



LAND TENURE CENTER
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LAND USE POLICY AND ADMINISTRATION PROJECT (LUPAP)

FINAL REPORT

Concepts and Language to Assist Preparation of Legislation to establish the State Land Management Authority (SLMA)

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INTRODUCTION

This paper is designed to assist in the preparation of new legislation to establish the State Land Management Authority, particularly to transform policy goals and objectives into the body of legislation.

1. Specificity

In the design of legislation, the objects of legislation should be defined with a degree of precision, and methods and control systems clearly laid out in the body of the legislation, to avoid ambiguity. The mandate should be specific and complete. It is hoped that this paper would assist in some measure in determining the mandate.

2. Concepts

The current demands of the office of the Commissioner of State Lands are much wider in scope from those in the pre-independence era and the period immediately following independence as Sub-intendant. The volume of work has grown immensely and so are the demands and the aspirations of the people. The Commissioner has to assess land use demands from different sectors of the economy and base allocation decisions on economic efficiency, equity and social and ecological sustainability. He also has to pursue a vigorous policy of state land distribution, particularly to satisfy the demand emanating from the landless poor.

The role has changed from administration of state lands to management of state lands in a sustainable manner, requiring adoption of the best land management practices available. It envisages the transformation of the land sector to become a key contributor in economic growth. The concepts that should be embodied in the new legislation should entrust the Commissioner with overall responsibility for four (4) basic functions pertaining to state land. They are as follows:

- (a) Development
- (b) Regulatory
- (c) Advisory
- (d) Coordination

Development

The developmental function relates to identification (location), evaluation, conservation, and distribution of state lands to satisfy the competing demands of the various sectors of the economy in order that such land resources can be utilized on a sustainable basis and to the greatest national advantage.

Regulatory

The Commissioner of State Lands should become the custodian of all state lands in Trinidad and Tobago. This means exercising all rights of ownership in respect of state

lands on behalf of the President. The role has two dimensions. The first covers the role of protection of all state lands, which includes prevention of illegal occupation as well as preventing environmental degradation. The second is to ensure that those lands that have been alienated either by way of vesting to Government agencies or through leases, permits or licenses are utilized for the purposes for which they were alienated. This applies to both individuals and state agencies that are recipients of state lands. Any deviation from compliance with terms and conditions should allow the Commissioner to intervene without any form of hindrance.

Advisory

The third function is to play a catalytic role in policy formulation and development in regard to state land. This has to be undertaken in consultation with all stakeholders. The Commissioner should be responsible for development and review of policy on state land management and advice government on all policy issues pertaining to state land.

Coordination

The final role of the Commissioner is that of coordinating with other agencies impacting on the land sector as a whole, including those executing land management functions, with a view to ensuring adherence to agreed policy of Government on state land management, and to provide professional support and assistance when required. The Commissioner should be in a position gain willingness among all agencies managing state land to take rigorous compliance action. Through better coordination, he should strive to improve the functioning of the state land rental market by adopting a common approach to pricing policies based primarily on market values, but exclusionary towards targeted programs for equity in access to land.

The new legislation should enable the Commissioner to perform all four tasks.

3. Application

The provisions of the new State Land Management Act should apply to all state lands for which the Commissioner of State Lands under the State Lands Act exercised all rights of ownership vested in the state. The State Land Management Act envisages the repeal of the State Lands Act and to replace it with the State Land Management Act 2001.

The new Act should contain provisions that would enable the Commissioner of State Lands to perform a dual role, namely the functions of the Commissioner of State Lands as custodian of all state lands empowering him to exercise all rights of ownership vested in the State in respect of State lands and that of the Executive Director of the State Land management Authority. In the implementation of the work program, the Commissioner is expected use the implementation arm designed for the purpose i.e. the State Land Management Authority. To enable use of this facility for the performance of his functions, he becomes the Executive Director/Chief Executive Officer of the Authority.

The new Act should take into account legislative, institutional, policy and administrative changes that have taken place during the interim period since the enactment of the State Lands Act, the deficiencies found in the State Lands Act legislation, and provide for the Commissioner/Executive Director of the SLMA with the necessary tools to perform the duties and functions of state land management effectively and to engage other government agencies managing state lands through policy coordination and sharing of information.

The new legislation should also permit the Commissioner of State Lands to perform all duties and functions entrusted to him under numerous pieces of legislation as before, including the Acquisitions Act.

All legal instruments of disposition have to be issued in the name of the Commissioner of State Lands/Executive Director of the State Land Management Authority in order that such issue can be handled internally by the SLMA. The use of the Authority should enable him to gain full autonomy in the discharge of his duties and functions.

4. Reasons for Repeal

As mentioned above, the State Land Management Act envisages the repeal of the State Lands Act, which is an amalgam of eight pieces of legislation, with its original form first published and passed in 1918 dealing with Crown Lands. Since 1980, the State Lands Act has not undergone amendments except the most recent State Lands (Amendment) Act No. 74 of 2000 which makes every lease of State Lands to contain a plan prepared by a registered surveyor certified and approved by the Director of Surveys and to be registered under the Real Property Ordinance.

The repeal of the State Lands Act is warranted as certain statutory provisions contained in the Act have now become obsolete and inoperative. State land management functions are scattered amongst several agencies making it impractical for the Commissioner of State Lands to perform all tasks assigned as originally designed under the State Lands Act. In drafting new legislation, this aspect has to be taken into consideration so that the legislation can avoid existing inconsistencies and conflicts.

5. Erosion of Powers of the Commissioner of State Lands

The State Lands Act confers all rights of ownership in respect of state lands to be exercised by the Commissioner of State Lands on behalf of the President. However, the rights of ownership at present are not all encompassing or complete as such rights have been whittled away by other legislation. The Acts that have taken away rights originally conferred on the Commissioner are as follows:

- (1) State Land (Regularization of Tenure) Act No.25 of 1998
- (2) Tobago House of Assembly Act No 40 of 1996
- (3) Housing Act of 1962
- (4) Water and Sewerage Act of 1965

- (5) Petroleum Act of 1969
- (6) Port Authority Act of 1961 and Port Authority (re-vesting property) Act of 1975
- (7) Public Transport Service Act of 1965
- (8) Highways Act of 1970
- (9) Regional Health Authority Act of 1994
- (10) Chaguaramas Development Authority Act of 1972
- (11) Tourism and Industrial Development Company of Trinidad and Tobago Limited Vesting Act 1995
- (12) Municipal Corporations Act No.21 of 1990

The extent to which these act have taken away some of the functions of the Commissioner of State Lands is given in **Annex A**. In drafting new legislation this aspect has to be taken due cognizance.

