



REPUBLIC OF UGANDA

**MINISTRY OF LANDS, HOUSING AND URBAN
DEVELOPMENT**

THE UGANDA NATIONAL LAND POLICY

FINAL DRAFT

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FOREWORD

The Odoki (1988) and the Sempebwa (2003) Constitutional Review Commissions, underscored the importance of a comprehensive national land policy, to harmonize the diverse needs for human settlement, production and conservation, by adopting best practice in land utilization for purposes of growth in the agricultural, industrial, and technological sectors, taking into account population trends, without losing control over the structuring of land tenure systems.

In 2001, the Ministry responsible for lands instituted a multi-sectoral and multi-disciplinary National Land Policy Working Group (NLPWG) to steer the policy making process and deliver for Uganda a systematic framework for articulating the role of land in national development, land ownership, distribution, utilization, alienability, management and control.

To ensure that the Land Policy is relevant and consistent with other policy position, various policies and strategic plans developed by different Government Ministries and Agencies were reviewed. Stakeholder input was secured from countrywide consultations in ten (10) Regional Consultative Workshops and several Special Interest Groups Consultative meetings. Memoranda and submissions were received from various institutions, including civil society organizations and Ugandans in the diaspora.

Government agencies, charged with regulation of land use and planning, and departments responsible for enforcement of land laws, and the maintenance of law and order, were also consulted. A National Land Conference was held in May 2010, to build consensus on contentious issues and to adopt policy statements and strategies contained in the draft.

This policy therefore reflects the views of Ugandans. It is a hallmark of the rare sense of dialogue and collaboration between the Government and the Citizenry in tackling, arguably, the most emotive, culturally sensitive, political volatile and economically central issue in Uganda. The participation of all stakeholders will continue to be sought and enhanced by encouraging regular consultations and dialogue during the implementation of this policy. The Government, on its part, will provide an enabling policy environment through the establishment of essential institutions and provision of sufficient financial support.

In this way, I am confident that we will collectively achieve the vision of the National Land Policy of “Sustainable and optimal use of land and land-based resources for transformation of Ugandan society and the economy”.

HON. DANIEL OMARA ATUBO
MINISTER FOR LANDS, HOUSING AND URBAN DEVELOPMENT

EXECUTIVE SUMMARY

In Uganda, land continues to be a critical factor, as it is the most essential pillar of human existence and national development. Uganda has never had a clearly defined and / or consolidated National Land Policy since the advent of colonialism in the nineteenth century. This National Land Policy, therefore, consolidates a number of scattered policies, which exist on various aspects of the land question, but are diverse, sectoral and inconclusive in many respects. Post-independence and recent attempts to settle the land question by the Land Reform Decree 1975, the 1995 Constitution of Uganda, and the Land Act 1998 failed to deal with the fundamental issues in land tenure due to absence of clear policy principles to inform the enactment of legislation that offers politically and socially acceptable and technically feasible solutions.

The key policy issues touch on (1) historical injustices and colonial legacies, (2) contemporary issues, mainly arising from such legacies; and (3) land use and land management issues. The land question has origins in the legacy of colonialism, wherein historical injustices deprived some communities of their ancestral land rights. In addition, a legal dualism in the property system, a multiplicity of tenure regimes, multiple rights and interests overlapping in the same piece of land were the consequences. This set the scene for a heritage of evictions, arbitrary dispossession, land disputes and conflicts. Land disputes and conflicts broken across national boundaries, spread to tribal and ethnic groupings, and merged with current phenomena to generate overwhelming uncertainties in land rights resulting in tenure insecurity. In addition, land rights of vulnerable groups and land resource-dependent communities are either inadequately protected or poorly enforced. This is all happening in a situation where land dispute resolution mechanisms have broken down and land justice has become a nightmare to many land holders.

In the current era, Uganda faces the challenges of a rapidly growing population which has put pressure and competition on the scarce land resources. Such an objective would not be elusive to attain if land management was premised on a policy emphasizing sustainable and optimal use of the land. However, no such policy direction is in place. Thus, land resources have been chronically under-utilized and inefficiently managed. There is no clear government policy on the management of government land, public land and public trust natural resources, leading to inefficiency and abuse. Land administration is inadequately resourced, and it is performing very poorly in service delivery. In addition there are tendencies of corruption and fraud in the system. As performance standards are eroded, the public is slowly losing confidence in the entire land administration system, which is increasingly becoming dysfunctional.

To address these problems, the Government of Uganda presents this National Land Policy, resulting from a widely consultative and highly interactive process. The vision of the policy is: **“Sustainable and optimal use of land and land-based resources for transformation of Ugandan society and the economy”**. The goal of the policy is: **“to ensure efficient, equitable and sustainable utilization and management of Uganda’s land and land-based resources for poverty reduction, wealth creation and overall socio-economic development”**.

This National Land Policy, among other things, seeks to re-orient the land sector in national development by articulating management and co-ordination between the land sector and other productive sectors in the economy to enhance the contribution of the

sector to the social and economic development of the country. The policy has a bifocal emphasis on ownership of land and land use, stipulates incentives for sustainable and productive use, as well as other measures to achieve land management and land development objectives.

The policy identifies lack of clarity and certainty of land rights in all the tenure regimes to be a critical issue and in this regard, measures are proposed to disentangle the multiple, overlapping and conflicting rights over registered land. Historical land injustices have been singled out for special redress. The policy has also addressed the complexity and ambiguity in the Constitutional and legal framework, governing the land relations between the Government and the citizens of Uganda. It affirms that citizens of Uganda shall exercise their residual authority over land collectively through the State. It avers that the Government shall hold and manage public land, government land and public trust natural resources in strict conformity with the acceptable principles of the public trust doctrine.

This policy overhauls the existing institutional framework for land administration and land management to facilitate the delivery of efficient, cost-effective and equitable services. Essential reforms for stemming off escalating land conflicts and land evictions have necessitated the re-instatement of Land Tribunals and creation of a special division in the Magistrates Courts and the High Court, for handling land disputes. Furthermore, the pressure for resolution of disputes will be relieved by the legal recognition of the dual operation of both customary and statutory systems in land rights administration, land dispute resolution and land management by empowering customary authorities to perform these functions.

This policy affirms that the Ministry responsible for lands will continue to perform residual roles including policy formulation and implementation, resource mobilization, standard setting and quality control, and monitoring and evaluation. Some of the land administration and management functions will be delegated to the district local governments. To implement this policy, a National Land Policy Implementation Unit will be designated to plan and implement the proposed measures and strategies reporting to a multi-sectoral, multi-disciplinary committee which will oversee the implementation.

By way of contents, this policy begins with Introduction giving the background and definition of the land question; Chapter 1 covers the Overall Framework for the Land Policy; while Chapter 2 covers the Constitutional and Legal Framework. Chapter 3 presents the Land Tenure Framework; Chapter 4 covers the Land Rights Administration Framework; while Chapter 5 presents the Land Use and Management Framework. Chapter 6 presents the Regional and International Framework for Management of Land and Land-based resources and; Chapter 7 outlines the Framework for Implementation of the Land Policy.

BACKGROUND

I. INTRODUCTION

Land is usually a political issue with potential to be volatile. In this regard, its control continues to be a critical factor in Uganda. Land is the most basic resource in terms of the space it provides, the environmental resources it contains and supports, and the capital it represents and generates. It is a commercial asset that can be used and traded. It is a critical factor of production. It is an essential part of the national patrimony. It is a key factor in shaping individual and collective identity through its history, the cultural expressions and idioms with which it is associated. It influences spirituality and aesthetic values of all human societies. Land is perhaps, the most essential pillar of human existence and national development.

II. THE LAND QUESTION IN UGANDA

A. Historical Background and Colonial Legacy

The advent of colonialism left a historical legacy structured around land relations and management. Initially, colonialists introduced individualised ownership of property rights in land previously held either communally or on the basis of sovereign trustees, in the process, an intricate system of political relationships was legitimized. The newly introduced system of property ownership was super-imposed to either supersede existing indigenous land rights systems or formally confirm pre-existing customary arrangements as the case for kingdom areas. In other parts of the country outside the kingdom areas, customary tenure was left to continue existing with moderation but without chance to evolve properly. This duality of property rights systems resulted in land tenures, whose maintenance has turned cumbersome and confusing in the current social, economic and political circumstances.

