting and the collection of the rents of, all lands which may belong or escheat to, or which by virtue of any Ordinance may be forfeited to and become vested in, His Majesty.

In 1938, the post of Director of Surveys was created, and the incumbent was responsible for the surveys of all lands of the Crown. The Director of Surveys and the Sub-Intendant worked very closely in the survey and management of the lands belonging to the Crown. Throughout subsequent decades the functions exercised by the Sub-Intendant were so interwoven with those of the Director of Surveys, that the designations of Director of Surveys and Sub-Intendant became interchangeable.

The apparent effectiveness of State land management under that system was the ability of the Sub-Intendant to delegate authority to the Wardens for ensuring that land was properly managed. The State Lands Act of 1980, (Chapter 57:01) abolished this system and replaced the Sub-Intendant post with a Commissioner of State Lands post which to date has never been filled. No effective mechanism for decentralized estate management under the Commissioner of State Lands was ever put into place to replace the Sub-Intendant/Wardens system.

Instead, what has evolved has been the creation of numerous other entities with special mandates for State land management and constituencies. Some of these entities have been vested with the authority to manage State lands instead of the Commissioner, such as the Chaguaramas Development Authority, and some of which have been assigned some of the State land management functions of the Commissioner but not all of them, such as the LAD which identifies the lessees but relies on the Commissioner to prepare and execute the leases, and to take legal action when a lessee is in breach.

Perhaps this creation of other State land management forms was inevitable as Trinidad and Tobago evolved into a more democratic State and developed a more diversified economy. Before WWII, the management of Crown Lands was relatively easy, with a small and relatively unified land holding class in tune with a colonial administration. After the War, and particularly after Independence, things got much more complicated very quickly.

One factor remained constant, however. That is, the policy for the distribution of State owned lands is through long term leases granted by the State, as a result of the Land Grant Regulation of 1941. This regulation effectively precluded the granting of freehold interest in State land to holders, and has been in effect to this day.

Another constant factor has been the lack of amendments to the State Land Act, since 1980. The **State Lands Act Chapter 57:01** of the laws of Trinidad and Tobago vests the right of ownership of State lands in the President. The President empowers the Commissioner of State Lands to exercise those rights. The repository of the plenitude of power exercised over State land therefore vests in the Commissioner of State lands. The Act is an amalgam of 8 pieces of legislation, with its original form first published and passed in 1918 dealing with Crown Lands.

Similar to the 1918 Act, Section 6(1) of the State Lands Act states that the Commissioner of State lands shall have the management of all lands of the State, and shall be charged with the prevention of squatting and encroachment of State lands. The Commissioner is also empowered with the responsibility of “*preventing spoil and injury to the woods and forests on such lands*” and shall “superintend the settlement and allotment of State lands and the laying out of village lots in such districts as the President from time to time direct.

Under the Act, (Section 6(2)), the Commissioner is to take possession and is charged with the care and letting (leasing) of State lands and the power to collect rents in respect of all State lands. The Commissioner also has power to grant permits to use certain roads on State lands. He signs deeds and instruments as regards mining and licenses and other leases, surrenders, grants and exercises rights over the foreshore or lands under territorial waters or for reclaiming lands from the sea.

Apart from these functions, the Commissioner of State lands (who has also been in charge of Surveys in the Public Service), has the power to enter upon private lands adjoining State lands for the purpose of ascertaining whether State lands have been encroached upon. The Director of Lands and Surveys also has power to enter upon private lands to ascertain boundaries when it is required for a public purpose.

The Act also provides for a system of offences and penalties in relation to certain activities on State lands including digging or removing material without license and for other offences.

Most importantly however, the Act provides a system for dealing with squatting and encroachment. The issue of squatting and encroachment upon State lands are given paramount importance under the State Lands Act and the Commissioner exercises, in respect thereof, wide powers. He institutes prosecutions for encroachment on State lands through the Director of Public Prosecutions at the Magistrates' Courts and ensures that the State's land reserves are preserved. The Act devotes a number of Sections to this function and it is presumed that the intention of Parliament and of the framers of the legislation at the time it was passed, was to curb the practice of squatting and encroachment on State lands (formerly Crown lands) through this office and the body of law.

In 1959 during the re-organization of the Public Service, a decision was taken to separate the Lands function from the Survey function. The post of Commissioner of State Lands was created and classified but never filled and apart from a few structural changes within the Division, the old model continued to operate. When the State Lands Act was revised in 1980, Legal Notice No. 19 of 1980 was published to empower the Director of Surveys to carry out the legal and administrative functions of the Commissioner.

While the statutory responsibility for the management of all State lands is assigned to the Commissioner of State Lands, State lands management functions are now scattered amongst several agencies which either have discrete statutory responsibilities for land or responsibilities enshrined in their mandates for different aspects of the management of the same parcels of land.

2.2 Legislative Framework for Land Management

There are numerous pieces of legislation which pertain to specific categories of land and the regulatory aspects of their utilization. Appendix D lists these pieces of legislation. A review of the legislation has indicated that certain strategies proposed for implementing the NADPL are in direct conflict with existing legislation (see "An Analysis of the Legal Framework for State Land Management in Trinidad and Tobago", Prepared by Kelvin Ramkisoon, February 25, 2000). Many of the agencies which manage State lands operate under separate legislation and in many instances the legislation is out of date. In addition, land rental and squatter management policies across State agencies show several inconsistencies with one another.

2.3 Policy Framework for State Land Management

State land management policy, to the rational policy maker, must have a philosophy which must maximize this limited resource for sustainable development and the achievement of realistic social goals, while at the same time have due regard to environmental concerns.

In recognition of existing land and resource tenure problems, in November of 1992 the Ministry of Planning and Development of the GORTT published a document entitled A New Administration and Distribution Policy for Land. This new policy has as its general policy, the goal to: "...maximize the benefits which the community derives from national land resources,

while seeking a balance between current gains and sustainable development.” The policy also proposes goals of:-

- (i) preventing prime agricultural land from being subjected to non-agricultural uses through the institution of land zoning;
- (ii) providing adequate security of tenure for tenants of State lands;
- (iii) discouragement of land speculation and putting idle land into production;
and
- (iv) promoting development that is economically, socially and ecologically sustainable.

The New policy sets out a series of proposals and a legal framework to promote better land administration, including:

- (i) new mapping for Trinidad and Tobago with modern geodetic and topographic formats;
- (ii) full cadastral surveys for all state lands;
- (iii) a new computer-based graphic and non-graphic land information system using a uniquely-defined parcel numbering system;
- (iv) a strengthened land-use zoning system;
- (v) establishment of a system of protected areas for ecotourism development and for preserving fragile ecosystems backed by new legislation;
- (vi) rental rates based on market values of land; and
- (vii) approaches to prevent further land fragmentation (i.e. minimum parcel sizes based on economical and environmental criteria for land use).

The policy also proposes that all agricultural leases be subjected to guidelines in order to prevent environmental degradation caused by inappropriate production practices, as well as respecting the fragile ecosystems.

2.4 Studies of State Land Management

Over the period 1985 to 2000, several studies have been done with respect to land management in this country in general and the management of State lands in particular. In the early 1990's, a study culminated in the Land Rationalization and Development Programme (LRDP) proposals, only a few of which have been implemented.

The Baldwin/Reyes study of 1996 of the Lands and Surveys Division management of State land recommended major management improvements, with some, limited implementation.

In the late 1990's a study of the legal authority for State land management culminated in the preparation of a Cabinet note proposing the amalgamation of the Commissioner of State Land, Valuation Division, and Property and Real Estate Services Division.

The studies produced a voluminous set of documents pertaining to the issues surrounding land policy and land management, including squatting, and a comprehensive set of recommendations for reform of land management in Trinidad and Tobago.

In summary, the analyses revealed a series of land management and tenure problems that constrain sustainable development of the country as well as the protection of areas not appropriate for agricultural or urban uses.

The implications of these weaknesses in State land management are:

- Widespread failure to collect land rents, resulting in a total arrears of about TT\$15 million for land leases managed by the Commissioner of State Lands, and at least TT\$8.4 million of quarry leases managed at least partially through the Commissioner of State Lands;
- Under-utilization of parcels—about one third of State owned agricultural parcels which have at some point been farmed by farm families today are entirely abandoned;
- Undocumented and insecure tenures—only 11% of all state owned agricultural parcels are actually being farmed under a valid Standard Agricultural Lease.
- Extensive and uncontrolled squatting—over 25,000 parcels of State land are used for housing by squatters, and over 8,600 families are squatting on over 26,000 hectares of state owned agricultural land.
- Environmental degradation—people build houses in environmentally sensitive areas and without provision for infrastructure investments, quarry and mining leases are not adequately supervised, and agricultural land is exploited for short term gain in unsustainable ways.

3 LUPAP CASE STUDIES

In 2000, the LUPAP studies were conducted of 14 of the major State land managers:

1. “Assessment of the Commissioner of State Lands”, 15 March, 2000;
2. “Land Administration Division, Ministry of Agriculture, Lands and Marine Resources: Assessment of State Agencies with Responsibilities for Lands and Real Estate”, March, 2000;
3. “Property and Real Estate Services Division, Ministry of Public Administration: Assessment of State Agencies with Responsibilities for Lands and Real Estate”, March, 2000;
4. “Sugar Industry Labour Welfare Committee: Assessment of State Agencies with Responsibilities for Lands and Real Estate”, April, 2000;
5. “National Housing Authority: Assessment of State Agencies with Responsibilities for Lands and Real Estate”, April, 2000;
6. “Land Settlement Agency : Assessment of State Agencies with Responsibilities for Lands and Real Estate”, April, 2000;
7. “Assessment of State Land Management in Tobago”, 8 May, 2000;
8. “Chaguaramas Development Authority: Assessment of State Agencies with Responsibilities for Lands and Real Estate”, March, 2000;
9. “Property and Industrial Development Company of Trinidad and Tobago: Assessment of State Agencies with Responsibilities for Lands and Real Estate”, March, 2000;

10. “Petrotrin/Palo Seco Agricultural Enterprises, Ltd.: Land and Property Management by a State-Owned Natural Resource Producer”, May, 2000;
11. “Caroni (1975) Ltd: Land Management Functions”, May, 2000;
12. “Ministry of Energy and Energy Industries: Assessment of State Agencies with responsibilities for Lands and other real properties”, April 22, 2000.
13. “An Analysis of the Legal Framework for State Land Management in Trinidad & Tobago”, February 25, 2000.
14. “Report on the Information Structures, Needs and GIS Experiences of State Agencies involved in Spatial Information for Land Administration” April 18, 2000.