The objective of the new Act is not to attempt to take back any of the functions given to specialized agencies but to resume overall regulatory, developmental, advisory and coordination responsibilities described under paragraph Two (2. Concepts).

6. Definition of State Land

Lack of a definition of state land is a major anomaly in the existing State Lands Act. "State land" is not defined in the State Lands Act or the Tobago House of Assembly Act. An examination however, of the various pieces of legislation reveals that there are varying definitions of the term as it appears in these statutes of Trinidad and Tobago. The term "State land" is defined in these Acts to suit the ends and objects of each 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.

The Forests Act defines State Land as

"State lands" includes-

- (a) The waste or vacant land of the State within Trinidad and Tobago
- (b) All lands vested in the State, whether by forfeiture, escheat, purchase or exchange, and not dedicated to the public;"

The Conservation of Wild Life Act defines state lands almost in a similar manner to the Forests Act-

"State Lands" includes-

- (a) the waste or vacant lands of the State within Trinidad and Tobago
- (b) all lands vested in the State whether by forfeiture, purchase or exchange and not dedicated to the public

The State Lands (Regularization of Tenure) Act of 1998 defines state land as

“State Land includes land held by the National Housing Authority, State Land vested in the Tobago House of Assembly and any other land transferred to the State from time to time by any State agency for the purposes of this Act”

A possible interpretation that can be given for State land in the body of legislation is appended:

“State land means lands to which the State is lawfully entitled or which may be disposed of by the State together with any building standing thereon, and with all rights, interests and privileges attached or appertaining thereto, and includes lands vested or under the control of any other authority charged with the function of developing State land or any local authority”

7. Definition of Land

The definition of “land” should include-

- (a) The bed of any waterway or any collection of water, whether natural or artificial
- (b) Things attached to the earth or permanently fastened to anything attached to the earth, and
- (c) Any title to land or any interest in the crops growing or to be grown thereon;

8. Powers, duties and functions of the State Land Management Authority

The Authority under the State Land Management Act be able to—

- (a) Utilize state land resources on a sustainable basis and to promote orderly and planned development of state land resources
- (b) Ensure that property rights are well-defined, exclusive, secure, transferable and enforceable
- (c) Locate state land resources, evaluate their capability and allocate such land among competing demands emanating from various sectors;
- (d) Assess land use demands from different sectors of the economy and base allocation decisions on economic efficiency, equity and social and ecological sustainability

- (e) Base land use decisions on land capability classification and resource evaluation data for land use planning;
- (f) Conserve state lands with particular regard to biodiversity, soil and watershed conservation;
- (g) Pursue a vigorous policy of state land distribution
- (h) Issue legal instruments of Grants having freehold status, Leases, Permits, and Licenses for use of State lands and registering such instruments with the appropriate Government Authorities
- (i) Provide for vesting of State land in Government agencies
- (j) Collect rents and royalties from lands belonging to the State
- (k) Impose penalties for defaulters including prosecution
- (l) Accept surrenders of leases and licenses
- (m) Issue consents for sub-division, change of use, transfer, assignment and mortgage
- (n) Grant rights and liberties over the foreshore or lands under territorial waters, or for reclaiming of lands from the sea
- (o) Issue any instrument dealing with or affecting any other right or interest in State lands vested in the Authority
- (p) Obtain valuations for such State land and buildings thereon
- (q) Acquire private lands for public purposes and pay compensation (as provided in the Acquisitions Act)
- (r) Advise Government on policy formulation and development in regard to State land
- (s) Conduct periodic surveys to detect encroachments and squatting on state lands and take prompt action to eject such squatters and encroachers
- (t) Provide land for relocation of landless squatters
- (u) Conduct public education programs to discourage squatting and encroachment as a means of land acquisition.
- (v) Provide training for employees of the Authority to upgrade their skills

(w) Enhance the legal, regulatory and institutional framework for state land management

(x) Any other matters incidental to the performance of these functions

Annex B provides definitions and describes the responsibilities cast on a government agency that is entrusted with the task of managing State land. This annex may be used in the arrangement of Sections of the State Land Management Authority Act.

9. Establishment and Organization of the State Land Management Authority

The State Lands Management Authority should be created as a body corporate by Act of Parliament to be known as the State Lands Management Act 2001. As a body corporate:

- It would have the rights and privileges as an autonomous entity, with *inter alia*, the power to sue, to be sued, hire, dismiss and regulate its own internal structure and affairs.
- It would be able to regulate its own financial affairs.
- It would collect revenue and facilitate clear financial and operational performance targets.
- It would be a Statutory Authority for the purposes of the Guarantee of Loans (Statutory Authorities) Act

9.1. Appointment of the Executive Director and the Board of Directors

The appointment of the Members of the Board will be by the President. The Chairman of the Board will be the Commissioner of State Lands designated Executive Director of the Authority.

Other than the Executive Director, there will be nine members. The Board of Directors of the SLMA shall comprise of the following:

- (a) Three (3) Representatives from state agencies managing state lands
- (b) Representative of The Tobago House of Assembly
- (c) Representation from the following Ministries:
 - Ministry of Finance
 - Ministry of Food Production & Marine Resources
 - Ministry of Housing and Settlements (Surveys Division)
 - Ministry of Integrated Planning & Development
- (d) Representative from the Local Government Authorities. (Cities, Boroughs and Regional Corporations)

The Board shall regulate its own procedures for meetings, award of contracts, and other functions.

The Authority may co-opt any one or more persons to attend any particular meeting of the authority for the purpose of assisting or advising the Authority, but no such co-opted person shall have any right to vote.

9.2. Appointment of Committees

The Authority may appoint committees to examine and report on any matter whatsoever arising out of or connected with any of its powers and duties under the Act. Such committees should have at least one member of the Authority together with such other members whose assistance or advice the Authority may desire. The report of any such committee can be rejected, adopted wholly, or with modifications as the Authority may think fit.

9.3. Term of Office

A member of the Board other than the *ex-officio* member who will be the Chief Executive Officer of the Authority shall be appointed for a term not exceeding five years, and under such terms and conditions of service as the President may fix in the instrument of appointment. The appointment, resignation, termination, revocation of appointment, meetings of the Board, quorum, vacancies, remuneration, delegation of functions can be as provided in similar legislation to establish a body corporate.