Perhaps the most critical and challenging elements of Uganda's land question, courtesy of a colonial legacy, are to do with disentangling the multiple and conflicting tenure rights and interests, often overlapping in the same piece of land. At the time of creation of mailo and native freeholds, pre-existing private interests of smallholders, mainly land use rights were not legally recognized. Despite attempts to rectify this, with the enactment of the *Busuulu* and *Envujjo* Law of 1928 for Buganda and similar laws in Ankole and Tooro in 1938, the multi-layered structure of rights persisted and has become a defining characteristic of the complexity of land relations in Uganda today. It has been largely blamed for the escalating land conflicts and evictions in the central region where resolving dual interests of ownership between the registered owner and the lawful or *bonafide* occupants is nearly impossible, in addition to mediating and sustaining relations for harmonious co-existence, that is untenable.

The landlord-tenant relationship as enacted under the Land Act, (Cap 227) has become controversial around three issues: the definition of *bonafide* occupant, the rights conferred on the tenants and the rent payable. The Land (Amendment) Act, 2010 attempted to address these issues although some remain unresolved. Conflicts are also related to the Land Reform Decree, 1975 introduced further anarchy in land management, through occupation of large chunks of other people's land without regard to ownership rights.

The Buganda Kingdom has been making persistent demand for the return of its public land, the estimated '9000 square miles', the 1500 square miles of forests, and the 160 square miles of official estates at county and sub-county headquarters in Buganda, confiscated by the central government in 1967 and vested in the Uganda Land Commission. The Traditional Rulers (Restitution of Assets and Properties) Act, 1993 which instantly returned assets and properties specified in the schedule of the Act, made provision that the rest of the properties and assets not included in the schedule, be returned following negotiations between the Government and the traditional rulers. The principles governing this negotiation were never detailed even though they are necessary for attaining social harmony and to calm strained relations between the central government and the Buganda Kingdom over this matter.

The Kibaale land question, which should have been fixed by the 1964 Referendum on the counties of Buyaga and Bugangaizi, became contentious in the Constituent Assembly (1993-95) as the new Constitution of Uganda of 1995 was being debated. Government resettlement schemes in 1973 and 1992, and the incessant immigration and settlement by non-indigenous Banyoro, further complicated what started off as a land question, turning it into a political question, as immigrants gained political control. The resentment to this turn of events bred political tensions and ethnic conflicts, often with violent clashes. Currently, the indigenous Banyoro are worried that they may never be able to regain their ancestral land which is formally held by absentee Baganda landlords in mailo tenure and is now increasingly being taken over by immigrants. Additionally, public lands especially forest reserves have been massively encroached by immigrants. Basing on the Land Act (Cap 227), the Government paid off some absentee landlords, but due to limited budget allocations, the bigger part of the mailo land is yet to be bought out. As the government buys out absentee landlords, it is not clear how the re-possessioned land will be distributed or shared by both the immigrants and the lawful occupants who are Banyoro.

Land rights of pastoral communities and ethnic minorities have registered exploitation for a long time. Many pastoral communities and ethnic minorities have lost their land rights to conservation projects, mainly national parks and other government projects, for example; government ranches. This has led to depletion of their resources or landlessness. Privatization of communal grazing lands and other pastoral resources has forced some pastoral communities and ethnic minorities to invade other people's land or to encroach on protected areas, in their neighborhood.

B. Contemporary Land Policy Issues

Having ratified several international human rights instruments on gender equality and protection of women's rights, Uganda is hailed for having some of the best policy, constitutional and legal frameworks relating to gender, and particularly to women's land rights. However, the implementation and enforcement mechanisms are still lacking. Although traditions, customs and practices which discriminate women in matters of access, use and ownership of land have been outlawed by both the Constitution and legalization, the practice does not acknowledge these changes. Culture and custom, for example, continue to support transmission of land to men, as women's inheritance rights in land remain tenuous, thus only enjoyed at the mercy of their male relatives. The provision for spousal co-ownership of land forms part of the Domestic Relations Law which is split into the Marriage and Divorce Bill, 2010 and the Administration of Muslim Personal Law Bill, 2010 having failed to form part of the Land Act (Cap 227). Sections of

the Marriage law and Succession law, discriminating against women that were debarred as a result of test-case litigation are yet to be reformed and re-integrated into the statute books.

Land disputes and conflicts have become part of the definition of contemporary Uganda. Trans-state boundary disputes, boundary disputes or conflicts between districts, hot spots of ethnic land conflicts, conflicts between pastoralists and agriculturalists are all on the rise. Evictions on registered land between owners and the occupants are also on the rise. Efforts by government agencies to conserve vital ecosystems have resulted in violent conflicts that are sometimes fatal, as they wrestle encroachment in protected areas. The capacity of the Ministry responsible for lands, the Justice Law and Order Sector institutions, administrators in the districts and politicians, to tackle land conflicts is stretched. Attempts by the Land (Amendment) Act 2010, to criminalize eviction of tenants, are yet to bear effect, because implementation is in infancy stage. Devising a comprehensive, legitimate, accessible and cost-effective framework to tackle root or structural causes of conflicts, disputes and frictions arising from unjust actions in the past, is a prime challenge in tackling uncertainty and insecurity in land rights.

It is estimated that Uganda's population will be 32.4 million, shooting up to 39.3 million in the year 2015 and 54.9 million in 2025, growing at a rate 3.4% per annum. With such enormous population increases exerting pressure on land, the old rules are no longer sufficient to maintain cordial relations between users and owners of land. Conflicts therefore, are arising naturally due to competing uses, unless alternative ways of relieving the pressure off the land, without unjust loss of rights or interests in land are provided. The ultimate solution rests with a vibrant services sector, an expanding industrial sector and an urbanization policy.

The recent discovery of oil and petroleum deposits in the Albertine Graben has generated excitement in Uganda regarding the promise the resource may yield and the probable economic windfall in the energy sub-sector, its contribution to national economy and social well-being. It has equally raised concerns with regard to tenure, compensation, displacement and resettlement. Article 244 of the 1995 Constitution of Uganda vests all minerals and petroleum in the Government on behalf of the Republic of Uganda. The Citizens of Uganda, strongly deem these vital resources to be vested in the State in trust for the common good of all citizens. As anticipated, the rush to secure land in oil-rich areas is threatening communal lands which are neither demarcated or surveyed nor titled. Cases of land grabbing from indigenous communities are common as holders are insecure and do not, possess formalized rights to benefit from sharing of royalties as provided for under the Constitution.

C. Issues of Land Administration and Land Management

Although the National Land Use Policy (2007) has made attempts to harmonize aspects related to regulation of land use as regards standards and guidelines for sustainable management of land resources, it was incapable, by its very nature, of dealing with tenure issues that make, its implementation a probable nightmare. For instance, vesting wetlands in the State in trust for the citizens of Uganda, without unraveling the ownership rights that existed at the time of vesting the resource has stalled the implementation of the wetlands policy in areas where legal and valid titles to these wetlands resources exist. The

policy's envisioned "wise land use" is untenable, as evictions without compensation, may amount to violation of the constitutionally entrenched principle of "sanctity of property".

The land administration system is inadequately resourced and performing poorly below expected standards with tendencies of fraud and corruption. The dual system of land administration (the formal/statutory and informal/customary) breeds conflict, confusion and overlaps in institutional mandates. For the greater percentage of Uganda, where customary tenure still abounds, the roles of traditional institutions of land management, dispute resolution and land governance have not been legally accepted, integrated and mandated to execute their functions. Some elements of political interference have severely hindered progress in public delivery of land services, making it slow, cumbersome, frustrating and too costly to the public. Decentralized services are very thin on the ground and have failed to perform to expectations.