Significant managers of State land not included in this series of case studies are:

1. Forestry Division, MALMR, since this Division is being reviewed by other projects.
2. Division of Settlements, Tourism and Information, THA, as desired by the THA counterparts;
3. Non Pareil Estate, MALMR, since this property is in the process of being sold;

And because of their special circumstances, the following were not included in the LUPAP studies:

4. Public Transport Services
5. National Port Authority
6. NIPDEC
7. Point Lisas Industrial Development Company
8. Regional Health Authorities
9. Airport Authority
10. Port of Spain Corporation.

Land Administration units which service the land management entities include:

- District Revenue Offices, Ministry of Finance: Collects realty taxes and land rents.
- Valuations Division, Ministry of Planning and Development: Advises the State on values of properties for rental, acquisition or compensation purposes.
- Registrar General’s Department, Ministry of Legal Affairs: Keeps records of private interests in land, including State land.
- Administrator General, Attorney General’s Department, Ministry of Legal Affairs: Processes certain intestate inheritances.
- Town and Country Planning Division (TCPD), Ministry of Planning and Development: Processes requests for subdivisions and changes in land use designation.
- Various regulations, A.G. decisions and court decisions relevant to the Land Management component.

3.1 Commissioner of State Lands, Lands and Surveys Division, Ministry of Housing and Settlements.

The work undertaken by the Commissioner of State Lands involves the following:

- (a) Processing new leases, renewals and other tenancy agreements
- (b) Regularization of breached tenancies and serving of advisory notices on tenants in breach
- (c) Preparation and Registration of State Grants
- (d) Grant of consents for transfer of leases, assignments and mortgages
- (e) Approval of Building Plans on state lands
- (f) Acquisition of private land for public purposes
- (g) Matters pertaining to land reclamation, mines and quarries
- (h) Resolution of land disputes
- (i) Court matters

The statutory responsibility for the management of all lands belonging to the state rests with the Commissioner of State Lands. However, over the years, the policy makers have taken away development functions pertaining to State land in respect of agriculture lands, housing, encroachment regularization, ports, health authorities, State land in Tobago, tourism and industrial development, roads, and various development authorities in special areas. Action is being pursued to do the same in respect of quarries, mines and land reclamation. The Commissioner of State lands at present is left with the management of leases, issue of new leases for isolated or abandoned pieces of state land found among already leased out land, acquisition of private land for public purposes, and the regulatory aspects. Any reforms to the existing organizational structure of the Commissioner of State Lands has to take into account the realities of the present legal framework and the limitations imposed.

The responsibility to process applications for licenses for quarries, mines and reclamation of land has been taken away by Cabinet decision, and two committees appointed by the Cabinet have been entrusted the tasks of processing such applications. The Commissioner of State Lands is a member of these committees. The Commissioner does not possess the technical capacity within his establishment to process such applications.

The Commissioner is also charged with the collection of the rents of lands that belong to the State.

The Commissioner of State Lands does not exercise to the full the powers of administration, management and protection of state lands and the preservation of order on State lands nor does he possess the resources to effectively implement the powers conferred on him.

3.2 Land Administration Division, Ministry of Agriculture, Land and Marine Resources

The management of State owned lands has relied on long-term leases granted by the State since the Land Grant Regulations of 1941. While the statutory responsibility for the management of all State lands is resident in the Commissioner of State Lands, estate management functions for those lands designated as “agricultural” has rested with the Ministry of Agriculture, Land & Marine Resources which develops agricultural parcels for distribution, selects tenants and

facilitates the leasing of these parcels to those selected. The Ministry then monitors the performance of these leases and reports to the Commissioner of State Lands as well as advises on transfers and renewals of these leases.

The Land Administration Division of the Ministry of Agriculture, Land & Marine Resources is a Division created within the Ministry in 1994 by Cabinet Minute No. 2192-94/08/25 to coordinate the activities of the Ministry with respect to land management by carrying out the following functions:

- i. Coordination of the identification of blocks of land to be distributed/regularized by grant of Standard Agricultural Lease
- ii. Administration of the processes of granting titles to State agricultural lands, in accordance with Government's stated policy.
- iii. Management of the tenures granted over State agricultural lands;
- iv. Maintenance and upgrading of the State Agricultural Land Information System (SALIS)

There are approximately 17,000 parcels of state owned agricultural land held presently or previously by farmers. Of these, only 11.5% are actually being farmed under a valid Standard Agricultural Lease (SAL). Nearly 6,000 parcels of state owned agricultural land, which have at some point been farmed by farm families, are today entirely abandoned. Only 50% of the people in possession of the land are listed in the files of the MALMR as some type of documented tenant, while another 20% are "agents of the original tenants". Nearly 15% of the people in possession of state owned agricultural land are squatters, without any documented right to the land. About 50% of these 17,000 parcels are less than 1 hectare in size, a group averaging only 0.5 hectares, and 45% of the parcels are between 1 and 5 hectares in size, averaging only 2.2 hectares. Having this information available is possible since the development of the State Agricultural Land Information System--SALIS-- data base.

Problems facing the Land Administration Division

The Division operates without an independent budget. Funds for general operations are "stolen" out of funding for the maintenance of the SALIS. As a result, financial resources are inadequate.

Dependence on other Divisions and agencies for critical aspects of the tenure administration processes resulting in long delays severely handicaps the Division in completing its activities. In order to alleviate this problem, the Division has proposed and is implementing an Accelerated Land Distribution Programme (ALDP) as an experimental mechanism for accelerating the rate of execution of leases in order to meet conditionality targets for the Agriculture Sector Loan contracted with the IDB.

There are inadequate and non-transparent mechanisms for accessing training opportunities in the Ministry of Agriculture, Land & Marine Resources.

3.3 Property and Real Estate Services Division, Ministry of Public Administration

The Property and Real Estate Services Division (PRESD) of The Ministry of Public Administration develops and maintains government properties to 'ensure maximum utilization and economic returns'. The Division was established to undertake the following:

- Negotiations for acquisition and rental of properties on behalf of The State
- Allocation of Office and Residential accommodation for Government officers
- Planning and Research on property and real estate matters

Investigations indicate that the land management functions being carried out by PRESD include the management of all buildings owned and leased by the state and the acquisition of lands by private treaty. The functions of PRESD are closely related to those of The Commissioner of State Lands and The Commissioner of Valuations. The Division has no authority vested in it but acts as a facilitator for the acquisition and leasing of properties. The Authority is vested in The Commissioner of State Lands and The Commissioner of Valuations.

Major problems facing the agency

The following are the major problems facing by the Division:

- a. A severe staffing shortage.
- b. The lack of in-house property valuation skills
- c. Delays in obtaining advice, decisions and services from other Government Agencies.

The Division indicated that the staffing shortage was a critical issue. The lack of valuation skills contributes to the delay in processing matters since the advice of the Valuations Division must be sought. Delays experienced in dealings with Government Agencies render time planning a theoretical exercise. To this end, the Division is pursuing the establishment of Liaison Officers in critical agencies to expedite matters on their behalf.

3.4 National Housing Authority, MHS

The National Housing Authority (NHA) is a Statutory Authority whose traditional role has been the construction and allocation either by rental or mortgage of dwelling units with particular focus on the lower income groups of society. It manages approximately 14,600 hectares of land for housing, and approximately 24,000 rental and mortgage clients.

The authorities of the Agency for control over land were vested by the Housing Act which is the Authority's basis of operations. These authorities are summarized in Section 10 of the Act and include among other things the powers to:

- i. Acquire houses, land or housing projects by way of purchase, lease or otherwise.
- ii. Sell, lease, exchange, or otherwise dispose of real or personal property acquired by it pursuant to this Act.
- iii. Participate with local authorities in housing projects.
- iv. Install services in and effect improvements to or in respect of land acquired by it and develop and lay out land for housing purposes.

- v. Construct, convert or improve housing projects.
- vi. Acquire building materials and equipment and other personal property for use in connection with housing projects.
- vii. Hold, operate, manage, maintain, supervise, alter, renovate, add to, improve, repair, demolish and salvage properties acquired by it.

Established in 1962 as a body corporate the National Housing Authority (NHA) is charged with a mandate that includes the construction and allocation of rental and mortgage housing units. It is governed by enabling legislation (Chap. 33:01). The Chairman of the NHA Board signs all leases, mortgages and licenses so that none of these instruments are sent to external sources as a matter of routine.

The shelter policies as administered by the Authority are for the most part consistent with the 'New Administration and Distribution Policy for Land' formulated in 1992. There is, however, under Cabinet direction a shift in policy currently taking place towards privatization of apartments and vesting of lands in development companies.

Review of the organizational structure of the Agency was the subject of an Institutional Strengthening Exercise in the 1990s leading to a proposed revised structure that was accepted by Cabinet. Acting appointments are prevalent. There is a large cadre of daily-paid workers (approximately 900) who are not adequately deployed.

Performance appraisal and monitoring systems exist but lack the necessary infrastructure for their effective use. Clearly identified performance measures and tracking mechanisms do not yet exist. Research and development is neglected. Limited training of staff has taken place in recent years.

The Agency's performance has been compromised by a perception that it is a social landlord. Many of its properties are in disrepair and the high cost of maintenance has prompted a policy switch to disposal by sale. Rents are artificially low. Counter to popular opinion, however, the rate of default on rental and mortgage payments at least in recent years is not high, according to annual report statistics, particularly for rents. Just over 100 housing unit allocations occur annually, a mere fraction of the estimated demand for housing units. Even so, many of these are reallocations of existing units. Much of the land managed by the Authority has not been vested in it, which is a major problem for any divestment.

Given the current uncertainty in role of the NHA and the set organizational culture of this large organization, a merger into a LME is not recommended at this time.

3.5 Land Settlement Agency, MHS

Established in 1999 as a body corporate within the Ministry of Housing and Settlements, the Land Settlement Agency (LSA) is charged with the regularisation of pre-1998 State land residential squatters and the development of new settlements for the landless. It is governed by enabling legislation (Act 25/98) which establishes among the Agency's functions, the issue of three instruments of tenure: Certificates of Comfort, Statutory Leases and Deeds of Lease. These are to be issued to applicants in incremental fashion with a view to making tenure more

accessible to the squatter and landless population. The policy of regularisation as administered by the Agency is also consistent with the 'New Administration and Distribution Policy for Land' formulated in 1992.

As the latest State land management agency, the LSA bears certain institutional peculiarities. Cognizant of the frustrations experienced by other State Land Agencies who need to depend on manpower from Agencies external to themselves in order to carry out routine functions, the LSA's organisational structure comprises a multi-disciplinary set-up of six Units. The Chairman and Directors of the Agency also function as the top line of Management in order to eliminate the gap between policy making and strategising on the one hand and implementation on the other. All staff are contract officers and the Agency enjoys the freedom to hire and fire its own staff. Reporting is done to the Minister rather than to the Permanent Secretary.