9.4. Funds and Resources of the Authority

The funds and resources of the Authority will consist of the following:

- (a) Such amounts as may be appropriated by Parliament
- (b) All sums received by the Authority in respect of ground rents, way leave for oil pipelines, rent of access roads, mining leases, rents of housing lots,
- (c) Premia on leases, housing lots and reclaimed land
- (d) Premia on variations of existing leases (regularizing change of uses of state land)
- (e) Search fees and miscellaneous income
- (f) License fees for land reclamation
- (g) Sums received for preparation and processing of agreements and leases, inclusive of processing of reclamation and Jetty Licenses
- (h) Sums received for granting approval for construction of buildings on state lands
- (i) Sums received for the grant of consents to assign, mortgage leases etc.
- (j) Royalties for quarries, sand and gravel including offshore exploration leases
- (k) Arrears of rentals
- (l) Any other charges that the Authority may impose from time to time
- (m) Sums received by the Authority in respect of issue of permits, licenses, and agreements

- (n) All sums received from penalties imposed by the Authority for non-conformity to conditions of disposition
- (o) Income from investments, fees, commissions and interest
- (p) Sums borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions
- (q) All other sums that may become payable to the Authority in respect of any matter incidental to its powers and duties

9.5. Accounts of the Authority

The Authority will cause the accounts to be audited in accordance with the Exchequer and Audit Act and cause a copy to be transmitted to the Minister to be laid before Parliament. A copy of the Annual Report will also be submitted in the same manner to Parliament.

9. 6. Provisions to enable Public Officers to be employed in the Authority

The Act should provide similar provisions as in the case of the Chaguaramas Development Authority Act and the Water and Sewerage Act to enable public officers to be transferred to the service of the Authority with the approval of the Minister and the appropriate Service Commission. Such officers upon transfer shall become a member of a Pension Scheme that would be established by the Authority.

Where a transfer on secondment is contemplated, the Authority should be able to make such arrangements as necessary to preserve the rights of the officer to any pension, gratuity or allowance for which he would have been eligible had he remained in the public service or the Service of the Authority, as the case may be.

10. Identification of State Land

State land has been identified on Ward Sheets maintained by the Director of Surveys. The Director of Surveys also maintains records of all State lands that have been distributed by way of grants/leases and agreements. However, they need to be updated to reflect the actual field situation. In the case of certain Government Authorities, State lands have been vested in them under the statute establishing such Authorities.

The new Act should have provision for unimpeded access to Ward Sheets, Sectional Sheets, Lease Plans and information on vesting of State lands in the custody of the Director of Surveys. Sharing of information with other agencies possessing data on land is essential for successful implementation of the program.

11. Evaluation of State Land

Evaluation of land covers two aspects, namely, evaluation of the capability of parcels of State land, based on land capability classification (overall potential for use), and resource evaluation data for land use planning (taking into account physical, social and economic information). This information is essential for the Authority to enable selection of land for a given purpose in an objective manner. Data pertaining to overall potential of land are available with such Government institutions as the Department of Town and Country Planning and similar agencies. The Act should have provision to gain access to such data.

The second aspect is the determination of the actual value of the land. In regard to acquisition of private land for public purposes, the Authority will follow the existing procedure laid down in the Acquisitions Act and the valuations for those land parcels will be obtained through the Commissioner of Valuations. In regard to state land parcels, the State Land Management Authority should have the autonomy to exercise the option of out-sourcing work in land valuation through competent authorities to the private sector and to use management advisors to provide support. Where sufficient data are available, rapid appraisal techniques such as using a valuation band for a determined range of values can be adopted. The Authority should be authorized to obtain valuations for a block of state land instead of individual parcels and determine value of each unit subsequently. Provision should be made to follow this rapid valuation procedure and to enable aggrieved parties to appeal against such valuation. In such cases, individual parcels will be valued and the additional cost incurred will have to be borne by the appellant. Provision should be made to deviate from the procedure laid down in the Valuation of Land Act in respect of state land parcels if and when the Authority deems it necessary.

12. Management Plans

With data available for overall potential for use, and resource evaluation data for land use planning (taking into account physical, social and economic information of land capability), the Authority should be in a position to develop Management Plans for the State lands that they are expected to manage. The legislation should provide for the development of such management plans, which will indicate management priorities and operational principles for managing state land resources for identified uses. Such plans will indicate the potential for land uses and will enable the Authority to conform to the agreed policy of Government on land use.

The management plans that are prepared by the Authority should be available for the public and other agencies of the Government to make observations and should be modified based on valid representations. The legislation should provide for the adoption of this procedure.

13. Conservation of State Land

The new Act should have provisions to ensure that action will be taken to maintain the nation's unique indigenous biological wealth and to preserve its biological diversity,

namely genetic variation within species, the diversity of species and diversity of ecosystems. The Authority has a responsibility to identify areas under severe pressure falling within State lands, demarcate and prevent environmental degradation. This includes those state lands that have endangered endemic species of flora and fauna, critical habitats and protected areas.

The State Lands Act does not provide for demarcation of stream, and river reservations falling within state lands. The new Act should provide for such reservations and regulations under the Act can describe the basis of determination of such reservations.

Similarly, provision should be made to prevent land degradation particularly, watershed degradation, soil erosion, water logging, salinization and alkalization. The existing protected area network including forests and wildlife reserves in Trinidad and Tobago should be defined clearly, so that those involved in allocation and distribution of state lands do not excise any part of such reserves without prior written approval of the Director of Forestry.

All wetlands falling within State lands have to be defined and protected. The Act should contain provision for preparation of inventories of wetlands within State lands. The Authority should be able to prepare management plans to secure environmentally sound management. All activities within a wetland area will be subjected to the provisions of the Environmental Management Act and its regulations and will require an environmental impact assessment.

Coastal habitats and natural features of exceptional value in the coastal zone in Trinidad and Tobago have to be preserved. The legislation should ensure that land development activities in the coastal zone do not contribute to or aggravate erosion and that development does not occur in hazardous areas.

It has been proposed in the draft policy paper, that all *unutilized state lands* exceeding 25-degree slope be brought under permanent forest cover. Hopefully, an agreement will be arrived at after discussion with all stakeholders. The Act should provide for reforestation of such environmentally sensitive areas. If development is to take place in such areas, adequate infrastructural and management investments have to be made by the developers in advance of such development.

Land subject to natural hazards such as floods, earth-slips, and erosion should be identified and no settlements should be permitted in such areas.