The 1995 Constitution created a public trust over specified important renewable natural resources such as natural lakes, rivers, wetlands, forest reserves, game reserves and national parks, vesting them in the State to hold and protect for the common good of all citizens of Uganda. Legally, these natural resources moved from the absolute ownership of the government to the public realm, under a constitutionally brokered fiduciary relationship between the State and the citizens of Uganda. The Land Act explicitly prohibits the Government, or local government, from leasing out or otherwise alienating any of these natural resources, except by way of a concession, license or permit. However, the State has often failed to observe the well-established principles of the public trust doctrine. It has inefficiently exercised the trustee powers resulting in under-utilization and inefficient management of these natural resources.

The Government of Uganda has a duty to attract private investment both domestic and foreign, into productive sectors of the economy. This duty includes creating an enabling investment climate, as well as facilitating investors to access land. One of the major concerns in the land sector at present is the allocation of government land, public land, and natural resources held by the State in trust for the citizens, for private investment. Such land allocations have taken place amidst an environment of incoherent and /or non-existent and /or non-transparent processes and procedures. This in effect, has weakened institutions governing use and management of these lands and natural resources. The allocations have not considered the ecological, environmental, economic and social impacts, and as such have displaced vulnerable land and natural-resource-dependent communities, whose rights of land access, food security and livelihoods are lost. Whereas private sector investment in land and natural resources is necessary and should be promoted, safeguards ought to be put in place to ensure, a transparent process, with due diligence, so that land rights of the vulnerable sections of society and the environment are not compromised.

In the course of receipt of land policy submissions from the public on this policy, it was evident that many people were opposed to the practice of holding large tracks of land for prestige or speculative purposes while serious developers or landless people are without land. The speculative accumulation and holding of non-productive land brings about shortage of land for settlement, investment and production. Whereas a land tax is proposed to deal with this pattern, such a tax cannot be designed for raising revenue. It should aim to achieve optimality in the use of land. Henceforth, considerations taking into account, the protection of smallholder producers with low acreage, land use and agricultural

practices that entail fallowing or un-use to allow for re-generation of land-based resources, or land preserved for conservation and environment, deserve to be exempted from the levy of land tax.

III. RATIONALE FOR THE NATIONAL LAND POLICY

A national land policy is essential for the sustainable management of land resources, since it is known that the majority of Ugandans are dependent on land for employment and survival. It is crucial for an integrated and effective system responding to a wide variety of intra-sectoral variables between the land sector and other productive sectors in the economy. Without a comprehensive policy, it is a challenge to confront the fact that land is a factor of production influenced by and interacting with socio-cultural processes as well as macro-level policy processes and strategies, whose strategic management is important for significant and sustainable economic growth and social transformation.

The rationale for a National Land Policy in Uganda rests on the reasons below:

1. The need to reduce ambiguity on sector-level by comprehensively integrating scattered and isolated policy statements on different aspects of sustainable land use, enacted in response to isolated sub-sectoral demands in agriculture, environment, natural resources management, housing, transport and in policy for private sector development and industrialization. A harmonized framework with a common horizontal denominator is necessary to stem sub-sectoral conflict regarding administrative decisions, regulation and laws that quite often overlap, leading to serious administrative conflicts and bureaucratic competition for responsibility and resources. Regulating use and land development without losing sight of tenure issues requires an integrated policy for identification of effective inter-linkages between the land and other productive sectors.
2. Post-independence attempts to settle the land question through the Land Decree 1975, the Constitution of Uganda 1995 and the Land Act 1998 failed to deal with historical complexities and fundamental issues underlying land tenure relations in their entirety. It appears the Land Act did not exhaust all the critical issues on the content and viability of property rights under various tenure categories, thus failed to streamline land tenure in a manner that instills confidence in individuals, communities, and institutions that own or desire to own land as an asset. Despite a break from the past, by vesting residual authority in the Citizens of Uganda, the 1995 Constitution created substantial ambiguities in how land as a property is dealt with.
3. The current structure of the land tenure systems in Uganda, which concentrates on property rights per se, should not blur the necessity for a more fundamental objective that is to shape the nature of the land use systems, by which the diverse needs for human settlement, production and conservation can be harmonized. There is need to re-focus the discourse on land from over-emphasis on property rights per se, to its essential resource value in development. This is necessary as land resources remain chronically under-utilized and inefficiently managed. However, it is not to suggest that the protection of property rights should be secondary to land development, the two have to be aligned.

4. The continued growth of the country will require a coherent and pragmatic approach to sustainable and optimal land use and management which cannot be attained without a national land policy. As a development resource, agricultural land in Uganda has not always been optimally and sustainably used. The primary reason is that traditional agriculture was always and still is neglected by the State, a fact which continues to contribute to the under-development of that sector. Ever since the colonial period, agricultural “policy” has continued to be structured around peasant farming. This needs to change, to free the land for extensive agricultural production, by creating alternatives in the services and industrial sectors.
5. Land degradation continues to be a great cost to the quality of land resources within Uganda mostly in the highlands and the cattle corridor. It is estimated, for example, that land deterioration accounts for over 80% of the annual costs of environmental damage, a situation the country can hardly afford. In addition, land reserved for conservation purposes continues to pose challenges as regards, bio-diversity protection and heritage preservation. Demands exerted by population growth and settlement expansion have placed wildlife resources, catchment areas, forests and wetlands at risk despite the existence of legislation on these issues.
6. Lastly, Uganda is a party to a large body of international and regional conventions, treaties and declarations dealing with human rights issues, human settlements, land governance, environmental governance, shared aquatic, terrestrial and other trans-boundary resources which require adherence to specific principles in land sector management. These instruments call for establishment of an international framework for environmental governance, land use and land management with countries party to them. Uganda is expected to comply with these frameworks.

CHAPTER 1: OVERALL AGENDA OF THE LAND POLICY

1.1 INTRODUCTION

1. The National Land Policy vision, goal, objectives and principles, aim for sustainable management of land and its resources. The policy acknowledges the centrality of land in social and economic development, by leveraging the land resource base for all productive sectors for Uganda's transition from a rural subsistence agro-based economy to a modern economy, through sustained economic growth, employment creation, supporting industrialization, urbanization and the growth of a vibrant services sector.

1.2 VISION OF THE POLICY

2. The vision of this National Land Policy is: **'sustainable and optimal use of land and land-based resources for transformation of Ugandan society and the economy'**.

1.3 POLICY GOAL

3. The goal of this National Land Policy is: **"to ensure efficient, equitable and sustainable utilization and management of Uganda's land and land-based resources for poverty reduction, wealth creation and overall socio-economic development"**.

1.4 POLICY OBJECTIVES

4. The objectives of this National Land Policy are:
 - (i) To enhance the contribution of the land sector to overall socio- economic development, wealth creation and poverty reduction in Uganda;
 - (ii) To harmonize and streamline the complex tenure regimes in Uganda for equitable access to land and security of tenure;
 - (iii) To clarify the complex and ambiguous constitutional and legal framework for sustainable management and stewardship of land resources;
 - (iv) To redress historical injustice to protect land rights of groups and communities marginalized by history or on the basis of gender, religion, ethnicity and other forms of vulnerability to achieve balanced growth and social equity;
 - (v) To reform and streamline land rights administration to ensure efficient, effective and equitable delivery of land services;
 - (vi) To ensure sustainable utilization, protection and management of environmental, natural and cultural resources on land for national socio-economic development;
 - (vii) To ensure planned, environmentally-friendly, affordable and orderly development of human settlements for both rural and urban areas, including infrastructure development; and
 - (viii) To harmonize all land-related policies and laws, and strengthen institutional capacity at all levels of Government and cultural institutions for sustainable management of land resources.