Performance appraisal and monitoring systems exist in embryonic form. The necessary infrastructure including clearly identified performance measures and tracking mechanisms are only now being developed. Tentative development targets are documented in several reports. The Agency is, however, aided in its navigation by a small but active Unit engaged in research and development. Training needs of staff have been identified and a policy for and program of training does exist. The Agency has been proactive in arranging consultations with its stakeholders in order to gain greater support and impetus although a formal data sharing policy does not yet exist.

The Agency's short existence to date does not allow for meaningful assessment of past performance. To date the institutional peculiarities and legal authority designed to boost performance have not manifested themselves in high outputs. At the 9 month mark a mere 154 Certificates of Comfort have been issued. No statutory leases or deeds have as yet been issued. No new settlement lots have as yet been allocated. Infrastructural upgrading has begun on over 20 sites but these have in most cases been small-scale projects.

The Agency is particularly challenged in devising effective strategies for revenue collection from beneficiaries of both its regularisation and land development programs given the soft terms of Act 25 of 1998. It has, however, already exceeded its conservative revenue target for the current fiscal year. It also faces a tremendous challenge in protecting the State's land resources from future encroachments given the extensive and geographically diverse nature of State lands, the lack of plans, aerial photographs and up to date maps for many of the scheduled sites and the Agency's limited manpower. Contrary to popular opinion, the Agency views its regularisation program as a way of protecting the nation's land resource base for future generations.

Given the genesis of the LSA out of the National Housing Authority and the short life of the Agency to date, a merger into an LME may not be possible.

3.6 Sugar Industry Labour Welfare Committee, MHS

Established in 1952 as a statutory board under the Ministry of Housing and Settlements, the Sugar Industry Labour Welfare Committee (SILWC) is charged with the granting and monitoring of low interest housing loans and the development of new settlements, in both cases for sugar workers and cane farmers. It is governed by enabling legislation (Chapter 64:04). The

SILWC's land policy is guided by the 'New Administration and Distribution Policy for Land' formulated in 1992.

The Agency's organisational structure drafted decades ago is currently being reviewed. Detailed job descriptions including performance outputs and standards do exist. Like many other State Agencies, the SILWC is making the transition from the Confidential Report form of performance appraisal to the public service's new form of performance management. Development targets are documented in several reports.

The Agency's loan funds are sourced from a cess on every ton of sugar exported by Caroni 1975 Limited. The monitoring system for the use of loan funds is strong and minimizes abuse of funds which are released in installments. The Agency is, however, limited by the absence of any in-house research and development capacity. Training needs of staff have been identified and a policy for and program of training does exist.

The Agency has viewed its legislative authority to dispose of the freehold interest in its lands as compromised by a 1986 government decision to curtail this practice. This decision also led to charges of inequity among beneficiaries pre and post the decision.

Revenue collected in 1999 was 80% of revenue due – a reasonable performance aided by strategic timing of collection drives during harvesting season and salary deductions. The Agency is also reasonably efficient in allocating and conveyancing of lands with standard transactions requiring 2 to 3 months. The Agency's efficiency is also enhanced by contracting-out of valuations when delays would otherwise be incurred. The Agency has also been active in regularisation of squatters on its sites.

Despite its relative success in the field of public shelter, the Agency is challenged by a dwindling client group as defined by legislative limits. Proposals have been made for its services to be extended to other seasonal workers. Despite this threat, a merger to form a unit of an LME is not easily conceived because of the uniqueness of the construction model as practiced by the SILWC and the absence of a suitably experienced State partner with which to merge.

3.7 Caroni (1975) Limited (MALMR)

The company is now a private limited liability company with GOTT holding all the issued share capital. The company is run by a board of directors, which consists of representatives from the trade unions, the cane farmers, and the private and public sectors. The company owns and controls some 77,498 acres of land, making it the largest single landholder in Trinidad and Tobago.

Caroni manages 11,861 acres in cane farmer tenancies and 4,506 acres in long-term leases—the rest is direct managed. Caroni also has 4,800 acres in agricultural and residential squatters.

Caroni has approximately 4,700 household tenants occupying 909 acres of total area. The standard household plot is 5000 square feet, or about 0.125 acres. All of the house lot tenancies fall under the "Security of Tenure Act" (1981), which gives the tenant the right to purchase from the landlord at not more than 50% of open market value. It further stipulates that from 1981 all

residential tenants are to be given 30-year leases. Caroni has not enforced this stipulation and instead offers residential tenants a renewable one-year lease. In a few cases, tenants have challenged this practice and have been issued 30-year leases. The standard rental rate for Caroni house lot tenancies is \$5/year/lot. In many places where these rates are in place, the open market rental rate would be approximately \$25/square foot.

Caroni (1975) Ltd. land management problems include:

1. Uncertainty about impact of divestiture on current land management. Company performance problems create uncertainty about future planning
2. Current agricultural and residential lease are at very low rate, essentially subsidizing tenants. Whether this is a desirable policy is debated between management and labor.
3. Inability/unwillingness to enter into additional agricultural leases due to terms of Agricultural Small Holders Tenancy Act as presently in force.
4. Residential tenants unwilling to purchase properties, creating uneconomical management burden for the company.
5. Widespread squatting and difficulties of cost recovery for company-sponsored squatter regularization.
6. Unclear if company has met land transfer conditionalities of IDB ASRP program.
7. Unresolved outcome and perhaps conflicting messages sent to squatters about transfer of some squatter areas to LSA.
8. Criticism from outside of company about latitude of company to sell lands.

3.8 Palo Seco Agricultural Enterprises, Ltd. (PSAEL)

The GORTT formed Petrotrin from the merger of Trintoc and Trintopec by enactment of the Petrotrin Vesting Act in 1993. Certain non-petroleum related assets of Trintoc and Trintopec (referred to as Residual Assets), including a significant quantity of land and property, were not vested in Petrotrin. These assets included among them approximately 25,000 acres of land and approximately 2,500 units of housing.

In 1995 the GORTT instructed that Palo Seco Agricultural Enterprises, Ltd. (PSAEL), a subsidiary of Trintopec (and often referred to as an affiliate of Petrotrin) be given the responsibility for disposal of the Residual Assets. The proceeds from the sale of Trintoc Residual Assets were to be directed to pay the taxes owed by Trintoc to the State and were to be paid directly to the GORTT. In 1996, however, GORTT suspended the disposal of the Residual Assets.

In 1998 PSAEL was instructed by the Boards of Trintoc & Trintopec to manage and maximize the returns of the Residual Assets and consider disposal as a last option. This instruction opened the way for PSAEL to re-focus its activities in its traditional agricultural business, in new areas

of agri-business, and in real estate management. PSAEL's traditional business is the primary production of dairy milk, beef, citrus, coffee, cocoa and forestry. PSAEL's agri-business is currently engaged in the establishment and/or reactivation of cocoa, coffee, citrus, and forestry fields, including downstream processing of these and dairy products. In the real estate management area, PSAEL is pursuing joint venture agreements in eco-tourism, recreational, industrial and residential land uses, preparing an updated records and filing system for the assets, and servicing the tenants and other occupants (including Petrotrin) on the freehold lands.

Petrotrin manages about 17,000 acres in residential and agricultural tenancies and the rest is directly managed.

Petrotrin/Palo Seco Agricultural Estates Ltd. land management problems include:

1. Concerns about profitability of beef industry on direct-managed PSAEL land.
2. Incomplete sell-off of abandoned worker housing which is a cost burden to the company to manage.
3. Transfer of utilities services to municipal government in residential estates is incomplete, thereby creating an increasing management burden.
4. Lengthy approvals and environmental impact process for new developments.
5. Land management not fully integrated to Petrotrin GIS system.

3.9 Chaguaramas Development Authority

The mandate of the Chaguaramas Development Authority created by Act No. 37 (Ch. 35:02) of 1972, is to manage the development of the North-West Peninsula of Trinidad and Tobago. Under this Act, the Chaguaramas Development Authority (CDA) is empowered to promote the development of the peninsula so as to maximize the returns from the lands under its control. By virtue of a Vesting Order, the Authority has been vested with 4,850 hectares of land, comprising the entire North-West Peninsula of Trinidad. Forests and scrub vegetation make up more than 90% of the area. The major land uses within the area are public and protective services, recreation, agriculture, and institutional, industrial and residential development. The Authority considers itself to be the pre-eminent lessor of real estate in Trinidad and Tobago and its policy is to encourage development by granting leases to private individuals and companies for:

- Eco-tourism and the resort hotel industry;
- Leisure and recreational facilities;
- The marine industry; and
- Knowledge-based industries.

Its range of property management activities includes physical planning and development; estate management including collection of rents and arbitration; and asset valuation. The Tenancy Department performs the lease management functions of the Authority. At present the CDA manages 104 commercial leases and only one agricultural land lease to the MALMR's Chaguaramas Agricultural Development Project.

The major weakness of the Department in efficient execution of its leases is the requirement to get approvals from the Ministry of Tourism and Cabinet, which occasion delays in the process. The removal of the requirement of Cabinet to approve leases has been proposed as a mechanism to improve the performance of the Department.

The Division requires an Assistant Tenancy Officer, as well as a Secretary instead of a Clerk Typist.

3.10 The Property and Industrial Development Company of Trinidad & Tobago

The Property and Industrial Development Company of Trinidad & Tobago [PIDCOTT] was incorporated on January 1997 as a private company of the Tourism and Industrial Development Company of Trinidad & Tobago [TIDCO]. It was established to take full responsibility for the management of property assets of TIDCO. These property assets consist of 19 industrial estates located throughout the country, of which 18 are fully developed. The estates have a total land area of 340 hectares and over 500 tenants. Its primary function is to provide industrial accommodation for a wide range of industrial activities. In addition, it provides accommodation for office complex, shopping malls, resort properties and beach facilities. Its range of property management services includes physical planning and development; estate agency and estate management; asset valuation; project management; auction sale; arbitration; collection of rents and administration of costs.

The following are the major problems facing the agency:

- Delays arising from status as a State Enterprise - e.g. outdated tendering procedures, low limits which affect expediency and efficiency.
- Major delays in obtaining decisions from Government Divisions/Departments.
- Need for more financial autonomy.
- Need to improve compensation packages in order to retain key members of staff.

Two important problems raised here are: delays dues to its interface with State Agencies, a problem that significantly impact on its efficiency, and its inability to retain experience staff who are quick to be hired by other firms with higher salary.