13. Allocation and Distribution of State Land

The Authority must satisfy itself that the state lands identified for allocation do not fall into the following categories:

- (a) State lands subject to erosion, floods, earth slips or water logging
- (b) State lands that fall within forest and wild life reserves, mangroves, and wetlands or fall within the buffer zones of such reserves or within environmentally sensitive areas
- (c) State lands within watersheds, river and stream catchments
- (d) Natural features of exceptional value falling within state lands

The allocation of state lands will be primarily through market mechanisms. However, as market mechanisms are biased against those who have no access to the market, such as the poorer segments in society, the Act should provide for strictly targeted programs catering to the needs of the poor.

Where land is required for a development project with heavy private sector investments, provision should be available for the allocation of state land on a selective and preferential basis.

Therefore, it is suggested that the legislation should permit three ways of allocation.

- (a) By way of auction to the highest bidder
- (b) By way of application confined to a targeted group of persons or groups in order to ameliorate their disadvantaged position (Ex. Landless poor). Selection of persons falling into this group should be at a public inquiry. Provision should be made for the notification of such land alienation to the public, manner of alienation, when and how applications for lands are received and considered, the persons to whom state lands under this category may be alienated, and for the lodging of objections by any member of the public, to any selection stating grounds of such objection.
- © On a preferential basis to attract investment in a particular sector in the economy (to attract private sector investment) or to contribute directly or indirectly to the socio-economic improvement of the people (Ex. Community-based Organizations, Non-Government Organizations, Religious Groups).

In regard to distribution, the State Land Management Authority has to pursue a vigorous policy of state land distribution, particularly to cater to the demand emanating from the landless. Based on demographic pressures in each locality, incidence of landlessness, and the availability of state land, the Authority will determine and prioritize areas for state land distribution. Provision should be available to follow this procedure of distribution.

The transfer of ownership of state land should be based on demand and needs of each sector. Provision should be made for State land to be distributed for housing, agriculture, commerce, industry, tourism and recreation or any other purpose at prevailing market value. The legislation should provide the basic principles of allocation and permit the

details of allocation methods to be enumerated in the regulations or by way of Government policy decisions.

14. Security of Tenure and Transferability of Property Rights

The Act should recognize that the existence of efficient land markets which facilitates land transfer as an essential prerequisite for productivity growth. The provisions of the Act should promote the improved functioning of the land market through unimpeded transactions, to move land from inefficient users to efficient ones, facilitate optimal use of land, promote investments in land conservation and development. To this end, the Act should attempt to discourage as far as possible, interventions that will distort the market.

The Act therefore should ensure that the tenurial patterns which have impacted negatively under earlier legislation on:

- (a) The ability to carry out effective transfers of property rights
- (b) Development of economically efficient land management
- (c) Environmental management and
- (d) Investment in housing, agriculture, industry, commerce, tourism and recreation

are not included as provisions. However, as disadvantaged groups do not have access to the land market, specifically targeted programs should be available to alleviate the problems of the landless poor.

15. Transfers of State Land subject to minimum number of Conditions

The new legislation should enable the community to transact their business with the least transaction costs of time and money. Therefore, the approach in the legislation would be to limit bureaucratic interventions to the barest minimum. It is proposed that in the case of leases wherein the lessee has paid the full market value upfront and only an annual peppercorn rental is charged, that such lessees be permitted to effect subsequent transfers through private attorneys, as done in the case of private lands. A copy of the Deed of Transfer should be sent to the Authority for record purposes to enable recovery of the annual peppercorn rental from the new lessee.

Every other transfer of any State land should be deemed to be subject to only a very limited number of conditions, such as:

- (a) The transferee's title to such land shall be subject to any servitude attaching to such land
- (b) Such transfer shall be deemed not to confer any right to any mineral in, under, or upon such land and every such mineral shall be deemed to remain, and shall remain, the absolute property of the state

- (c) The title to such land shall revert to and vest in, the State if there is a failure by the transferee to comply with any condition to which such transfer is subjected.
- (d) Such other condition as may be prescribed in the interests of the proper utilization and management of such land

16. Survey of Land to precede Distribution

All state land will be allocated and distributed only after such land has been surveyed and demarcated. The Authority will exercise the option of outsourcing survey work but will only accept plans if they are certified by the Director of Surveys. Every lease of State Lands should contain a plan prepared by a registered surveyor certified and approved by the Director of Surveys so that the lease document can be registered under the Real Property Ordinance/Title Registration Act.

17. Legal Instruments

The Act should have provision for the issue of legal instruments to cater to the following:

- (a) Permits
- (b) Licenses
- (c) Leases
- (d) Grants and for
- (e) Vesting of state land in Government Agencies

The Act should provide the prescribed Form of Permit, License, Lease or Grant. Similarly the format for vesting of state land in Government institutions should be included with provision to insert special conditions. The conditions in the instrument should run with the land and should bind the original and all owners and all persons who acquire any title to it.

Permits and licenses would cover extraction of materials from State lands, reclamation of land from the sea etc.

In the case of vesting, a demarcation survey should precede and proper boundaries established before such vesting is done.

18. Dispositions

The Act should spell out the powers of the owner to dispose of the holding, by way of sale in the case of grants, transfer, gift or other means in all other cases. Similarly, the powers to sub-lease or mortgage of a holding should be provided.

19. Succession

The Act should specify the general principles applicable to succession upon the death of the owner. If it follows the rules of existing law of succession, that should be clearly stated. If no person fails to succeed, such land should be deemed to have been surrendered to the State.

20. Powers of Inspection

The Executive Director of the Authority or any officer authorized in writing by him should be permitted at any time to enter and inspect state land alienated by the Authority, for the purposes of ascertaining whether any condition to which such transfer is deemed to be subject is being complied with.

The Executive Director or any officer authorized in writing by him should have powers to enter any adjoining private land to determine boundaries in the event such private land abuts any state land parcel or parcels.

21. Cancellation of Grants, Leases, Permits and Licenses

The procedure for cancellation including issue of notices for breach of conditions, period allowed for showing cause, procedure for serving of notice, order of cancellation, procedure for appeal and time limit for appeal should all be included in the legislation. The procedure in eviction for breach of conditions, including notices to party to vacate holding and the in the event of failure on the part of the occupant to vacate, the Court procedure including the execution of order of eviction, has to be spelt out.

22. Collection of Rents and Royalties

The new Act should spell out the principles governing the determination of the amount of annual payment and the method of computation of the actual amount to be reflected in the regulations.

The “Assessment of the Commissioner of State Lands” shows very clearly the large quantum of unpaid rents and royalties that are due to the Government by way of revenue. Over TT\$15 million was remaining to be collected by the end of 1998 and a sum of approximately TT\$ 8 million is due every year from these leases, permits and licenses.