1.5 GUIDING PRINCIPLES FOR THE NATIONAL LAND POLICY

5. The principles that underpin and guide this national land policy include:

- (i) Land is a natural gift for all Citizens of Uganda to hold, own, enjoy, use and develop either individually or in association with others;
- (ii) Land policy must guarantee the right to own land and provide specific guidelines to govern the acquisition of the land by non-citizens of Uganda;
- (iii) Land is a basic natural resource central to the development of Uganda, its use and development must contribute to poverty reduction;
- (iv) Land must be productively used and sustainably managed for increased contribution to economic productivity and commercial competitiveness;
- (v) Land policy must address all the multiple social, cultural, economic, ecological and political functions of land;
- (vi) Access to and transmission of land must reflect concern with equity and justice irrespective of gender;
- (vii) Management of land resources must contribute to democratic governance, by nurturing institutions and procedures for resolution of land disputes and conflicts;
- (viii) Management of land resources must mitigate environmental effects, reverse decline in soil quality and land quality;
- (ix) Land policy must guide the development of policies in other productive sectors;
- (x) Civil society organizations, faith-based institutions, cultural institutions and the private sector must work hand in hand with government actors to achieve the vision, goal and objectives of this policy.

CHAPTER 2: THE CONSTITUTIONAL AND LEGAL FRAMEWORK

2.1 INTRODUCTION

6. Land is at the centre of the constitutional and legal discourse in Uganda, drawing legitimacy from historical as well as contemporary political exigencies. Ambiguities that arose in the 1995 Uganda Constitution with regard to the sovereign powers of the State are clarified in this policy. The role of the State in land management effected through the sovereign powers of radical title, eminent domain or compulsory acquisition, police power of the State, the doctrine of trusteeship, land taxation, use and management of government and public land is articulated. The fiduciary relationship between the State and the citizens of Uganda created under the 1995 Constitution and the Land Act 1998 for the efficient utilization and management of land-based resources is re-affirmed.

2.2 RESIDUAL SOVEREIGNTY OVER LAND

7. Article 237(1) of the 1995 Constitution, states that land belongs to the citizens of Uganda, making Uganda the first State in Sub-Saharan Africa to vest its ‘radical title’ in its Citizens. Much as this vestment, resolved an important historical anachronism in the land law namely, the location of radical title, it is not entirely clear how the citizens of Uganda, individually or collectively can; (i) assert residual authority against the State, local authorities, and community governance organs in respect of land which is not owned by anybody or any authority; (ii) exercise the residual sovereignty over all land. In addition, the State continues to guarantee “any title to land” without legal basis since the radical title is vested in the citizens of Uganda, just as the authority to allocate land, by District Land Boards, appears not to rest on any recognized reversionary title.

Policy Statements

8.
 - (a) **The radical title to all land in Uganda shall vest in the Citizens of Uganda;**
 - (b) **The State shall exercise residual sovereignty over all land in Uganda in trust for the Citizens of Uganda;**
 - (c) **The State shall guarantee all titles to land issued under the radical title on behalf of the Citizens of Uganda.**
9. To clarify the radical title, Government shall:
 - (i) amend the Constitution of Uganda, article 237 (1) and the Land Act, (Cap 227), to authorize the State to exercise power under the radical title on behalf of the citizens of Uganda;
 - (ii) Revoke authority previously granted to District Land Boards to hold and allocate land not owned by any person or authority, as such land no longer obtains in contemporary Uganda;
 - (iii) Set terms and conditions for accountable use and management of all land held by District Land Boards in trust for the citizens of Uganda; and
 - (iv) Provide for District Land Boards to hold the reversionary interest on behalf of the citizens of Uganda for leaseholds granted out of public land.

2.3 THE POWER OF COMPULSORY ACQUISITION

10. The 1995 Constitution of Uganda empowers Government or a Local Government to acquire land in public interest provided the acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality or public health and subject to prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property. The central government has not in the past, exercised this power responsibly and strictly in the public interest. The same power is also extended to local governments without sufficient capacity to meet compensation requirements.

Policy Statements

11. **The State as a trustee for the citizens of Uganda, shall exercise the power of compulsory acquisition, responsibly and strictly in public interest;**

Strategies

12. To clarify the power of compulsory acquisition, the Constitution, the Land Act and the Land Acquisition Act shall be amended to:
 - (i) automatically reconstitute original owners where public interest or purpose justifying the compulsory acquisition of land/property fails or expires;
 - (ii) limit exercise of this power to the Central Government under terms prescribed by the citizens of Uganda;
 - (iii) prescribe a uniform method for application of the power of compulsory acquisition especially the payment of prompt, adequate and fair compensation irrespective of tenure category;
 - (iv) establish the mechanism for local governments to exercise this power in respect of meeting the requirements for compensation; and
 - (v) Prescribe a set of regulations and guidelines, the roles and responsibilities of the different state organs and agencies in the exercise of this power.

2.4 PUBLIC REGULATION OF LAND USE AND DEVELOPMENT

13. Articles 242 and 245 of the Uganda Constitution, endow the State and Government with power to suppress or limit undesirable land use in the interest of public welfare and/or orderly development without revoking ownership interests or rights. This power by its very nature is split across natural resources sub-sectors without effective coordination and cross-sectoral institutionalization. There is ineffectiveness in enforcement and widespread disregard of legislation and regulations on land use / physical planning, environment and natural resource, with limited application to urban areas. In the past, the State and central government has not exercised this power, transparently, responsibly and strictly in public interest. This power is extended to local governments without adequate guidelines.

Policy Statement

14. **The State shall exercise the power of public regulation of land use, strictly in the interest of socio-economic welfare and development.**

Strategies

15. To address the challenges of public regulation of land use, government will take measures to:

- (i) harmonize the application of the power of public regulation of land use by the Central Government and local governments in a set of prescribed guidelines;
- (ii) ensure the use of police power by state agencies takes account of sub-sectoral policies and laws on land use, the environment and natural resources;
- (iii) review existing legislations on public regulation of land use to conform with the provisions of the National Land Policy;
- (iv) educate the public on the need for public regulation of land use and overall goals and merits of public regulation;
- (v) ensure compliance with the laws and regulations for land use, both in urban and rural areas by securing compliance through incentives and rewards as well as through sanctions and penalties.

2.5 LAND TAXATION

16. In Uganda, the State's duty to regulate the use of privately owned land without arbitrarily extinguishing interests or rights, through over-taxation or inappropriate taxation, is embryonic except for property rates charged by local governments. Holding large pieces of land in non-productive condition for prestige or to speculative gain value without 'Capital Gains Tax', may not serve the vision and objectives of this policy. Whereas land taxation is desirable for attaining optimality in the use of both rural and urban land, its application cannot be advanced for revenue purposes, until Uganda is a middle income country. Land preserved by individuals for conservation and environment cannot be subject to this tax, just as low acreages for smallholder farmers, who practice fallowing or un-use to allow for re-generation of land-based resources have to be exempted. However, the call for harmonization of tax policy on land with Partner States in the East Africa Community (EAC) cannot be disregarded given the launch of the EAC common market.

Policy Statement

17. (a) **During the life time of this National Land Policy, the Government may explore further the proposal to institute a comprehensive and appropriate framework for land taxation, based on evidence derived from technical evaluation and studies;**
- (b) **When established, the land taxation framework may be aligned to the mode of the East Africa Common Market and shall not result in levy of land tax on the following:**
- (i) **lands under agricultural practices that entail fallowing or un-use to allow for re-generation of land-based resources;**
 - (ii) **community lands under customary tenure used for grazing and hunting;**
 - (iii) **lands under pastoral production systems that entail extended periods of un-use to allow for regeneration of land-based resources; and**
 - (iv) **lands preserved for purposes of protecting and conserving the environment.**

Strategies

18. Prior to the adoption of a land tax, the Government shall:
 - (i) undertake empirical and other studies to clarify the feasibility of such taxation;
 - (ii) enlighten the public on the merits of the taxation measures and to gauge public readiness for such measure;
 - (iii) consider phased implementation of the land tax, starting with urban areas not in compliance with the National Land Use Plans;
 - (iv) sensitise and create public awareness on productive land use and management; and
 - (v) promote joint venture between land owners and investors to maximize the use and development of utilised land.