3.11 The Tobago House of Assembly

State lands including constituted forests cover 10,772 hectares in Tobago. 3,958 hectares of these lands are under declared forest reserves. State lands outside these forest reserves that are under forest cover is estimated at 3000 hectares. In addition, 4700 hectares of acquired estates are available for future agricultural/housing development. This broadly represents the extent of land resources available to the State for conservation, promotion of productive activity and generation of income and employment.

The Tobago House of Assembly in terms of the Tobago House of Assembly Act is responsible for the formulation and implementation of policy in respect of state lands, land and marine parks,

forestry and environment, town and country planning and many other subjects identified in the schedule to the Act. However, the legislative authority conferred on the Tobago House of Assembly under the Act in respect of State lands cannot be discharged as there is no legal instrument to administer or manage state lands except under the existing State Lands Act.

Problems

- The legislative authority conferred on the Tobago House of Assembly under the Act in respect of State lands cannot be discharged as there is no legal instrument to administer or manage state lands except under the existing State Lands Act.
- Tobago has prepared a Development Plan, but that plan contains only general ideas concerning the policies for the management of State land in Tobago
- There are few human and physical resources dedicated to the management of State lands in Tobago.

4 CONCLUSION FROM CASE STUDIES

4.1 Comparison of Operational Costs of Selected State Land Management Agencies

We have identified seven major institutions that are managing a total of 129,976 hectares of State lands, as described in Table 1. There are also agencies like the Land Settlement Agency, Public Transport Services, National Port Authority, NIPDEC, Point Lisas Industrial Development Company, Regional Health Authorities, and Airport Authority whose State land areas managed are currently unknown. The COSL also manages or co-manages a significant but unknown additional quantity of lands beyond the agricultural lands accounted for by the lands managed jointly by COSL and LAD. If we take the figure of 52% of the country's land area as being State owned, that is, 140,062 hectares¹, these agencies would manage a total of 10,086 hectares.

Table 1: Hectares Managed by Institutions

	Agency	Hectares Managed
1	LAD—COSL	68,436
2	Caroni	31,567
3	NHA	14,600
4	Petrotrin	10,118
5	CDA	4,856
6	PIDCOTT	371
7	SILWC	28
	Sub-Total	129,976
	COSL, Various??	10,086
	TOTAL	140,062

¹ An estimate of 140,062 hectares is arrived at by taking the total land area of the country, 512,600 hectares, multiplying by 0.52 (the widely cited figure for the percentage of state ownership of land) and subtracting the 126,490 hectares of forest land, i.e. $512,600 \times 0.52 = 266,552 - 126,490 = 140,062$.

Table 2 indicates that in both the quantity of land under tenancy arrangements and the number of tenancies, the COSL is a larger manager of land than the selected other agencies/companies. COSL is involved in the management of an estimated 30,000 tenancies (the exact number is unknown) on about 68,000 hectares of agricultural land in cooperation with the LAD, and another unknown amount of land in a variety of other leases (housing, commercial, quarries, etc)

Table 2: Comparative Statistics of State Land Management

	Area Managed	Number of Clients	Land Mgt. Budget	Land Mgt. Budget/ Hectare	Land Mgt. Budget/ Client	Total Revenue from land mgt	Annual Amount In Arrears	Revenue as % of Mgt Budget
COSL—LAD	78,572	30,000	\$4,583,000*	\$58	\$153	\$2,514,000	\$3,400,000	55%
CDA	4,856	105	\$294,000	\$61	\$2800	\$700,000	\$0	238%
PIDCOTT	371	475	\$2,000,000	\$5,395	\$4210	\$33,000,000	\$0	1650%
Caroni	31,566	10,200	\$1,300,000	\$41	\$127	\$2,500,000	N/A	192%
Petrotrin	10,117	3,500	\$1,000,000	\$98	\$285	N/A	N/A	N/A
SILWC	28	300	\$200,000	\$7059	\$666	\$400,000	\$100,000	200%
NHA**	14,600	24,000	\$38,000,000	\$1676	\$1583	\$55,390,000	9%;22%***	146%

*COSL has 30,000 client files. The total land management budget of the COSL is TT\$3,595,000, to which should be added LAD's annual operational cost is approximately TT\$988,000. Therefore, the total COSL-LAD annual management cost would be about TT\$4,583,000. Other costs would include the services provided by the Chief State Solicitor, the Commissioner of Valuation and the Survey Division, but these costs are not included in the table.

**NHA client agreements include rentals and mortgages. NHA management budget includes maintenance and construction funds.

***% of rental payments, 22% of mortgage payments

The cost estimates in Table 2 are only indicative and are very approximate. However, a comparison of the approximate cost of managing land on a per client basis (land management budget divided by number of clients) indicates the COSL-LAD management costs are between those of Caroni, and Petrotrin. PIDCOTT's and NHA's costs are higher, but so are their revenues, and their estates are qualitatively different from those of the other agencies/companies under examination. This comparison suggests that the land management budget of the COSL-LAD team is probably sufficient to fulfill its mandate, given that a comparable agency, Caroni (1975) Ltd, is spending slightly less per client, and actually less per hectare to manage its leases.

4.2 Operational Efficiency and Effectiveness

What is of greater concern, however, is that for this expenditure, the efficiency of operation of COSL-LAD does not compare favorably with the other agencies. On the basis of cost recovery, COSL-LAD does not perform well. Whereas the COSL-LAD collects about 55% of its operating budget in lease revenue, all the other agencies collect more than 100 percent. While

this indicator is contingent on the quality of lands in the agency’s portfolio, an indicator less than 100% means that the State is not recovering its own costs of managing a set of lands. This may make sense for protected areas and environmental reserves where the State’s interest is long-term and valued in non-monetary metrics, or for programs for economically vulnerable groups, but not for routine tenancy arrangements. The State is furthermore being inconsistent, achieving full cost recovery through some of its leases, but not others.

The measure of annual arrears also suggests that the COSL is not performing as effectively as the decentralized agencies/companies in collecting revenue, with an estimated TT\$3.4 million uncollected in 1999 (and cumulative arrears of approximately TT\$14 million). The fact that the decentralized agencies/companies do not have as severe a problem with arrears indicates that the problem is not with the clients’ willingness or ability to pay, but rather with the COSL collection process.

4.3 Land Distribution

One of the driving forces behind the continual emergence of special agencies administering portions of state lands appears to be the need to make land available. All agencies can justify their existence on the basis of a structure designed to make a spatial sub-set of state lands available for specific purposes, e.g. NHA for housing, LSA for settlements, LAD for productive agriculture, CDA for industrial and tourism purposes, etc.

Table 3; Time to Establish leases

Agency	Time to establish Lease
COSL	36
CDA	3
Caroni	4
Petrotrin	6
PIDCOTT	4
SILWC	2
NHA	3

Table 3 indicates the amount of time required to establish a new lease. It suggests that 2-6 months is a feasible time period, as all of the decentralized agencies/companies fall into this range on the indicator. The COSL’s value of 36 months is therefore well outside the feasible time period for this type of transaction

Inordinate delays in establishing new leases frustrate the State’s goal of making land available.

The LUPAP Team has assessed state land management functions in eleven institutions. These agencies function “within”, “half-in”, and “half-out” of Government. Those within the administrative structure of the Government would include:

1. Commissioner of State Lands
2. Land Administration Division
3. Ministry of Energy and Energy Industries
4. Property and Real Estate Services Division

Those partially outside the line structure of Governmental Ministries include:

5. Land Settlement Agency
6. National Housing Authority

Those which are guided by State land policies but operate relatively autonomously include:

7. Chaguaramas Development Authority
8. Sugar Industry Labor Welfare Committee.
9. Caroni (1975) Limited
10. Property and Investment Development Company of Trinidad and Tobago
11. Petrotrin – Palo Seco Agricultural Entreprises, Ltd.

The review of land management institutions carried out by LUPAP leads us to the following conclusions:

1. A *de facto* policy of the Government of Trinidad and Tobago has been to increasingly devolve authority for the management of State land from the Commissioner of State Lands to decentralized agencies such as: The Chaguaramas Development Authority, the Sugar Industry Labor Welfare Committee, the Property and Industrial Development Company of Trinidad and Tobago, State-owned companies such as Caroni (1975) Ltd. and Petrotrin, and the devolution of some of the authority of the Commissioner to The Land Administration Division of the MALMR, the National Housing Authority, the Land Settlement Agency, of the MHS, and the Property and Real Estate Services Divisions, of the Ministry of Public Administration. The THA has become more involved with the management of State lands in Tobago.
2. For those agencies closely linked to the Commissioner of State Lands and the Commissioner's own Land's Section in the Lands and Surveys Division, where state lands are not clearly vested in a management entity, where management operations are fragmented among several agencies, and where the results of non-management are not felt by the agencies themselves, problems of lease management such as squatting, abandonment, lack of rent collection, and environmental damages on these lands are endemic.
3. The vesting of State land management for specific types of land in some independent authorities has solved many of the problems of operational costs and inefficiencies which are still plaguing the COSL and linked agencies.

Those which are “within” the Government structure are characterized by:

- having to rely on the COSL and other state agencies (Chief State Solicitor, Commissioner of Valuation) for executing basic estate management functions—a fragmentation of management functions.
- being limited in the salaries they can pay to attract qualified personnel by the rules of the Public Service.
- not having clear performance standards so that the staff and agency experience few consequences for successful or ineffective management.

Those which are “outside” of the administrative structure of Government are characterized by such features as:

- Managing their portfolio with relatively full autonomy (CDA)
- Do not seek to absorb the more difficult and costly tasks relating to land information management, conflict resolution and eviction (LSA).

4.4 Institutional roots of State land management difficulties by some agencies.

Several factors have led to this ineffectiveness of management of State owned lands:

- **Fragmentation of management responsibilities.**
The management of leases for such agencies as the Land Administration Division and the COSL requires the action of several independent agencies. LAD monitors the use of the land; the COSL inspectors monitor the lessees' fulfillment of the terms of their leases; the Chief State Solicitor draws up the lease contracts; the Commissioner of Valuation determines the value of the land for calculating the prices of the leases; etc.
- **Duplication of functions**
The creation of numerous state land management agencies, for different types of land, has forced the various agencies to duplicate what were previously the responsibilities of the COSL, and duplicate the staffing necessary for many land management functions.
- **The inadequacy of personnel resources, management and line staff;**
The complexity of estate management places a premium on attracting qualified staff. The lack of training programs in Trinidad and Tobago and the competition for that staff from the private sector combined with salary restrictions in the Public Service makes staffing highly problematic for any state land management entity. Other budgetary constraints have been particularly hard on the COSL and other governmental agencies.
- **The inability/unwillingness of the State to take rigorous enforcement action against squatters and tenants in breach as and when required.**
The social and political pressures on government to satisfy the demands of the population for access to land have typically been satisfied by recourse to "informal" allocations of state land.
- **Pricing policies for State land and building leases based on market value in some agencies and based on subsidies in others;**
The traditional tension in state land policies of distributing land for economic benefit versus land for social goals has been reflected in lease pricing policies. Parcels for housing on one side of the road have a rent substantially less than parcels for agricultural use on the other side of the road.
- **Staff of governmental agencies with state land management responsibilities tend to be shielded from the results of their work.**
Whether the management works well or poorly has little effect on the incentives that staff receive. This leads to low motivation to follow through, monitor and where necessary improve management practices.