With the establishment of the Lease Management System and the Workflow Management System, the data pertaining to revenue collection will be entered into the system. However, the legislation should provide for a process of quick recovery of monies due and to impose penalties for payments overdue or in arrears. Penalties should

be in the form of interest at prevailing Bank rates for each period of default, cancellation and repossession of lands, where the lessees do not respond to Advisory Notices, including seizure and sequestration of crops and movable property of defaulting party. In the event, the eviction and repossession have to be undertaken through the Courts, provision should be made to enable full costs including the recovery of principle and interest at Bank rates for the period, the legal costs etc.

23. Issue of Consents

One of the post-alienation responsibilities that the State would be expected to perform, is to issue consents for the assignment, sub-division, transfer, change of use, construct buildings and mortgage of properties. Similarly, provision should be available for the surrender of leases, permits, leases and licenses. The transaction costs of time taken for these simple procedural steps as at present are far too excessive and applicants have been affected immensely on account of these delays. The legislation should provide for a simple procedural resolution of these matters by enumerating the necessary documentation that the lessee has to produce in the regulations to the Act.

24. Foreshore, Territorial Waters and Reclamation of Land from the Sea

The State Lands Act and the Territorial Waters Act provide for the powers and functions of the State in regard to these lands. However, the issue of licenses to develop land reclaimed from the sea was done through the State Lands Act. Provision is required in the new Act to enable development as well as developmental control of these fragile areas in more detail. The issue of licenses for reclamation of land should take into account the ecosystem, drainage, erosion, siltation, navigation, disposal of waste, dumping at sea etc. If more than one reclamation in an area is being considered, the compatibility of all such reclamations has to be studied before hand. The legislation should provide for the absorption of the work presently carried out by the West Coast Master Plan Committee in regard to land reclamation. A Committee with representation from Director Maritime Services, Drainage Division, Town and Country Planning Division, Institute of Marine Affairs, Director of Surveys, Environmental Management authority, Hydrographic Unit and the Attorney General may be needed to assist in determining applications. The Authority should take full responsibility for the ultimate issue of licenses.

25. Acquisition of Private Land for Public Purposes

The acquisition of private land for public purposes is provided under the Acquisitions Act and the Commissioner of State Lands is empowered to proceed with such acquisitions and payment of compensation to the parties affected. The procedure to be followed in respect of valuation of these lands will be the same as before, and the Commissioner of Valuations will determine the value of such land as provided under the Valuations Act. The Authority will facilitate acquisition of such lands, which will be carried out under the name of the Commissioner of State Lands.

26. Policy Reform

The study on the land sector shows that one area that needs attention is policy reform. There is no proper forum for state land policies to be discussed as at present. The Authority should be the focal point and serve as a Technical Secretariat for the development and review of policies pertaining to state land and to advise the Government on policy issues. This cannot be done in isolation and representatives of other agencies involved in the management of state lands as well as those agencies that impact on the land sector have to participate in such deliberations. The new Act should empower the Authority to establish these relationships.

In furtherance of policy reform, it is recommended that the Board of the Authority prepare a comprehensive State Land Management Policy. The current efforts in the preparation of this policy paper can form the basis of this policy. The policy should be revised from time to time. Similar provisions as found in the Environmental Management Act of 1995 may prove to be useful in this regard. The Authority should be made responsible for the execution and carrying out of this policy in relation to all state lands and to ensure that other agencies managing state land conform to the declared Government policy.

27. Research and Planning

The Authority should be empowered to conduct any research or investigation in regard to state land management and cause to publicize research findings.

28. Squatting and Encroachment of State Lands

The study reveals that there is extensive and uncontrolled squatting prevalent in Trinidad and Tobago. Over 30,000 households are squatting on state land primarily for housing. The total extent occupied is yet unknown, and over 8,600 families are squatting on approximately 26,000 hectares of state-owned agricultural land. A virtual collapse of enforcement against illegal holders of State lands and tenants in breach of lease conditions is seen.

In order to arrest this trend it is necessary for legislation to provide a clear path in addressing the issue. The legislation should provide the Authority to adopt clear procedural steps to prevent squatting and encroachment on state land.

It is also necessary to mention that the State Land (Regularization of Tenure) Act of 1998 provides procedural steps to be taken in relation to squatters and tenants of state land prior to January 1, 1998. The Act applies to squatters in respect of state lands on which there is a dwelling house before the appointed day. The dwelling house in terms of this legislation “means a building used mainly as a dwelling or residence, construction of which was completed or was in the course of completion before the appointed day and includes land occupied therewith, not exceeding 5,000 square feet”. It should be pointed out that this Act does not cover all acts of squatting and encroachment found on state land such as agriculture squatters as well as those using state lands for other land uses. The State Land Management Act should cover all such cases.

- (a) All squatters and encroachers in road, stream, channel, climatic and forest reservations will be evicted and a rigid policy will be adopted in evicting them.
- (b) Those who have been in occupation of forest reserves over a long period of time will be considered for regularization, provided such regularization can be undertaken as a contiguous block of land that can be de-reserved from such reserve, without causing irreparable harm. However, prior approval of the Director of Forestry will be obtained in such cases.
- (c) The Authority will conduct an annual survey of squatting and encroachment in lands under its charge to enable them to mount programs to counter such action.
- (d) All attempts will be made in the case of the landless, to relocate them prior to any action to evict them.
- (e) Where relocation is done, the Authority will provide the mechanisms to prevent re-encroachments on the same land.
- (f) Regularization will be resorted to only if occupation of such lands is not in conflict with planning requirements or can be accommodated by the planning authorities taking into account the long-term interests of the region and the country.
- (g) Eviction of new encroachers should be quick and prompt and the Authority should ensure early detection of squatting and encroachment through their field staff. The legislation should provide for demolition of structures on state lands that are under construction by agents of the Authority or any other person authorized by the Authority.
- (h) The Authority will launch a public education program that squatting is not considered as an acceptable means of acquiring land and that those who resort to such acts would be treated as any other engaging in unlawful activity. Such individuals should bear the consequences of their actions and the legislation should provide for quick repossession and penalties for illegal occupation.

29. Eviction and Repossession of State Land

The legislation should empower the Authority with the responsibility to proceed with eviction of squatters and encroachers with relative ease and without undue delay.