19. In the event that land taxation is adopted, the Government through an Act of Parliament shall:
 - (i) define land eligible for taxation through an audit and inventory, considering the exemptions in 17 (b) (i) – (iv) above;
 - (ii) amend the Land Act, Cap 227, section 41 to include provision of credit facilities to land owners for purposes of developing their land;
 - (iii) define the terms and conditions under which land tax may be levied, exempting some categories of land on the basis of:
 - a. a set minimum acreage for rural areas and un-improved lots in urban areas;
 - b. social protection and equity;
 - c. disability;
 - (iv) consider other incentives for attaining sustainable and optimal land use that are supplementary or complementary to land taxation.

2.6 PUBLIC TRUSTEESHIP OVER NATURAL RESOURCES

20. The 1995 Constitution of Uganda, article 237(1)(b) vests natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and tourist purposes in the State in trust, to protect for the common good of all citizens. The Land Act, section 44 prohibits the leasing or alienation of any of these natural resources, but allows the grant of concessions or licenses or permits. As a trustee, the State simply holds the legal title or “corpus” to the trust property, while exercising an ethical relationship of confidence or “fiduciary duties” as entrusted by the citizens who are the beneficiaries of the trust. In the absence of regulations or guidelines to govern the management and use of such resources by the State as a trustee, including accountability and transparency principles, the “trustee” has carried on as if the “owner” thus breaching the public trust doctrine. Safeguards in legislation have not deterred extensive degeneration, occasioned by administrative abuse and political interference. The rules that delineate rights, roles, obligations of citizens and the mandate of government and government institutions, are incoherent and need to be systematized.

Policy Statement

21. **The State shall manage and protect the natural resources held under public trust in conformity with well-established principles of the public trust doctrine for the common good of all the citizens of Uganda.**

Strategies

22. For all natural resources held in trust under the doctrine of public trust, the State shall in an Act of Parliament:
- (i) specify, the terms and conditions under which its established agencies, use and manage such natural resources;
 - (ii) clarify, criteria and procedure for gazettelement and degazettelement of these natural resources;
 - (iii) institutionalize mechanisms, for the joint management and sharing of benefits from these natural resources between the trustee and beneficiaries;
 - (iv) extend the scope of resources held by the State to include sensitive ecosystems, marginal lands and hilltops;
 - (v) ensure large-scale investment decisions and activities do not compromise the sustainable management and conservation of natural resources;
23. To stem abuse, in management and use of resources held under the public doctrine trust in Uganda, measures will be put in place to:
- (i) review the regulatory framework for natural resources to clarify and specify guidelines on who may have access to what natural resources products and define the rights of access/use guaranteed to the communities living in such areas;
 - (ii) institutionalize mechanisms for the joint and participatory management of these natural resources with communities owning land adjacent to, in or over which these resources are situated;
 - (iii) develop criteria for equalization and compensation for foregone opportunities as part of a benefits sharing scheme for districts or populations where such resources are located.

2.7 GOVERNMENT LAND AND PUBLIC LAND

24. There is no clear distinction between government land and public land in legislation. The regulations and guidelines to control the management and use, including disposal of these lands are not dealt with in the Constitution or in the laws of Uganda. Government presently deals with government land and public land, without regard to the public interest, as if the two estates are held for the beneficial interest of government as an institution. It has disposed of both estates to investors and individuals as though they are one and the same. District Land Boards are failing to observe that they hold public land “in trust for the citizens of Uganda”. The status of land reserved for refugee settlements is not clear in policy and law and it is a source of conflict between the government and neighboring communities, and between the refugees and the citizens.

Policy Statements

25. (a) **The State shall by statutory legislation define Government Land and Public Land;**
- (b) **Government land shall be, land vested in or acquired by the government in accordance with the Constitution, or acquired by the government abroad. Government land includes all land lawfully held, occupied and/or used by government and its agencies, including parastatal bodies for the purposes of carrying out the core functions of government. Government shall include central and local governments;**

- (c) **Public land shall be, land reserved or held and used for a public purpose, which includes public open spaces and land on which public infrastructure is located. It also includes land with a reversionary interest held by the District Land Boards which was granted in leasehold by a former controlling authority (as per Section 59 of the Land Act)**

Strategies

- 26. To clarify the status of government land and public land, the Government shall in an Act of Parliament:
 - (i) differentiate between government land and public land;
 - (ii) define the manner in which government or local government will hold and manage such land taking into account the principles of public trusteeship, transparency and accountability;
 - (iii) define the terms and conditions under which such land may be acquired, used or otherwise disposed by the government and local governments;
 - (iv) clarify the tenure and reversionary interest in such lands especially for holders of subsisting leaseholds;
 - (v) empower the State to re-possess public land or government land, given away in an illegal or irregular manner;
 - (vi) Ensure District Land Boards hold and manage land entrusted to them by the Constitution and the Land Act as trustees for the citizens of Uganda.

- 27. Government, through administrative and other measures, shall:
 - (i) adjudicate, survey, register or title these lands in the names of Uganda Land Commission or Local Governments;
 - (ii) commission an audit on all land currently gazetted as refugee resettlement schemes to assess current and future needs and redistribute any superfluous land to the assessed needs, to landless citizens and/or communities.

2.8 MINERALS AND PETROLEUM

- 28. Article 244 of the 1995 Constitution of Uganda vests petroleum and mineral resources in Government on behalf of the Republic of Uganda. This is a contradictory location considering the fact that the radical title in land is held by the citizens of Uganda. There is need to vest these critical resources in the State to hold in trust for the citizens of Uganda as government changes hands, but the State does not.

Policy Statement

- 29. **Minerals and petroleum being strategic natural resources shall vest in the State for the beneficial interest of all the citizens of Uganda.**

Strategies

- 30. To ensure appropriate holding and management of strategic natural resources, Government shall:
 - (i) amend Article 244 of the Constitution to vest strategic natural resources in the State under the public trust doctrine for the benefit of the citizens of Uganda;

- (ii) adopt an open policy on information to the public and seek consent of communities and local governments concerning prospecting and mining of these resources;
- (iii) allow to the extent possible, co-existence of individuals and communities owning land in areas where petroleum and minerals are discovered with extraction activity;
- (iv) protect the land rights and land resources of individuals and communities owning land in areas where mineral and petroleum deposits exist or are discovered;
- (v) provide for restitution of land rights in event of minerals or oil being exhausted or expired depending on mode of acquisition;
- (vi) guarantee the right to the sharing of benefits by land owning communities and recognize the stake of cultural institutions over ancestral lands with minerals and petroleum deposits.

2.9 LAND TENURE REGIMES FOR UGANDA

31. The Constitution of the Republic of Uganda and the Land Act (Cap 227) provide that land in Uganda may be held in four tenure categories only, namely customary, freehold, mailo and leasehold tenure. The incidents of these tenure regimes (other than leasehold) are defined in terms of generalities which establish no particular frontiers. The apparent finality with which the incidents of each tenure category is defined in the Land Act (Cap 227) leaves little room for transitional or progressive adaptation in response among other things, to changing demands exerted by population growth, technological development and rapid urbanization. The result is likely to be the growth and expansion of informal or secondary land rights regimes in both urban and rural areas.

Policy Statement

32. (a) **Uganda shall maintain multiple tenure systems as enshrined in the Constitution;**
- (b) **The State shall clarify the nature of property rights under the designated tenure regimes to remove uncertainties and allow for evolution.**

Strategies

33. To clarify the tenure regimes, the Constitution, the Land Act and other relevant laws will be amended to:
- (i) allow tenure regimes to evolve and develop appropriate incidents, in response to changes in social structures, technologies of land use and market demands in response to time, circumstance and durability;
 - (ii) re-affirm and strengthen the legitimacy of socially and culturally acceptable tenure systems as a means of preserving access rights to common property resources;
 - (iii) ensure recognition, strengthening and education on rights of women, children and other vulnerable groups in all existing and emerging land tenure regimes.