The problems have to be corrected in any proposal to reform the State's land management system through:

- Institutional and administrative reform;
- Legislative reform;
- Policy formulation with respect to the pricing of leases and to squatting and tenants in breach and the will to enforce;
- Focussed training of land management staff; and
- Appropriate allocation of resources.

5 INSTITUTIONAL REFORM

With respect to institutional reform, we present three options, all of which begin with re-organization and investment in the Lands Section of the Lands and Surveys Division of the Ministry of Housing and Settlements. This Section, headed by a Commissioner of State Lands will be reorganized, changes in management activities will be implemented, and the unit will be appropriately staffed and trained to carry out its assigned functions of State land management under the present mandates of the Commissioner of State Lands.

5.1 Options for further development of the LME.

For those State lands not adequately managed, namely, State lands surrounding settlements, State-owned agricultural lands, State lands used for quarries and mining, even State lands controlled by Petrotrin primarily for oil exploration, which are still under the jurisdiction of the Commissioner of State land for some management functions, management solutions need to be found.

From the LUPAP review, there appear to be three main institutional reform options for the re-organization of State land management in Trinidad:

OPTION 1: Re-Construction of the Management Authority of the Commissioner of Land, according to the State Lands Act's apparent intentions.

There are several variants on this option, all propose to bring back to the Commissioner one or more of the agencies to which his responsibilities have been devolved since 1980.

- 1) Re-organization of Lands and Surveys Division. A 1994 proposal was developed for the re-organization of LSD into a Land Management Authority, composed of the following units: Land Management, Cadastral Surveys, Mapping and Land Information and Hydrography;

This option has been surpassed to a certain extent by events since 1994, with the organization of the Land Administration Division in the MALMR for the management of State-owned agricultural land, and the creation of the Land Settlement Agency, for the regularization of squatters and development of settlement areas. Certainly it is clear that the functions of the COSL are presently

quite diluted, and many of his functions transferred to other agencies. However, the trend could be reversed, and the 1994 proposed structure of a new Land Management Authority which would put the Lands and Surveys Division onto a new footing and with a clear mandate is still an attractive idea. See “Discussion Paper on State Land Management Issues: A Report for the Standing Committee on Agriculture”, June, 1994.

■ 2) Merging of LSD with Valuations and PRES: In 1999, a proposal was developed to separate the Lands unit from LSD and merge it with the Valuations Division of the Ministry of Finance and with the Property and Real Estate Services Divisions, of the Ministry of Public Administration.

This option was deemed to be “prudent” in a draft Cabinet note, but the AG opposed the merging as proposed through a Cabinet decision, saying that the functions of these agencies are presently established by law and cannot be merged without the amendment or repeal of that body of law. This decision argues on the basis of the difficulty inherent in changing several sensitive pieces of legislation against significant institutional re-construction.

■ 3) Re-constitution Original Concept of the Commissioner of State Lands, by merging the State land management agencies which still involve the Commissioner to some extent with the Lands Section of Lands and Surveys..

One of the options developed by LUPAP is the taking again of the control over the management of State land by the Commissioner, by separating the Lands Section and developing its structure and management capacities, and perhaps with the exception of the LSA, drawing back under the jurisdiction of the COSL, Lands Department, LAD, PRES, and Valuations. Surveys Department, the Land Bank could also be integrated along the lines of the 1994 proposal. See the LUPAP paper “Some Ideas for Establishing a State Land Management Authority”.

Another variation on this option is to separate and develop the capacities of the Lands Section under the Commissioner, and just the integration of the Land Administration Division of the MALMR into that Section. Another possible candidate for integration is the Property and Real Estate Services Division, and even the State-owned oil lands under leasehold by Petrotrin.

These are proposals for a modest “reconstitution of COSL” proposal. If wholesale reconstitution of the COSL is not desirable, then a smaller scale reconstitution may be desirable to remedy the problems of the fragmentation of State land management functions

This option has been developed for consideration, precisely to test whether the piecemeal dilution of the COSL over the years, is in fact a desirable policy, and if not, then whether the re-constitution of the COSL to its status as envisioned in the State Lands Act would be a desirable policy, to remedy the problems of State land

management due to the fragmentation of management functions across several agencies, the duplication of functions, the inability to hold qualified staff.

It should be noted that since the LSA was created very recently by separating squatter regularization and settlement from the NHA , merging it again in a LME would not be very likely.

OPTION 2: Redefine the COSL's functions and extend and strengthen devolution of state land management to autonomous agencies.

This option would redefine the COSL to have only a limited involvement in State land management, and complete the devolution process to decentralized agencies.

--COSL could be converted into an "umbrella" State land management coordinator through an amendment of the State Land Act, and would have responsibility to:

- a) Implement State land policies through the decentralized agencies.
- b) Manage a common State land data base for the use of all State land management agencies
- c) Acquire private lands for public purpose
- d) Grant State land in freehold as the law requires
- e) Transfer land from one State land management entity to another when use changes outside of the authority of an entity..

--Complete the appropriate devolution of State land management functions.

- a) Convert LAD into an Agricultural Land Management Authority (ALMA).
- b) Amend the State Land (Regularization of Tenure) Act No. 25 of 1998 to make the LSA into a self- financing agency, and to discourage squatting on State lands.
- c) Create an authority for the management of quarries and mines.
- d) Vest all existing leases held in the Lands Section in the appropriate entities, including ALMA (agricultural land), LSA (settlement land), PSAEL (oil land), PIDCOTT (commercial leases), Ministry of Energy (quarries and mines agency to be created), etc.

This option at first glance seems plausible, based on LUPAP's review of de facto state land management policies and of the achievements and problems of existing State land management institutions. However, to complete the devolution of State land management functions would require substantial re-design of agencies, preparation of new legal instruments, staffing and training of staff, and equipping. The problems of duplication of functions would still remain, although there should be fewer problems from the fragmentation of responsibilities, since the autonomous agencies would be more self-reliant and self-sustaining.

OPTION 3: Convert most state land into freehold, with just a few lands being leased to private sector.

This option would solve the problems of State land management by getting rid of State-owned land, but it is not clear that the positive results of state land management would be achieved.

5.2 A Proposal for a “Combination” Strategy

The following proposal, basically a combination of the above three options, for institutional re-organization is presented for discussion.

5.2.1 Establish a new Land Management Authority.

A State Land Management Authority will be created, and will be divided into four (4) operational Departments as follows:

- Land Management Department, headed by a Commissioner of State Lands which will take administrative actions of land management related to leases, squatters, change of use, environmental degradation, status reports on parcel ownership, etc.;
- Mapping and Land Information Department;
- Cadastral Surveys Department; and
- Hydrography Department.

The Cadastral Surveys, Mapping and Land Information and Hydrography Department will be headed by Deputy Directors.

The Land Management Department would combine the present Lands Section of the Division of Lands and Surveys under the Commissioner of State Lands with existing agencies which presently coordinate closely with the COSL, that is, the Land Administration Division of the MALMR and the Property and Real Estate Services Division of the Ministry of Public Administration. In addition, the MHS’s Land Bank would also be integrated. Serious consideration should also be given to integrating the Valuation Division of the Ministry of Finance and the Land Settlement Agency and National Housing Authority of the Ministry of Housing and Settlements into this Land Management Department of the new LMA.

The structure and functions of the Cadastral Surveys, Mapping and Land Information, and Hydrography Departments should be the subject of a special consultancy. Basically what is being proposed is a significant restructuring of the Lands and Surveys Division in its entirety. See Appendix C for a brief discussion of the Survey Department. The Mapping and Land Information Department will operate a computerized, parcel-based Land Information System (LIS) that would show the geographic location, shape and attribute data of each parcel of State Land, and will relate survey plans to the topographic maps. The Department will maintain a Unique Parcel Reference Number (UPRN) system for identifying parcels and will therefore be the hub of the National Land Information System Network which will be developed among the other land-based agencies. The Mapping and Information Unit will share its databases with the other units of the Authority.

The Land Management Department will be comprised of a central Unit and decentralized County sections, headed by Administrative Officers, reporting to the Commissioner. (It might be useful to create two (2) Deputy Commissioner positions, allowed for in the State Lands Act, to take charge of the North and South Counties.) This will restore the decentralized approach to land management which was abandoned when the system of Wardens was abolished with the enactment of the State Lands Act.

It is envisaged that as a statutory body the Land Management Authority will have a greater degree of administrative flexibility and a higher level of responsiveness in taking land management actions than the Lands and Surveys Division as a Public Service entity. An Authority will also be able to charge for services provided and retain funds so raised to enhance the funding of its operations. This facility is now not available to a Public Service entity, such as the Lands and Surveys Division.

The post of Commissioner of State Lands was created by the State Lands Act, Chapter 57:01 in 1959. It has never been classified or filled. The post(s) of Deputy Commissioner called for in the Act have never been created. This post will have to be classified and filled. It will be necessary also to create three (4) posts of Deputy Director, three to replace the existing posts of Land Surveyor III and Hydrographic Surveyor III in the Lands and Surveys Division, and one to manage State land in Tobago.

Other administrative arrangements required include the redistribution of existing posts of Administrative Officers II, Administrative Assistants and clerks not required elsewhere in the Public Service, as well as the appointment of Title Clerks. The posts of Patrolman should be abolished and replaced by that of Assistant State Lands Inspector, as precepted officers.

Functions of the Land Management Department

- ◆ Allocation, processing and conveyancing of leases, including intestate inheritances;
- ◆ Management of leases;
- ◆ Collection of rents;
- ◆ Sub-division of parcels;
- ◆ Containment of squatting and encroachments;
- ◆ Definition of lands which cannot be alienated by the State, including shorelines, riparian reserves, forest reserves and other protected areas and road reserves;
- ◆ Grant of rights and liberties over lands which cannot be alienated by the State;
- ◆ Grant of all State agreements, including licences and permits;
- ◆ Rental/sale of State buildings;
- ◆ All Court matters involving the State, pertaining to the land, seabed and State property.