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. Trinidad and Tobago Courts have interpreted the law with respect to the issue of squatting on State lands. The *locus classicus* on the matter is the case of Karakash Singh v The Attorney General of Trinidad and Tobago H.C.A. 2443 of 1982 (Devalsingh J.). This was a case where the applicant filed a constitutional motion seeking, *inter alia*, a declaration that the destruction of his wooden chattel house by servants and/or agents of the State constituted a contravention of his right to the use and enjoyment of property and the right not to be deprived thereof except by due process of law under the Constitution. Justice Devalsingh opined in the dicta as follows;

“The fundamental right to the enjoyment of property. It is more extensive than the right ‘to acquire, hold and dispose of property’ (Constitution of India) or the right not to ‘...be deprived of property without due process of law’ (Constitution of the USA... The phrase ‘enjoyment of property’ is... in its context of section 4 of the Constitution, a broad and majestic constitutional term. It is not limited to rights of property in the strict legal sense and it must not be so limited. It must be given the widest possible meaning consistent with a free people in a free State and must remain unfettered by exhaustive definitions which seeks to circumscribe it”.

This interpretation remains the Common Law position today as there was no appeal in the matter and the local Courts have in the main adopted it. The State in terms of this interpretation cannot act without going through the process of the law. This decision has far reaching implications as far as encroachment and squatting on state lands is concerned.

Therefore, the new legislation should provide unambiguous procedure for repossession of State land through the due process of the law, making it possible at the same time for agents of the Authority to demolish illegal structures under construction on state land.

There are examples of other developing countries that have legislated specifically for recovery of possession of State lands through a simplified court procedure. The onus of proving that the defendant is in occupation or possession of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid is placed on the defendant. The State should not be called upon to lead any evidence in support of the application, other than filing an affidavit confirming that the land in question is a State land. The payment of the annual rent to a Bank or a Government Agency and its acceptance while cancellation procedure or eviction procedure is proceeded with, should not be considered a valid reason for termination of such procedures.

The Act also should empower not only the Commissioner of State Lands/Executive Director of the State Land Management Authority but also other heads of Government Agencies such as the Director of Forestry, the Chairman of the Land Settlement Agency and all heads of agencies managing state lands, to institute prosecutions to evict encroachers through same court procedure. No agency should refer eviction matters

within state lands under their charge to the Authority, but should promptly institute action on their own.

30. Divesting Underutilized State land

The legislation should also provide for divesting of underutilized state land, presently in the hands of government Agencies, so that such lands can be made use of for public purposes. The Act should lay down the procedure for termination and repossession of such properties.

31. Offences and Penalties

The Act should provide a summary of offences and penalties for each to be imposed on violators or for providing false information to the Authority. The following may be among the offences for which appropriate penalties have to be determined in the legislation.

- (a) For making false declaration or statement in an application for state land
- (b) Failure to maintain all landmarks indicating the boundary of land parcel
- (c) Willful removal of landmarks or causing damage to land marks
- (d) Squatting or encroachment on state land
- (e) Unauthorized construction on state land
- (f) Unauthorized removal of produce from state land
- (g) Unauthorized construction of roadways through state land
- (h) Use of vehicles of any form on such roadways illegally constructed
- (i) Damage caused to any conservation area or environmentally sensitive area
- (j) Failure to vacate state land on being notified
- (k) Non-payment of rental or failure to pay arrears as determined
- (l) Removal of material from state lands without a license (sand, gravel etc.)
- (m) Transport of such material without license
- (n) Prevention of lawful entry of officers authorized by law to enter land parcels
- (o) Reclamation of land from the sea without license
- (p) Mineral exploration on state land without license including offshore exploration
- (q) Change of use without prior written approval
- (r) Unauthorized change in any legal instrument such as a permit, license, lease or grant
- (s) Refusal to provide data or information pertaining to state land

The penalties for each of the offences have to be determined based on similar provisions in other legislation so that such penalties are not considered too excessive or too lenient.

32. Execution and Authentication of Instruments of Disposition

The Act should provide the method of execution and authentication of all instruments of disposition, including permits and licenses. In addition it should provide for depositing and registering such instruments as leases and grants at the office of the Registrar-General.

33. Data Sharing and Information Management

The State Land Management Authority is expected to gather data pertaining to allocation and occupation of state land. In order to satisfy this requirement, the legislation must make it obligatory for agencies of Government possessing any data on state lands to make such data available to the Authority, on request. The Authority will also promote sharing of information with other institutions managing state lands or possessing geo-referenced data and make available data in the possession of the Authority for their use.

The Freedom of Information Act (Act 26 of 1999) provides access to government records in any form, except as restricted for various reasons including protection of privacy. Agencies can only charge fees commensurate with the cost of production.

The legislation should clearly spell out the data required from Government Agencies as well as the information that would be made available by the Authority to the public. In terms of the Freedom of Information Act, the Authority will publish a statement of the categories of documents that are maintained by the Authority. In addition, the law requires manuals, rules of procedures, and statement of policy to be made available.

34. Powers of Coordination

The State Land Management Authority is expected to establish collaborative arrangements with all agencies managing state lands on rental levels and compliance procedures, management of leases, access to land information systems, sharing information prior to future land allocation activities. Similarly, it expects to coordinate efforts to harmonize policies on state land management. The legislation should provide for the Authority to perform this role.

35. Transitional Provisions

The new Act should provide for transitional provisions making every alienation, allocation and distribution made as well as any permit or license issued under the State Lands Act, prior to this Act coming into being to be valid till such time the period of validity ends in terms of the said Act. Similarly all acts done in the performance of duties and functions under the State Land Act prior to the new State Land Management Act came into being, should remain valid. As the new Act retains the position of the Land Commissioner, it may not be necessary to amend any legislation that confers powers on the Commissioner of State Lands. These include:

- The Resumption of Land Act,
- The Mining Compensation Act,

- The Conservation of Wildlife Act,
- The Lands & Buildings Taxes Act,
- The Forests Act,
- The Land Acquisition Act or
- Any other legislation where such powers have been conferred on CoSL

36. Delegation

The Authority may, either generally or on such terms or conditions as it thinks fit, delegate any of its functions or powers to-

- (a) the Executive Director; or
- (b) any Government entity

The Executive Director may, either generally or on such terms and conditions as he thinks fit, delegate to any personnel of the Authority, by instrument in writing, such of his functions or powers as he thinks fit.

37. Limitation on Personal Liability

No personal liability should be attached to any member of the Board, personnel of the Authority for-

- (a) any act of omission of the Authority; or
- (b) anything done, permitted to be done or omitted in good faith in the course of operations of the Authority by the Board, any personnel of the Authority

38. Provisions of this Act to prevail over any other Law

The provisions of this Act should have effect notwithstanding anything contained in any other written law and accordingly, in the event of any conflict or any inconsistency between the provisions of this Act and such other written law, the provisions of this Act will prevail.