CHAPTER 3: THE LAND TENURE FRAMEWORK

3.1 INTRODUCTION

34. In contemporary Uganda, diverse changes have occurred, distressing tenure regimes in ways that create tenure insecurity and uncertainty. The structure tenure and attributes of the bundle of rights under the mailo, freehold, leasehold and customary regimes, shall be guided by the principles of a good tenure system. A good tenure system must:
- (i) guarantee access and security of tenure;
 - (ii) ensure equity in the distribution of land resources and eliminate discrimination in ownership and transmission of land resources;
 - (iii) develop and evolve in response to competing social, economic and political demands, rather than policies keen on simple replacement;
 - (iv) protect, preserve and conserve land-based resource and other natural resources for future generations;
 - (v) facilitate planning, provision of basic services and infrastructure, and management and enforcement of land use regulation throughout the country.

3.2 CLASSIFICATION OF LAND TENURE REGIMES

35. There are three ways of classifying land tenure regimes. The first is in terms of the legal regime governing tenure, for example, whether the regime is statutory (formal) or customary (informal). The second is in terms of the manner in which such land is used, for example, whether as private, public, or government land. The third is in terms of the quantum of rights held i.e. whether absolute (timeless-bound) or time-bound. The Constitution and the Land Act have classified land tenure only in terms of the first and last. Both provide that land in Uganda may be held in terms of four tenure categories, namely customary, freehold, mailo, and leasehold. Both legal instruments have not classified land tenure in terms of the manner nor the purpose for which such land is held whether as private, government, public, or community.

Policy Statements

36. (a) **Land will be categorized as Private Land, Public Land and Government Land;**
(b) **All land tenure systems will be defined in detail to confer social, economic, environmental and political security to land owners, occupiers, and user;**
(c) **The use and management of land held under all tenure systems shall be subject to the regulatory powers of the State, to ensure compliance with physical planning regulations and standards for orderly and sustainable development.**

Strategies

37. To ensure completeness in the classification of land tenure regimes, Government will take legislative and other measures to:
- (i) remove all structural and normative impediments internal to the operation of each land tenure system;

- (ii) guarantee that access to land by way of transfer or transmission does not deny any person rights in land on the basis of gender, ethnicity, or social and economic status;
- (iii) ensure equity in the distribution of land resources, and preserve and conserve resources for future generations;
- (iv) ensure that systems of tenure which confer absolute ownership do not operate as a vehicle for speculative accumulation of land by the elite or deprive the poor of their access rights.

3.3 CUSTOMARY LAND TENURE

38. The majority of Ugandans hold their land in this complex system of land relations. It is alleged that customary tenure is associated with three problems, that (a) it does not provide security of tenure for land owners; (b) it impedes development because it does not allow the advancement of land markets, through which, those who need land for development can acquire it; (c) it discriminates against women, and does not accord them land rights. The Land Act (Cap. 227) and the Constitution 1995 have been criticized for their attempts to formalize customary tenure thus destabilizing and undermining its progressive evolution. Despite these attempts, it continues to be:

- (i) regarded and treated as inferior in practice, to other forms of registered property rights, denying it opportunity for greater and deeper transformation;
- (ii) assessed as lesser to other tenures that have titles for proof of ownership in courts of law in the administration of justice;
- (iii) converted to freehold before it attains the totality of the bundle of rights inherent in all other registered tenures that are held in perpetuity;
- (iv) disparaged and sabotaged in preference for other forms of registered tenures, denying it the opportunity to progressively evolve.

Policy Statement

39. (a) **The State shall recognize customary tenure to be at par with other Tenure systems;**
- (b) **The State shall establish a customary land registry for registration of customary tenure in its own form.**

Strategies

40. To facilitate the development and evolution of customary tenure in relation to social, economic, political and other factors, Government shall take measures to:
- (i) design and implement a land registry system to support the registration of land rights under customary tenure;
 - (ii) issue Certificates of Title of Customary Ownership, based on a customary land registry that confer rights equivalent to freehold tenure;
 - (iii) facilitate conversion of customary land which is already privatized and individualized into freehold tenure.
 - (iv) document customary land tenure rules applicable to specific communities at the district or sub-county levels;
 - (v) make an inventory of common property resources owned by communities and vest these resources in the communities to be managed under customary law.

41. To facilitate the design and evolution of a legislative framework for customary tenure, Government shall:
 - (i) amend the Constitution and the Land Act (Cap 227) to permit only individually owned customary land to be converted to freehold;
 - (ii) amend the Registration of Titles Act (Cap 230) to place customary tenure at par with other tenure systems;
 - (iii) modify the rules of transmission of land rights under customary land tenure to guarantee gender equality and equity;
 - (iv) make provision for joint ownership of family land by spouses;
 - (v) recognize the role of customary institutions in making rules governing land, resolving disputes and protecting land rights;
 - (vi) define family and individual land rights, from communal rights under customary land tenure and distinguish the rights and obligations of customary institutions vis-à-vis those of the community and individuals;
 - (vii) make provision for issue of titles in the names of trustees in areas with customary land trusteeship.

42. To strengthen traditional land management and administration institutions, Government will take measures to:
 - (i) recognize and enforce decisions of traditional land management by local government and State institutions;
 - (ii) ensure full judicial backing for traditional institutions as mechanisms of first instance in respect of land rights allocation, use regulation and dispute processing for land under customary tenure;
 - (iii) ensure that the decisions of traditional land management institutions uphold constitutional rights and obligations with regard to gender equality;
 - (iv) develop procedures in conformity with customary land law for the allocation and redistribution of land with consideration for inequalities and injustices.

3.4 MAILO TENURE AND NATIVE FREEHOLD TENURE

43. Mailo tenure and “native” freeholds, separate the ownership of land from occupancy or ownership of developments by “lawful or *bonafide*” occupants. This creates conflicting interests and overlaps in rights in the same piece of land. The definition of rights accorded to *bonafide* occupants in the Land Act (Cap 227) and all the subsequent amendments, lack legitimacy on part of the land owners. The Land (Amendment) Act 2010 grants statutory protection to the *bonafide* and lawful holder and his or her successors against any arbitrary eviction as long as the prescribed nominal ground rent is paid. However, the nominal ground rent provided for, as opposed to economic rent is largely ignored, creating a land use deadlock between the tenants and the registered land owner, leading to conflicts and many times evictions. The landlord tenant relationship as legally regulated is not amicable or harmonious and is non-operational.

Policy Statement

44. **The State shall resolve and disentangle the multiple, overlapping and conflicting interests and rights on mailo tenure and “native” freehold tenure.**

Strategies

45. To resolve the land use impasse between the lawful and *bonafide* occupants and the registered land owners, Government shall take measures to:
- (i) institutionalize and promote the principle and practice of land sharing and land re-adjustment between the registered land owner and lawful or *bonafide* occupant;
 - (ii) promote free negotiations between the two parties for one party to surrender his/her land rights and interests at an agreed price;
 - (iii) facilitate either party upon ascertainment (tenant or registered land owner) to access the Land Fund to purchase the interest of the other party on a loan basis;
 - (iv) make provision in the land law for fair and just compensation adjudicated by courts of law/land tribunals to be paid to the occupant in the case where the land owner wants to resume his/her land;
 - (v) purchase the interest of the registered land owner in the land occupied by the lawful/bonafide occupants using the Land Fund and sell the interest to the said occupants, based on social justice and equity considerations.
46. To ensure a just, equitable and amicable landlord-tenant relationship, Government, through legislative measures, shall:
- (i) re-define bonafide occupant and the rights accorded to such occupants, taking into account adverse possession principles and disability principle;
 - (ii) ensure the right of the registered land owner to rent commensurate with the value of the land;
 - (iii) restore the right of the registered land owner to negotiate fair tenancy terms with the lawful or bonafide occupant;
 - (iv) fix rent by a competent court/tribunal, in the event of amicable negotiations failing, based on:
 - (a) the right of the registered land owner to rent commensurate with the value of the land;
 - (b) the circumstances of initial occupancy or entry on the land; and
 - (c) size of the land occupied by the tenant.
47. In event of sale of registered land occupied by lawful or bonafide occupants, the liabilities and obligations thereon shall be transferred automatically to the new registered land owner.