Structure of the Land Management Department

--LAND TITLING SECTION

- Land Use and Allocation
- Processing and conveyancing of leases
- Definition and grant of rights and liberties over reserved areas, territorial waters and the seabed

--LAND MANAGEMENT AND DEVELOPMENT SECTION

- Administration and Management of leases
- Sub-division of parcels

-- SERVICES AND ENFORCEMENT SECTION

- Valuation of State lands and properties
- Collection of rents
- Containment of squatting and encroachments

-- LAND ACQUISITION AND REPOSSESSION SECTION

- Acquisition by private treaty
- Repossession of State property

--PROPERTY AND REAL ESTATE SERVICES SECTION

- Rental/sale of buildings
- Property management services

Each Section should be headed by a Senior Land/Property Management Officer reporting to an Assistant Commissioner of Land, who will in turn report to the Commissioner of Land.

This structure assumes that the Land Settlement Agency, the National Housing Authority and the Sugar Industry Labour Welfare Committee will remain as separate entities. If these agencies are included, then appropriate Sections would have to be introduced.

5.2.2 Re-define the position of Commissioner of State Land

--Amend the State Lands Act, to give the COSL the authority to:

- a) Develop options for State land policies and monitor their implementation through the decentralized agencies.
- b) Manage a common State land data base for the use of all State land management agencies
- c) Transfer land from one State land management entity to another when use changes outside of the authority of an entity..

--Complete the appropriate devolution of State land management functions.

- a) Amend the State Lands (Regularization of Tenure) Act No. 25 to make the LSA into a self- financing agency, and to discourage squatting on State lands.
- b) Vest all existing leases held in the Lands Section in the appropriate entities, including, LSA (settlement land), PSAEL (oil land), PIDCOTT (commercial leases), Ministry of Energy (quarries and mines). A special consultancy should be conducted with the Ministry of Energy to determine what management structure is needed to better manage these leases.

5.2.3 Redefine the freehold policy

As shown in the studies of the SILWC and NHA cases, the use of freehold titles can be justified for certain types of land (properties). The maintenance and management costs to the State are reduced and the investments and security of their “owners” would be increased. Serious consideration should be given to a revision of the state land policy to encourage this form of tenure where appropriate.

6 Rationale for this Combination Strategy based on a LMA

6.1 Justification for integrating specific existing agencies in a Land Management Authority

Based on the identified functions and powers, the following agencies are proposed for inclusion in the Land Management Department of the new Land Management Authority.

- (a) Commissioner of State Lands of the Ministry of Housing and Settlements
- (b) Land Administration Division of the Ministry of Agriculture
- (c) Property and Real Estate Division of the Ministry of Public Administration
- (d) Land Bank of the Ministry of Housing and Settlements (now defunct, however the database can be made use of)

Serious consideration should also be given to inclusion in this Department:

- (e) Land Settlement Agency, NHA and the SILWC of the Ministry of Housing and Settlements and
- (f) Valuation Division of the Ministry of Finance

The justification for merging existing state land management agencies into a new State Land Management Authority is as follows:

6.1.1 Commissioner of State Lands

The statutory responsibilities entrusted to the Commissioner of State Lands at present include:

- Administration, management and protection of State Lands
- Preservation of order on State lands
- Prevention of squatting and encroachment
- Settlement and allotment of State lands and the laying out of village lots
- Collection of rents of lands belonging to the State
- Issue of mining and other leases and licenses
- Surrenders of leases and licenses
- Grants of rights and liberties over the foreshore or lands under territorial waters, or for reclaiming of lands from the sea
- Any instrument dealing with or affecting any other right or interest in State lands
- Land Acquisition

The statutory responsibilities cast upon the Commissioner of State Lands under the State Lands Act indicate in no uncertain terms that the institution under the purview of the Commissioner of State Lands should be the 'core' agency of the proposed Land Management Entity.

6.1.2 Land Administration Division of the Ministry of Agriculture

The establishment of the Land Administration Division of the Ministry of Agriculture was primarily for the purpose of focusing the activities carried out by the MALMR on behalf of the Commissioner of State Lands with respect to the management of agricultural tenancies, previously carried out by the Ministry's Extension Division, and later by its decentralized County Lands Unit.

The regularization of invalid tenancies and squatters as well as the distribution of vacant parcels, in addition to administering normal land management transactions such as transfers and renewals, taking action to make tenants rectify breaches, and updating of the State Agricultural Land Information System databases constitute the workload of the Division. The Accelerated Land Distribution Program (ALDP) is a strategy designed to achieve the regularization of 1,200 of the 5,716 known invalid tenancies over the period August 1999 to July 2001 in order to meet IDB Loan conditionalities.

All preliminary work has been completed for issue of 298 leases between the period 1996 – 1999, in addition to bringing to the attention of the Commissioner the need for enforcement action on several tenancies. However, the actual number of leases issued to date and the initiation of enforcement action indicates in no uncertain terms the inability of the Division to issue and manage leases directly. The Division has established an agricultural land information system and continues to update this database. However, the impact of the accelerated land distribution program as far as the farming population is concerned is only beginning to be felt. The establishment of an entity like LAD only by Cabinet decision without strong legal authority does not confer authority on this Division to carry out the mandated functions independently and forces it to rely on the Commissioner of State Lands for ultimate processing of leases.

6.1.3 Property and Real Estate Services Division of the Ministry of Public Administration

The Strategic Review of the Ministry of Public Administration describes the Division as "responsible for ensuring that the stock of government properties utilized for its operations is developed and maintained in a manner which ensures maximum utilization and economic returns from these assets. The second main area of focus of the Division, is the provision of appropriately designed and configured workplaces and facilities that are consistent with the needs of a contemporary organization". The Division out sources services on a retainer and/or contract basis, such work as interior design, large scale construction, office design and layout, building and grounds maintenance architectural services, cost/quantity surveying services and legal and advisory services. The Division functions under a Director and approximately 15 persons are employed by this Division of which 6 are technical. The Division has three Units, namely Property Portfolio Management, Real Estate and Facilities Management and Project Management (Properties).

The acquisition of private lands/buildings for public purposes is a legitimate function entrusted to the Commissioner of State lands under the Acquisitions Act. This Division too, similar to the Land Administration Division was established by Cabinet decision and has no legal mandate. Therefore, they too have to channel the acquisition through the Commissioner of State Lands. This is duplication of effort and an addition to the workload of the Commissioner without providing him with the capacities to respond effectively. While the present organizational arrangements in the Commissioner of State Lands pertaining to acquisitions cannot be considered ideal, this arrangement with PRES D does not help in expediting the process in a substantive way. The acquisitions of buildings are generally negotiated by 'private treaty' as provided for in the Acquisitions Act. There is no reason why this function needs to be handled separately by a different institution of Government.

In regard to rentals of buildings for public offices, the Division has to fall back on the Commissioner of Valuations for initial assessment of the value. The Division uses some leeway in the ultimate determination of the actual rental to be paid by the Government and this does not appear to be on a clear and transparent basis. The Minister has been given the authority by Cabinet to approve the rental. The Unit does not possess a comprehensive and updated database of all government-owned buildings and properties belonging to various Ministries and Departments/Agencies of Government, with the requisite data pertaining to location, space (Sq. ft. area), access, parking facilities, level of water and electricity supply, available open land area for future expansion, planning and zoning categorization etc.

The Unit handling Government Quarters is expected to maintain available Government Quarters. However, here again, the Unit does not possess a comprehensive and updated database of all Government Quarters belonging to Ministries and Government Departments/Agencies. It depends largely on the Ministry of Works for this information. As the Division does not have adequate funds for maintenance of Government Quarters, it depends on individual Ministries to provide the requisite funding for maintenance. The Government has now encouraged sale of quarters. The first offer is made to the person who is in legal occupation of the quarters. In other cases, they are sold by public auction. Here again, the Division has to rely on the Commissioner of State Lands to issue the Grant/Lease document after the sale is effected.

Some parts of this Division's work such as maintenance of Government Quarters should necessarily revert to the Works Department.

6.1.4 Land Bank of the Ministry of Housing and Settlements

This small Unit was established in the Ministry of Housing and Settlements in mid 1996, with the objective of determining the extent and the status of all state lands in Trinidad and Tobago. The Unit does not have any staff attached to it at present but was initially headed by a GIS Consultant supported by a Graduate Surveyor with expertise in GIS and one technical officer for data entry work. A former Director of Lands and Surveys liased with the Lands and Surveys Division. Within a period of one and a half years, the Ward Sheets demarcating State lands maintained by the Surveys division were digitized using Intergraph Module GIS Engine software (MGE GIS). This can be transferred to any format as fully geo-referenced material and can be superimposed with any land capability data such as gradient, soils, rainfall, zoning data etc. The

legend for state land folder is the same as used for 1:10,000 sheets. The identification of the status of state lands is not wholly accurate, as it portrays the original demarcation and does not reflect the present ground situation. However, this data can very well be used by the Land Management Entity as a database and further improved as to its accuracy by including leased out parcels, encroachment data and land capability data.

The work undertaken by the Land Bank can be transferred and utilized fruitfully by the new Land Management Entity.

6.1.5 Valuation Division of the Ministry of Finance

The Valuation Division undertakes estimation of the market value of land. Once a block or parcel of land has been identified for valuation, determination of the market value is done based on the location of the block/parcel, determination of the level of infrastructural development of the area, and the location of evidence of recent transactions. Valuation work covers both private as well as state-owned lands. State land comprise 52% of the total land area of Trinidad and Tobago. Proper and prompt valuation of land helps in large measure to the establishment of a vibrant land market. Pricing is at the heart of natural resources policy and management.

The Division while performing an important function, has not been provided with their staff needs, in spite of repeated requests to fill the vacant positions. The training needs of the Division have been largely ignored. The valuable data that have been generated by this Division over the years have not been computerized to facilitate quicker responses to requests for valuation. The inclusion of this Division in the new Land Management Entity will make it independent of the Public Service Rules and enable them to recruit qualified valuers and permit collection of charges for the services rendered. It can function as a profit center within a new Land Management Entity

6.1.6 Land Settlement Agency of the Ministry of Housing and Settlements

It is pertinent to note that the Land Settlement Agency is presently carrying out functions pertaining to regularization of encroachments on State lands, relocation of encroachers, as required, and the planning and development of settlements with social and economic infrastructure. Inactivity on the part of the Commissioner of State Lands may have contributed to this state of affairs and the creation of the Agency.

More importantly, with the recent withdrawal of legal action by state attorneys in Tobago against encroachers of State land, it is clear that the provisions of the State Lands (Regularization of Tenure) Act may induce persons to encroach on State lands. This Act has not only altered the policy on encroachments but may cause irreparable damage to zoning and physical planning for orderly development in the future. While the basic objectives of the Act are to safeguard the interests of the poorer segments in society and to have a targeted program of rehabilitating them through the provision of site and services, the provisions of the Act have far reaching implications, much beyond those envisaged by the policy makers. The continued operation of this Act is harmful for physical planning, zoning and provides opportunities to unscrupulous persons to take the liberty of encroaching on State lands with impunity. However, the experience

gained in development of settlements by the Land Settlement Agency can be made good use of by the new entity.