39. Regulations

Matters to be provided for by regulations should include the following:

- (a) The forms, fees, documents and matters in or required by the Act to be prescribed
- (b) Land capability classification procedure-purposes for which State land may be classified into according to its potential
- (c) Procedure for development of management plans for State lands
- (d) Manner of alienation of State land under the Act

- (e) Maintenance of reserves for the preservation of the sources and courses of streams and for the prevention of erosion of the soil, for maintenance of biological diversity etc.
- (f) The manner of paying or recovering fees, costs or other charges
- (g) Collection of moneys due to local authorities
- (h) The classification of persons for the purpose of alienating State land under the Act (Ex. Landless poor)
- (i) The procedure to be observed, the fees to be paid and the forms to be used in preferring appeals
- (j) The manner of publishing or serving notices or of serving other process
- (k) The assessment of annual payments
- (l) The return of annual payments made by a lessee or permit holder whose lease or permit has been cancelled
- (m) Any matters incidental to or connected with the matters or subjects specifically referred to in this section

40. Miscellaneous Provisions

Under miscellaneous provisions, the following can be included amongst many others:

- (a) Transitional provisions
- (b) Executing and attesting procedure for instruments of disposition
- (c) Provisions to obtain independent valuations for state land under the charge of the Authority (not to follow the valuation requirements for State lands as found in the Valuation Act)
- (d) Provision precluding any person claiming to be entitled to any land which has been alienated from instituting an action against the State for the vindication of his title (Action rei vindicato)
- (e) Protection of public servants against any suit
- (f) Rectification of errors in any instrument of disposition
- (g) Offences in regard to State land

1. State Land (Regularization of Tenure) Act No.25 of 1998

Section 4(1) of this Act confers protection from ejectment in respect of his dwelling house on any squatter who squats or otherwise occupies State Land. A squatter who applies is entitled to the issue of a Certificate of Comfort and to a statutory lease in a designated area and to the grant of a Deed of Lease.

The Land Settlement Agency established under this Act is charged with the responsibility for administering and carrying out the provisions of this Act with respect to State Land in the island of Trinidad. The Tobago House of Assembly is responsible for administering the provisions with respect to State lands, which are vested in the Tobago House of Assembly. The Agency has powers amongst many others for the preparation and issue of Certificates of Comfort and Deeds of Lease. Under Section 16(1) the President can empower the Land Settlement Chairman to execute on his behalf any Deed or Lease under this Act. An area occupied by squatters and tenants, which has been approved by the Minister for the purposes of regularization, is determined as a Designated Area under this Act. Under Section 25, the Minister and the Assembly can identify and declare certain areas of State Lands as Land Settlement Areas, facilitating the provision of shelter for citizens and residents who are landless and relocating squatters.

A squatter in a designated area or a land settlement area can be directed to relocate to another lot within the Designated Area or the Land Settlement Area under Section 27. A squatter who fails to comply is referred to the Commissioner of State Lands for ejectment under Section 20 of the State Lands Act.

2. Tobago House of Assembly Act No.40 of 1996

Under Section 25(1) without prejudice to section 75(1) of the Constitution, the Assembly in relation to Tobago, is responsible for the formulation and implementation of policy in respect of the matters set out in the Fifth Schedule. The Fifth Schedule which describes the areas of responsibility of the Assembly includes amongst many others State Lands, Land and Marine Parks, Tourism, Agriculture, Forestry, Town and Country Planning, Highways and Roads, Industrial Development, Environment and Housing. The formulation and implementation of policy in regard to these subjects in particular, have serious implications to management of land in Tobago.

Under Section 54, all lands and other property of every kind located in Tobago vested in the State except the residences of the President and the Prime Minister are vested in the Assembly in right of the Republic of Trinidad and Tobago.

3. Housing Act Chapter 33:01 of 7th August 1962

Under Section 69(1) all land and other property vested immediately before the commencement of this Act in the Planning and Housing Commission of Trinidad and Tobago, the Government Housing Loans Board or the Public Housing Loans Board has been vested in the Housing Authority

Section 10(1)(d) of the Act permits the Authority to construct housing units for experimental purposes upon land owned by the State or to be acquired for such purpose.

Section 10(1)(f) permits sale, lease, exchange, or dispose of real or personal property acquired by it pursuant to this Act.

Section 10(1)(k) permits the Authority to directly or by contract to install services in and effect improvements to land acquired by it, construct, convert or improve housing projects etc.

The National Housing Authority has been established under the Ministry of Housing and Settlements to carry out these functions.

4. Water and Sewerage Act Chapter 54:40 of 1st September 1965

Under Section 11 of this Act all land and other property of every kind that comes under the Authority, is vested in the Authority.

Under the Second Schedule of this Act, the Authority can make a Compulsory Purchasing Order. The Authority can exercise the powers conferred by Section 3 of the Land Acquisition Act. The Authority exercises these powers subject to certain modifications to the Land Acquisitions Act. They are:

- (a) The powers conferred by Section 3 of the Land Acquisitions Act can be exercised upon publication by the Authority in a news paper
- (b) In assessing compensation the value of land is taken to be the amount which the land will realize if sold in the open market
- (c) No account will be taken of any outlay, improvement or alteration after the notice of the order is published

5. Petroleum Act Chapter 62:01 of 30th December 1969

This is an Act to make provision for the exploration for, and the development and production of petroleum. A reference to State Lands is construed as including a reference to the mineral rights in all lands by whomsoever possessed, the subject of a grant by the State after 30th January 1902. No person can engage in petroleum operations on land or in a submarine area unless he first obtains a license as provided for in this Act. Where a license is granted and ancillary rights are required by the licensee, in the case of State Lands the licensee can negotiate with the Minister in charge of the subject of petroleum, who is authorized to act on behalf of the President for such purpose. Such ancillary rights

include a right to cut timber, right of way, right to use and occupy the surface for exploration, erecting, installations and constructing buildings etc.

Under the regulations, the licensee occupying any State land is expected to give at least one month's notice to the Commissioner of State Lands before clearing. If the Commissioner has a valid objection, he should notify the licensee in writing within twenty-one days from the date of receipt of the notice. If there is a dispute between the parties, it has to be referred to arbitration under the Act.

Similarly, if the Commissioner wishes to sell or lease the surface of any portion of State Lands included in a licensed area he has to give notice in writing and in the absence of agreement the dispute has to be submitted to arbitration.