3.5 FREEHOLD TENURE

48. The incidents of freehold tenure, which are basically standard, include the conferment of full power of disposition and the compulsory registration of title in perpetuity. It is clear that public policy regards freehold as the property regime of the future, to the extent that current law provides for conversion from leasehold tenure or customary tenure to freehold. This stipulation is contentious in some areas of the country. Where it has been tested, it has been expensive, as it requires substantial resources for adjudication, consolidation, and registration. In some instances, freehold poses challenges to public regulation since its covenants are not conditional.

Policy Statement

- 49. The State, through its agencies, shall exercise regulatory power on freehold tenure in accordance with land use planning and sustainability principles.**

Strategies

50. To ensure freehold tenure drives future development, Government will:
- (i) impose, through an Act of Parliament, conditional covenants on freehold land tenure to regulate its use and development and develop concepts and principles indigenous to Uganda for owning land under freehold;
 - (ii) promote systematic demarcation as a measure to reduce the cost of land registration.

3.6 LEASEHOLD TENURE

51. Leaseholds promote sophisticated forms of concurrent ownership such as condominiums and time-share arrangements, thus open land to a much larger range of users and use functions. The 1995 Constitution (under Article 237 (5)) provides that any lease, which was granted to a Uganda citizen out of former public land, may be converted into freehold. Since customary tenure is now legally recognized with rights in perpetuity, the conversion needs to be reviewed so that (i) leaseholds issued to individuals who held land under customary tenure before the 1995 Constitution and (ii) those accidentally granted to customary owners in respect of their holdings after the 1995 Constitution, automatically convert to freehold. However, leaseholds granted out of former public land without any customary rights should not be converted to freehold, since the land was not customarily owned at the time of grant of the lease and should continue to run as leaseholds, with the citizens of Uganda keeping the reversionary interest.

Policy Statement

52. (a) **Leaseholds or analogous arrangements shall be promoted as basic instruments for access to land for development in urban areas and areas of high demand;**
- (b) **Leaseholds shall only automatically convert to freehold, if a customary tenant acquired a lease over his/her personal land.**

Strategies

53. To maximize the potential of leaseholds, Government will take measures to:
- (i) convert all leaseholds, issued to customary tenants over their personal land holdings before the 1995 Constitution, to freehold;
 - (ii) convert all leaseholds, issued to customary owners over their personal land holdings after the 1995 Constitution to freehold;
 - (iii) discontinue the conversion of leaseholds issued out of public land which was not owned under customary tenure at the time of the grant to freehold except for degazetted lands;
 - (iv) encourage the utilization of leasehold in respect of all land tenure categories through the provision of simplified standard format;
 - (v) limit the duration of leasehold over public land not to exceed 99 years for citizens of Uganda and 49 years for non-citizens, or periods consistent with specific development requirements whichever is lesser;

- (vi) provide standards for exercise of reversionary rights to comply with first-option-of-renewal to the current lessee on public land;
- (vii) protect the rights of any lawful or *bonafide* occupants on leaseholds out of public land.

3.7 COMMON PROPERTY RESOURCES ON PRIVATE LAND

54. Common property resources are usually managed through institutional arrangements, customs, and social conventions, designed to induce joint solutions to issues of access and benefit-sharing. These resources are often, situate on land owned privately by individuals and communities. The Land Act (Cap 227) and the 1995 Constitution of Uganda do not take into account the role of local communities in the preservation and management of common property resources. Common Property Resources, especially communal grazing land have in the past been grabbed, sold illegally or individualized by some members of the local communities.

Policy Statements

55. (a) **Government will reform laws and regulations for the management of common property resources to conform with standards for sustainable use and development;**
- (b) **Government shall, in collaboration with individual or community owners, ensure the sustainable use and management of privately owned land-based resources.**

Strategies

56. Government will take measures to institute the following reforms:
- (i) identify and gazette access routes or corridors to common property resources for public use;
 - (ii) enact appropriate legislation to clarify who may have access to what categories of common property resources and how such access may be secured;
 - (iii) identify, document and gazette all common property resources wherever located and irrespective of their tenure status;
 - (iv) ensure that common property resources exclusively used by or available to particular communities are directly held and managed by them;
 - (v) develop mechanisms which will mediate between state, local authorities, communities and individual interests in particular common property resources;
 - (vi) facilitate communities and their traditional institutions to register and legalize their ownership over common property resources;
 - (vii) build capacity for management of common property resources by Local Governments and Communities by recognizing and regularizing their roles.

3.8 LAND RIGHTS OF ETHNIC MINORITIES

57. In Uganda, the land rights of ethnic minorities as ancestral and traditional owners, users and custodians of the various natural habitats are not acknowledged even though their survival is dependent upon access to natural resources. Establishment of national parks and conservation areas managed by government, as well as large

scale commercial enterprises such as mining, logging, commercial plantations, oil exploration, dam construction etc, often takes place at the expense of the rights of such ethnic minorities. Since minorities occupy land on the basis of precarious and unprotected land rights systems, they are exposed to constant evictions, removals and displacements. The compensation given to these occupants is not prompt adequate and fair as provided for by the Constitution.

Policy Statement

- 58. (a) Government shall, in its use and management of natural resources, recognize and protect the right to ancestral lands of ethnic minority groups;**
- (b) Government shall pay prompt, adequate and fair compensation to ethnic minority groups that are displaced from their ancestral land by government action.**

Strategies

59. To redress the rights of ethnic minorities in natural habitats, Government will take measures to:
- (i) establish regulations by Statutory Instrument to:
 - (a) recognize land tenure rights of minorities in ancestral lands;
 - (b) document and protect such de facto occupation rights against illegal evictions or displacements;
 - (c) consider land swapping or compensation or resettlement in the event of expropriation of ancestral land of minorities for preservation or conservation purposes;
 - (d) detail terms and conditions for displacement of minorities from their ancestral lands in the interest of conservation or natural resources extraction;
 - (ii) pay compensation to those ethnic minorities that have in the past been driven off their ancestral lands for preservation or conservation purposes;
 - (iii) deliberate and specify benefit-sharing measures to ensure that minority groups benefit from resources on their ancestral lands rendered to extractive or other industry;
 - (iv) recognize the vital role of natural resources and habitats in the livelihood of minority groups in the gazettement or degazettement of conservation and protected areas.

3.9 LAND RIGHTS OF PASTORAL COMMUNITIES

60. Pastoral communities occupy rangelands with harsh climatic and ecological conditions. The severity of competition for grazing and water resources with neighboring communities has increased, as cultivators expand into areas suitable for grazing. Pastoral mobility is constrained, yet it is a key ingredient in managing the low net productivity, risk and unpredictability in the rangelands. Access to land resources has also progressively reduced, as successive individual, private and government agency actions, alienated grazing areas for establishment of national parks, wildlife reserves, protected areas, government or military schemes and ranching schemes. Whereas nomadic pastoral practices are allegedly associated with land invasions or grabbing and “illegal” land buying in some areas, it is

necessary to protect pastoral land rights, but not at the expense of non-pastoral communities.

Policy Statement

61. Land rights of pastoral communities will be guaranteed and protected by the State.

Strategies

62. To protect the land rights of pastoralists, government will take measures to:
- (i) ensure that pastoral lands are held, owned and controlled by designated pastoral communities as common property under customary tenure;
 - (ii) develop particular projects for adaptation and reclamation of pastoral lands for sustainable productivity and improved livelihood of communities;
 - (iii) protect pastoral lands from indiscriminate appropriation by individuals or corporate institutions under the guise of investment;
 - (iv) promote the establishment of Communal Land Associations and use of communal land management schemes among pastoral communities;
 - (v) establish efficient mechanisms for the speedy resolution of conflict over pastoral resources, and between pastoral communities and sedentary communities.
63. To support pastoral development, Government shall:
- (i) prescribe clear principles for the ownership, control and management of pastoral lands in a policy by the Ministry responsible for Agriculture;
 - (ii) prescribe clear principles for voluntary resettlement of pastoral communities with approval of local governments in a resettlement policy;
 - (iii) ensure zoning to establish appropriate agro-ecological zones, pastoral resource areas and access, maintaining an equitable balance between the use of land for pasture, agriculture, energy, industry and for wildlife protection;
 - (iv) establish mechanisms for flexible and negotiated cross-border access to pastoral resources among clans, lineages and communities for their mutual benefit;
 - (v) consider restitution, compensation or resettlement of pastoral communities in their ancestral lands, who have lost land to government over the years.