6.2 Avoid Fragmentation of Responsibilities and Duplication of Functions.

Under the present institutional structure for State land management, responsibilities are fragmented and there are costly duplication of activities and functions. Reconstituting the Commissioner's responsibilities with those of the LAD in a single LMA would reduce fragmentation.

The Land Administration Division makes judgements on the selection of potential lessees and is supposed to monitor the use of the land by the lessees, but the Chief State Solicitor actually draws up the leases and the Commissioner's Inspectors are supposed to issue notices when the terms of the leases are not fulfilled.

The Land Administration Division performs functions of state land distribution entrusted to the Commissioner of State Lands, in addition to other functions pertaining to agricultural land.

The State Agricultural Land Information System has been developed by the Land Administration Division of the Ministry of Agriculture. The Lands Department has developed a database for monitoring leases, which is different from SALIS. Two sets of lease files exist. Staff for managing this information is likewise duplicated.

The Land Bank has developed a database of all state lands relying on data/information supplied by the Director of Lands and Surveys.

5. There is no duplication of activities and functions as far as the Valuation Division is concerned as far as governmental agencies are concerned, although there is a capacity for valuation in the private sector.

6. The PRESD duplicates many of the functions of the Commissioner of State Land.

Table 3 shows how Option 2, the continued devolution of State land management functions to newly created authorities, such as an Agricultural Land Management Authority, a Property and Real Estate Management Authority, and even a Mining and Quarrying Authority would require more extensive duplication of functions than would Option 1.

Table 4: A Comparison of Options for a Land Management Entity

	OPTION 2:					
FUNCTIONS OF LAND MANAGEMENT	OPTION 1:		AGENCIES	RESPONSIBLE		
	LAND MANAGE- MENT AUTHORITY	RECONSTR UCTED LANDS AND SURVEYS DIVISION (MHS)	RECONSTITUTE LAND SETTLEMENT AGENCY (MHS)	AGRICULTUR- AL LAND MANAGEMENT AGENCY (MALMR)	PROPERTY & REAL ESTATE MANAGEMENT AGENCY (MPA)	MINISTRY OF ENERGY – MINING AGENCY
1. Clarification of tenure rights	✓		✓	✓	✓	✓
2. Allocation of tenure rights	✓		✓	✓	✓	✓
3. Formalization of tenure rights	✓		✓	✓	✓	✓
4. Survey and measurement of land parcels/buildings	✓	✓	✓	✓	✓	✓
5. Parcel valuation	✓		✓	✓	✓	✓
6. Provision of secure tenure rights – execution and registration of leases/licences	✓		✓	✓	✓	✓
7. Collection of lease/licence rents	✓		✓	✓		✓
8. Maintenance of an inventory of State lands, lease records, maps and other parcel-related information	✓	✓	✓	✓	✓	✓
9. Lease/licence enforcement	✓		✓	✓		✓

10. Conveyancing of land transactions – assignments, transfers, sub-division of parcels	✓		✓	✓		✓
11. Control of squatting and encroachments	✓		✓	✓		✓
12. Land reclam./restoration	✓	✓				✓
13. Management of the seabed	✓	✓				
14. Definition of lands that cannot be alienated by the State (riparian reserves, forest reserves and other protected areas, shorelines)	✓	✓				
15. Issue and management of licences for access to reserved areas	✓	✓				
16. Acquisitions of private lands, compulsory or otherwise	✓	✓				
17. Issue of mining licences on-shore or offshore	✓					✓
18. Protection of the State's interest in all lands, including those privately owned	✓	✓				
19. Representation of the State in all Court matters pertaining to its lands and buildings	✓		✓	✓	✓	✓

20. Formulation and monitoring land policies relating to land management	✓	✓	✓	✓	✓
21. Transfer of State lands to other public/private entities	✓	✓			

			OPTION 2:			
FUNCTIONS OF LAND MANAGEMENT	OPTION 1:		AGENCIES	RESPONSIBLE		
	LAND MANAGE- MENT AUTHORITY	RECONSTR UCTED LANDS AND SURVEYS DIVISION (MHS)	RECONSTITUTE LAND SETTLEMENT AGENCY (MHS)	AGRICULTUR- AL LAND MANAGEMENT AGENCY (MALMR)	PROPERTY & REAL ESTATE MANAGEMENT AGENCY (MPA)	MINISTRY OF ENERGY – MINING AGENCY

PROS						
1. Ease of implementation		✓	✓	✓	✓	✓
2. Efficiency of operations, including enforcement	✓	✓	✓	✓	✓	✓
3. Ability to attract and retain appropriately skilled human resources	✓					
4. Ability to generate increased revenues	✓					
5. Become a “one stop shop” for investors	✓					
6. Rationalize land policy and land use	✓					
7. Non-dependence on other agencies of the State	✓					✓
8. Legislative coherence	✓					
CONS						
1. Very difficult to						

achieve because of legal, administrative, institutional considerations and political resistance	✓						
2. Duplication of functions			✓	✓	✓	✓	✓
3. Diffusion of scarce human and financial resources			✓	✓	✓	✓	✓
4. Policy conflicts			✓	✓	✓	✓	✓
5. Program and operational conflicts			✓	✓	✓	✓	✓
6. Legislative conflicts			✓	✓	✓	✓	✓
7. Continuation of problems caused by multiplicity of agencies managing public lands			✓	✓	✓	✓	✓

Table 4 also summarizes the advantages and disadvantages of the two strategic options.

6.3 6.3. Better use scarce management skills.

Existing agencies compete for scarce management and technologically trained professionals. Such scarce State land management skills could be mobilized in a LMA.

- ❑ Information Technology Skills
The skills in information technology have been developed by Lands and Surveys Division as well as by the Land Administration Division of the Ministry of Agriculture. These skills can be pooled together, further developed, and staff retained and motivated in a new Authority.
- ❑ Settlement Planning and Development
The Land Settlement Agency has expertise in Settlement Planning and Development, including provision of social and economic infrastructure. Similarly, the Commissioner of State Lands has expertise in the processes of distribution of state lands.
- ❑ Land Conveyancing
The Commissioner of State Lands has ample experience in the use of legal instruments for transfer of ownership, assignments, mortgages etc. So also does the SILWC and the NHA
- ❑ Land Valuation
The Valuation Division has expertise in land valuation
- ❑ Estate Management
The Commissioner of State Lands, the Land Administration Division of the Ministry of Agriculture and the Land Settlement Agency of the Ministry of Housing and Settlements have experience in land management.
- ❑ Squatter Management and Relocation; Containment of Encroachment
The Commissioner of State Lands has experience in the containment of encroachments. The Land Settlement Agency has developed skills in settlement development and encroachment regularization.

6.4 Better use investments in IT hardware and human resources.

Investments in technologies, skills and land information in support of State land management would be better developed and shared within a single entity.

Large investments have been made in the development of the State Agricultural Land Information System (SALIS), and the Land Bank. The proposed Lease Management System and the Workflow Management System for the Commissioner of State Lands will provide management tools to collect rentals, renew leases and monitor progress. If these agencies are

brought together, it would enable pooling of scarce resources, data and information, harmonization of data collection, dissemination of data and share investments in technologies and skills.

6.5 Improve the generation and use of revenues

There are significant revenues generated in various State land management agencies which could be pooled into a self-financing body.

The revenue that may be generated by the new entity can be large. The Land Allocation and Development Division, the Valuation Division and the Survey Division of the proposed LME are expected to function as separate profit centers and could generate large amounts by way of revenue. The Revenue Collection Division will be responsible for the collection of arrears of revenue as well as regular collection of lease rentals.

The total arrears of revenue as at 30/9/1998 reflected in the Revenue Estimates of the Lands and Surveys Division is TT\$14,761,388. The annual estimate of revenue from state land rentals alone run in the region of 7 to 8 million.

1997 Revenue Actual	Actual Revenue 1/1/98-30/9/98	1998/1999 Revised Estimate	1999/2000 Estimate
3,386,289	2,514,387	7,887,960	8,892,872

The Valuation Division will continue to charge for their services on objective criteria and will therefore generate revenue. The Survey Division will expand its sales of map based information.

6.6 Develop common databases

The databases maintained by the Director of Lands and Surveys in relation to State lands and those found in the Land Bank are the same in content, although the Land Bank has developed digital copies of the Survey Division's paper maps. However, the data needs constant updating to reflect current ground situation. The SALIS database can be extended to cover other state lands with certain modifications as to the data content. The database that the Commissioner of Valuations has at present can be computerized and made use of to generate revenue for the new Land Management Entity. The Director of Surveys follows the UPRN of the Commissioner of Valuations. SALIS does not follow the Valuation UPRN Numbering System and has devised their own numbering system. However, the data that have been entered into the SALIS have the Valuation Number as an alternative Identification Number. Therefore, there will be no difficulty for all parties to follow a Unique Parcel Identification Number.

6.7 Attract qualified staff

A statutory body can provide a better mechanism for attracting and keeping staff in appropriately defined positions. It can determine appropriate remuneration and other benefits to attract persons with requisite qualifications and experience. Moreover, it can mount regular training programs both in-service and on recruitment, for the staff to upgrade their knowledge.

6.8 6.8 Difficulties with this option

--Complicated.

Creating a new LMA from existing agencies will be difficult to carry out. Legal changes, changes in organizational cultures, learning of new work rules and under new management will be difficult for people to accept. Existing agency heads may oppose a fusion in which they may lose status and power.

--Management talent in short supply.

Business management skills will be of critical importance in a complex LMA.

--Illegal Occupiers.

This institutional restructuring will have little effect on the management of State lands unless there is a clear policy statement from Government and demonstrated actions taken to remove illegal occupiers of State land, and to facilitate the assignment of State land to appropriate users. Court cases may be necessary to clarify the judicial views on the State's procedures for the removal of illegal occupiers of State lands.

In summary, the Land Management Entity that is contemplated is limited in scope for the management of state lands. State land management has been defined to encompass activities that would enable an agency to "locate, evaluate, conserve, distribute and manage" state-owned lands.