6. Port Authority Act of 1961 and Port Authority (re-vesting property) Act No. 2 of 1975

Under Section 9(1) of this Act, the Authority is empowered to lease any lands, buildings, facilities or equipment. Under 9(2)(d) the Authority is further given authority to acquire real or personal property rights, or the disposal of any real or personal property or rights.

Under Section 54, all lands, buildings, installations, equipment and all other forms of property whether real or personal are vested in the Authority or deemed to be vested. Under Section 56(6) the rights and obligations of the Sub-Intendant of State Lands (Commissioner of State Lands) entered into by him with other parties in respect of operation of private wharves and leases of land for storage of any commodity, the erection of buildings or any other purpose are vested in the Authority. Under Section 57, The President can from time to time vest in the Authority any port or harbor in Trinidad and Tobago. The First Schedule provides the boundaries of Lands vested in the Authority.

7. Public Transport Service Act Chapter 48:02 7th May 1965

As far as land is concerned all land and other property vested immediately before the enactment of this Act in the Railway Board or under the Motor Omnibus Concessions (Acquisition of Undertakings) Act 1964 are vested in the Corporation. As from 24th December 1974, the date on which the Public Transport Service (Revesting of Property) Act 1974 all land vested in the Corporation is re-vested in the State.

Under Section 31, the Corporation can dispose of property held by it relating to the carriage of goods and passengers by railway.

8. Highways Act Chapter 48:01 of 16th April 1970

Under Section 118 and 120 of this Act, the Minister is empowered to acquire compulsorily, land required for the construction of a main road. Section 121 states that this power vested in the Minister to acquire land compulsorily is a power vested in the

State and exercisable in accordance with the Land Acquisitions Act. Under Section 122 every highway maintainable at the public expense and the subsoil of such highway is vested in the State.

9. Regional Health Authority Act No.5 of 1994

The properties described in the Third Schedule of the Act are transferred and vested the respective Authorities. As far as property dealings are concerned, the Authority can acquire, hold, and enjoy any property, real or personal by purchase, devise, bequest, and gift or in any other way. It can lease, accept surrenders of leases, mortgage, grant or accept licenses, rights of way or easements. It can also with the approval of the Minister dispose of the property, which is no longer required for the purpose of the Authority. Property, which was transferred to and vested in the Authority by the State without consideration or a nominal consideration, has to be transferred back to the state on the same basis, as the case may be. Property not falling into this category should be offered to the State at a fair market price. If the State does not wish to purchase the property, the Authority can dispose of the property on the open market.

10. Chaguaramas Development Authority Act Chapter 35:02 of 9th December 1972

The Authority has power to acquire land and other property and also to sell, exchange or otherwise dispose of all property vested in or have been acquired by it.

Under Section 16(1) the President is authorized to make a Vesting Order transferring to and vesting in the Authority land that comes within the development plan covering the North-West Peninsula. Under Section 16(3), the President by Order can divest any land vested in the Authority

Under Section 18(1) the Authority is empowered to any disposition of land subject to terms and conditions of any development plan relating to such land.

Section 21(1) and (2) permits the Authority to prosecute squatters and evict them on conviction.

11. Tourism and Industrial Development Company of Trinidad and Tobago Limited Vesting Act 1995

This Act repeals the Industrial Corporation Act and the Trinidad and Tobago Tourism Development Authority Act and transfers all of the assets, liabilities and functions of the former bodies to the new company. Under this Act, the new company is responsible for administering nineteen industrial estates including the lands thereon. It also administers facilities along beachfronts.

12. Municipal Corporations Act No. 21 of 1990

Under the Municipal Corporations Act, parks, savannahs, markets, slaughterhouses, pastures, commons, recreation grounds or cemeteries and crematoria and certain streets, all of which are state property within municipalities are under the control and management of the Municipal Corporations. The Council can collect rates, rents, dues, tolls and charges as the Council may determine from time to time. Under Section 123 (3), any Municipal Corporation with the consent of the President and under the Seal of the President can sell and demise any land vested in it.

The paragraphs that follow provide definitions and describe the responsibilities cast on a government agency that is entrusted with the task of managing State land. It encompasses the procedures and institutional means whereby State land resources may be located, evaluated, conserved, distributed and managed so that they may be utilized on a sustainable basis and to the greatest national advantage. These paragraphs may be of help in the arrangement of Sections of the State Land Management Act.

1. Definitions

The term land policy denotes “major lines of public action designed to improve the use of land resources and the condition of property rights under which people live and work on land”(Building a Land Policy by Timmons, J.F. (1972) in Land Problem and Policies, edited by Timmons). It includes both the rights and responsibilities of state as well as the public. In simple terms, they are the ‘best practices’ available for land management.

The term “Land Management” is used to describe decision making by the owners of the land about the use and enjoyment of land within the framework of existing land legislation. The term “land” includes land parcels and buildings attached to the land. In a functional way, land management, including the management of State 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.

State Land Management has some elements of real estate management but covers a much wider scope and describes the responsibilities cast on governmental agencies managing State land. It encompasses the procedures and institutional means whereby State land resources may be located, evaluated, conserved, distributed and managed so that they may be utilized on a sustainable basis and to the greatest national advantage. The acquisition of private lands for public purposes is also part of the responsibility cast on State land managers. State land management agencies carry out some or all of the following functions. Details of important activities under each are given below:

(a) Locate the land under management

- Identify state land clearly
- Ensure survey of land parcels and preparation of plans
- Identify reserves and other areas that cannot be alienated
- Identify alienated land and other encumbrances on state land

(b) Evaluate its capability/value

- Assess capabilities (potential) of land for specified uses
- Use land evaluation data (physical, social and economic data)
- Determine rent prices

(c) Conserve land for designated purposes

- Identify environmentally sensitive areas
- Identify forest, wildlife and other reserves
- Identify road, river and stream reservations
- Identify areas topographically unsuitable or subject to erosion, landslides etc.

(d) Distribute and allocate the land to identified and contracted users

- Select recipients
- Choose tenure forms
- Formalize rights and responsibilities
- Transfer land to other agencies as and when required

(e) Manage state land under charge

- Monitor adherence of users to term and conditions
- Contain squatting and informal uses
- Foreclose on those in violation of lease/agreements/ license conditions
- Collect rents and royalties at the appropriate time and impose penalties on defaulters

(f) Acquire private land for public purposes

- Acquire land identified by Governmental agencies required for public purposes
- Ensure no public land is available in close proximity as alternative site/s
- Pay compensation to the owners with the least possible delay

The term “land administration” is used to mean the process of recording and disseminating information about the ownership, use and value of land (a United Nations definition).