The advantages of such an entity include:

- Ability to hire persons with requisite qualifications and experience and remunerate them accordingly.
- Maximize returns from the lands under its control
- Financial independence within limits
- Collect arrears of rents and royalties within a short period of time and pursue legal action against defaulters.
- Run the agency based on best practices of a business establishment
- Bring efficiency and effectiveness into its operational activities
- Ability to undertake profit/loss and cost benefit analyses as standard business practice
- Become a 'One Stop Shop' for investors, governmental agencies and members of the public seeking state land for development
- Rationalization of land use and the ability to determine among competing demands the best use through land capability assessments

- Eliminate duplication of effort on the part of numerous agencies undertaking similar activities
- Stimulate the land markets to operate in socially and environmentally sustainable basis
- Transform the under-developed land sector to achieve high productivity and become a key contributor in economic growth
- Create a positive environment for private sector investment in land
- Eliminate managerial and organizational defects by revitalizing the agency functions

The disadvantages include:

- Very complex to create
- Management very difficult

The success of any option for institutional re-structuring for the improvement of the management of State lands depends on Governmental and Judicial commitment to enforcement of lease conditions and to the removal of illegal occupiers of State lands.

7 TOBAGO

Since the THA has in effect created a single State land management entity, the Department of Land Management Services in the Division of Agriculture, Land and Marketing, the strengthening of that entity is important, as well as the coordination of the DLMS with the in the State land management of the Division of tourism and Settlements. LUPAP activities will assist in the following:

7.1 Policy Paper on State Land Management in Tobago.

LUPAP team members as needed will work with the Department of Land Management Services, the Department of Natural Resources and Environment and the Department of Settlements and Tourism to prepare a policy paper on state land management. This paper will take into account land use planning and zoning, evaluation of land for capability, prioritization of demand on the basis of objective criteria, conservation of environmentally sensitive areas, mode of distribution of state land, including selection procedure, eligibility criteria, unit of alienation, unit of sub-division etc., regulatory aspects of state land management, including enforcement of lease conditions, transfer of leasehold rights, penalties for non-adherence, issue of permits and licenses, containment of encroachment on State lands and incentives for private sector investment in State land in Tobago.

7.2 Procedures Manual

The LUPAP team will work with the Department of Land Management Services to develop a procedures manual which will identify each activity of this Department, with details of work steps. Such a document will enable the staff to know what exactly needs to be done on receipt of an application from the public or from other Governmental agencies pertaining to state land. These processes should cover the subject areas of new leases, renewals, grant of consents/assignments/mortgages, sub-division, change of use, quarries, mines and land reclamation, issue of advisory notices and termination notices and land acquisition.

These procedures must also include a formal system of communications and linkages between governmental agencies handling state land work in Trinidad and the Department of Land Management Services under the Tobago House of Assembly

7.3 Staff Training.

Staff with State land management responsibilities will be provided with training concerning the general principles and procedures of State land management, and with the particular State land management problems in Tobago.

7.4 TOR's for Action Plans

The LUPAP team will assist with the preparation of Terms of Reference for a Tobago Coastal Zone Management Plan and the Tobago Wetlands Management Plan, and one other Action Plan to be defined (such as Pollution Abatement and Control, Forestry and Wild Life Management, and National Parks Management)

8 MANAGEMENT INVESTMENTS IN COSL

Whichever option or variant outlined above is chosen, and in the interim period during which the necessary legal framework is established to implement the option chosen, improving the management capabilities of the Commissioner of State Lands is urgently needed:

- Develop a lease management system in the COSL, based on SALIS
Create a lease management system and database out of the leases recorded in the Red House Lease Books and the deposited survey plans, composed of:
 - a) A “folio” for each leased parcel, patterned on the folio required under the new Registration of Titles to Land Bill, but which can also function to register the lease provisionally under the RPO.
 - b) Assignment of a UPRN to the parcel
 - c) A parcel description sufficient for registration under the RPO, and for meeting the requirements of the Parcel Identification Map required under that Bill and under the Land Adjudication Bill.
 - d) A lease management action record showing the date of expiration, status of rent payments, and other data needed to manage the leases.

- e) Review existing State leasehold management authorities and activities and clearly define their current responsibilities, work flows including linkages with other agencies, information requirements to support daily decision-making, and staff resource capacity and needs: including State lands inspectors, Lands Officers, District Revenue Officials.
- f) Translate and adapt the existing State Agricultural Land Inventory database (SALIS) from LAD for the COSL lease information management system. This activity will require acquisition and customization of new information technology based on designed system specifications.
- g) Update data for SALIS from local records. A team will gather current information on State leaseholds from county offices of the MALMR.
- h) Develop procedures and test completion of an inventory of non-agricultural State lands similar to what was accomplished under SALIS but specific to the needs of non-agricultural leased parcels.
- i) Provide training to agency staff in the implementation of new operational procedures for State leasehold land management and use of the integrated lease information management system technology.

This effort would involve the design an integrated lease management information system that utilizes geographic information system (GIS) and relational database management technology. The lease information management system would be designed to operate as a sub-component of the eventual GORTT Land Information System (LIS) and to support operational procedures across various State land management agencies.

- **Develop a Lands Sector work flow management system**
The Lands Sector needs a system for tracking actions taken for each lease application and subsequent assignments, renewals, inheritances, etc.
- **Design procedures for incorporating all map and lease management information of the decentralized State land management agencies into a common database.**
State land vested in decentralized authorities or State corporations, State land reserves, regularized State agricultural lease parcels and urban squatted parcels will be initial input into the data base. These updated records can be gathered straightforwardly, using maps and attribute data available in the agencies. Once established, this information will form a State Land Parcel Identification Database. This Index-Database will be maintained by the Commissioner of Lands in conjunction with the Surveys Department, and shared with decentralized agencies at the cost of maintenance and updating of the material. To ensure regular updating as transactions occur, a legislative requirement should be introduced which obliges any State land agency which transfers, subdivides or consolidates parcels of land to show that they have introduced the change into the Index-Database before registration of the interest can be finalized.

9 TASKS FOR LUPAP

If the Government and the LUPAP Steering Committee are agreed with the proposals outlined in Sections 7 and 8, then the LUPAP team would continue with the design of the Land Management Entity. The tasks are:

- Further exploration of the implications for the agencies to become part of a Land Management Entity and the implications for the agencies not to play a functional role in a Land Management Entity
- Further refine the functions of the LMA
- Define the organizational structure of the LMA, and the composition and functions of a Board of Directors.
- Prepare the legal basis for the LMA, including the harmonization of other legislation such as the State Land Act and the State Lands (Regularization of Tenure) Act
- Determine staffing requirements at both technical and administrative levels
- Assist in determining and recommending procedural, technological and training requirements to ensure institutional sustainability
- Develop a Business Plan

**Appendix A: Agencies involved in significant State land management functions:
Core Agencies for LUPAP**

Ministry of Housing and Settlements:

1. Commissioner of State Lands
2. Land Settlement Agency
3. National Housing Authority
4. Sugar Industry Labor Welfare Committee ,

Ministry of Agriculture, Land and Marine Resources:

5. Land Administration Division
6. Caroni (1975) Ltd.,

Ministry of Finance, Planning & Development:

7. Chaguaramas Development Authority,

Ministry of Public Administration:

8. Property and Real Estate Division,

Ministry of Tourism (TIDCO)

9. Property and Industrial Corporation of Trinidad and Tobago

Ministry of Energy:

10. Land Lease Operations of the Ministry
11. PETROTRIN: Palo Seco Agricultural Enterprise ,

Ministry of Local Government,

12. Port of Spain City Corporations Municipalities

Tobago House of Assembly:

13. Dept. of Land Management Services
14. Dept. of Natural Resources,
15. Division of Settlements, Tourism and Information

There were also institutions which exercise control over significant quantities of state lands but were considered non-core agencies. These were:

1. Public Transport Services Corporation
2. Point Lisas Industrial Development Company
3. National Port Authority
4. Non Pareil Estates, Ltd.
5. Airport Authority
6. .

It was decided that NIPDEC and the Urban Development Company of Trinidad & Tobago (UdeCOTT) were acting more as project managers than as land managers. It was also decided to exclude the Forestry Dept. from the LUPAP review due to its special mandate and in light of ongoing reviews of the activities and legal basis of the Forestry Dept.

Appendix B: Land Administration Units

The nine (9) major land administration units are:

1. Land Registry of the Registrar General Department, Min. of the Attorney General, which keeps records of private interests in land.
2. Surveys Dept, MHS
3. Valuation Division, Ministry of Finance, which advises the State on values of properties for rental, acquisition or compensation purposes
4. District Revenue Offices, Ministry of Finance, which collects realty taxes and land rents.
5. Chief State Solicitor, Attorney General's Department, Ministry of Legal Affairs, which processes leases and gives legal advice.
6. Administrator General, Attorney General's Department, Ministry of Legal Affairs, which processes certain interstate inheritances.
7. Interim National Physical Planning Commission (inclusive of Town and Country Planning Division) which processes requests for subdivisions and changes in land use designation.
8. Tobago House of Assembly (THA) which performs Land administration in Tobago.
9. Environmental Management Authority.

Appendix C: Surveys Department

The Surveys Department plays a critical role in the collection and storage of basic land related information in Trinidad and Tobago. This basic land data is accessed by other government agencies to be used in the administration of aspects of land under their jurisdiction, either through the use of traditional, paper based copies of maps, or through more advanced digital based land information systems. More specifically, the Division carries out and/or issues instructions to private survey companies to carry out legal surveys of land parcels that are approved by the Division and attached to deed documents and certificates of title under the Real Property Ordinance (RPO). The Division also produces a wide variety of different thematic maps at a variety of scales for sale.

Despite its importance, the Division has seen a steady decline in the number of staff, the use of the latest technology is spotty, and the efficiency of operation is not uniformly high. In other words, the Division has not kept up with the requirements and demands of public and private agencies that require services from them. Several studies were carried out in the early 1990's to try and recommend ways of improving the efficiencies and performance of this division. Amongst them, the most comprehensive study was carried out in 1995. Titled "User Requirements Analysis Diagnostic Study, Management of Survey and Cadastral Records" by R.A. Baldwin and F. Reyes, this study undertook an in depth analysis of the mandate and workings of the Lands and Surveys Department with special emphasis on improving the management practices and various workflow procedures presently carried out. Several recommendations were made to correct the various deficiencies in the department. The report was accepted by L&S in 1996. To date very few projects relating to the recommendations have been carried out by the Department. Most of them have unfortunately stalled due to the lack of funds and lack of resources required over the long term to sustain them. Another major study was conducted in 1999, "Lands and Surveys Strategic Plan, 2000-2003", which should be reviewed, modified if needed and implemented.

The Division has the potential of generating some income within the LMA (although map sales only amounted to TT\$157,000 in 1999). The flexibility of being in an Authority plus the discipline of being self financing should help resolve some of the basic problems that this Division has encountered in the past.

When the new Registration of Land Titles bill becomes law, the Division will become responsible for the creation and maintenance of Parcel Identification Maps, a major function for the appropriate functioning of the land registration system.