3.10 LAND RIGHTS OF WOMEN AND CHILDREN

64. In Uganda, women are generally unable to own or inherit land due to restrictive practices under customary land tenure or are not economically endowed to purchase land rights in the market. In general, customary practices in some areas of the country continue to override statutory law in recognition and enforcement of women's land rights, abating unnoticed land grabbing at family level. Attempts to redress this situation by outlawing discriminatory cultures, customs and practices in land ownership, occupation and use, and requiring spousal consent to transactions involving family land in the 1995 Constitution of Uganda and Land Act, have not been effective due to failure in implementation and enforcement. While the Land Act (Cap 227) caters for a spouse to some extent, it does not tackle the land rights of widows, divorcees, women in co-habitation, and children.

65. Strategic litigation in respect of the Divorce Act (Cap 249) and the Succession Act (Cap 162) nullified sections of the law charged with realization and ascertainment of land rights for vulnerable groups, especially women and children. Despite having ratified several international instruments on human rights, these landmark court decisions are yet to be translated into law. There is a distinct gap between what is in law and what is in practice.

Policy Statements:

66. (a) **Government shall by legislation, protect the right to inheritance and ownership of land for women and children;**
(b) **The Government shall ensure that both men and women enjoy equal rights to land before marriage, in marriage, after marriage, and at succession, without discrimination.**

Strategies:

67. To review and regulate customary law and practices in access to and ownership of land, Government will to:
- (i) ensure rules and procedures relating to succession do not impede transmission of land to women and children;
 - (ii) sensitize on the discrimination against women and children with respect to access, use and ownership of land;
 - (iii) review and regulate customary rules to avoid violation and abuse of family land held in trust for the family;
 - (iv) restore the power of traditional leaders in matters of land administration, conditional on their sensitivity to rights of vulnerable groups;
 - (v) ensure that family heads are held to their fiduciary duties to account.
68. To redress gender inequity and inequality to inheritance and ownership of land in statutory law, Government will:
- (i) design and implement a regime of matrimonial property law aimed at the protection of spouses both within and outside marriages;
 - (ii) make legal provision for joint or spousal co-ownership of family land and matrimonial home;
 - (iii) enforce the land rights of women and children to succession by overhauling the succession law;
 - (iv) amend the Land Act provisions to restore the consent clause to protect children;
 - (v) presume the existence of marriage for purpose of securing the property rights of spouses who have acquired property in cohabitation;
 - (vi) provide for widows and orphans to inherit family land.
69. To ensure that women are fully integrated in all decision-making structures and processes in access to and use of land, Government will take special measures to:
- (i) mainstream gender into development planning so as to improve the status of women;
 - (ii) domesticate all international conventions ratified by Government of Uganda, which outlaw discrimination against women and children and enforce all the principles therein;

- (iii) support the implementation of the Equal Opportunities Commission as a specialized institution to advocate for and, where relevant, implement strategies in the National Land Policy;
- (iv) solicit the support of faith based institutions and cultural leaders to accept and implement measures in the National Land Policy designed to protect the rights of women and children.

3.11 LAND RIGHTS OF DWELLERS IN INFORMAL SETTLEMENTS AND SLUMS

70. Uganda's land tenure systems have worked to the detriment of orderly development and growth in urban areas, by allowing access to land on a limited, temporary or illegal basis. Consequently, the supply of decent housing stock in urban is affected, as land on which housing is constructed by landlords or by tenants is privately-owned. It is, therefore, common for slum dwellers that form part of the urban fabric, because of their substantive contribution to urban economy, to settle in marginal areas with high environmental concerns and health hazards under precarious conditions.

Policy Statement

- 71. Government will ensure the supply of affordable land in urban areas and provide a framework for regularizing land tenure for dwellers in informal settlements and slums.**

Strategies

72. Government will take measures to:
- (i) facilitate negotiations between registered land owners, the government and dwellers of informal settlement and slums;
 - (ii) promote private-public partnerships to enhance tenure security and stem the growth of slums and informal settlements;
 - (iii) regulate sub-division of land in urban and peri-urban areas to guarantee the maintenance of economic security in the land sector;
 - (iv) promote and confer legitimacy to the land use activities of the urban poor especially in relation to agriculture and silviculture;
 - (v) regulate and regularize settlement to conform with health, safety, sustainable environment and public order standards;
 - (vi) mainstream informal sector activities in overall urban and rural development plans;
 - (vii) accord statutory security to informal sector activities without compromising physical planning standards and requirements; and
 - (viii) provide social infrastructure for informal sector developments; and provide affordable infrastructure for self-improvement by the urban poor.

3.12 LAND RIGHTS OF OTHER VULNERABLE GROUPS

73. Persons infected and affected by HIV/AIDS, the terminally ill, persons-with-disability, elders and internally-displaced persons are prone to loss of land rights and are threatened by landlessness due to poverty induced asset transfers, distress land sales, evictions, land grabbing and abuse of land inheritance procedures. These groups are also exposed to eviction and displacement.

Policy Statement

74. (a) **Legislation and management practices shall accord all vulnerable Groups equal land rights in acquisition, transmission, and use of land;**
- (b) **The State shall regulate land markets to curtail distress land sales and ensure that the land rights of the vulnerable groups are protected.**

Strategies

75. To protect the rights of all vulnerable groups Government will take legislative and other measures to:
- (i) guarantee that access to land, by way of transfer or transmission, is not denied to any one on the basis of gender, ethnicity, or social and economic status;
 - (ii) prevent the appropriation of the land rights of vulnerable groups through regulation and control of the land markets;
 - (iii) mitigate the distress land sales involving persons affected and infected by HIV/AIDS and the terminally ill persons;
 - (iv) sensitize and encourage vulnerable groups to hold their ownership rights and interests in family or community trusts;
 - (v) mainstream HIV/AIDS interventions in all land sector activities.
76. To protect the land rights of internally-displaced persons, Government will take special measures to:
- (i) restitute land, housing and property or paying adequate compensation or resettling these people;
 - (ii) put in place mechanisms and structures for claiming restitution, compensation or resettlement.

3.13 RESTORATION OF ASSETS AND PROPERTIES TO TRADITIONAL RULERS

77. The Traditional Rulers (Restitution of Assets and Properties) Act, 1993 instantly returned some assets and properties specified in its schedule to Traditional Rulers. It stipulated that those not included in the schedule, be returned following negotiations between the government and the traditional rulers. In the case of Buganda Kingdom, the properties being negotiated for return include: the estimated '9000 square miles', the 1500 square miles of forests, and the 160 square miles of official estates at county and sub-county headquarters in Buganda, confiscated by the central government in 1967 and vested in the Uganda Land Commission. The expeditious conclusion of this legal process based on principles is necessary, not only for the Kingdom of Buganda, but for all the Kingdoms including Bunyoro and Busoga, who have put forward their demands. There is also need to stream line the ownership and management of properties returned to the institution of the traditional rulers.

Policy Statements

78. (a) **Government, upon proof of claims, shall conclusively return all**

properties of traditional rulers confiscated in 1967, as provided for under the Traditional Rulers (Restoration of Assets and Properties) Act (Cap 247);

- (b) Land and properties restored to Traditional Rulers, on behalf of their subjects, shall be used and managed for the common good of the subjects of the Traditional Ruler as public trust properties.**

Strategies

79. For all properties returned to Traditional Rulers, measures will be taken to:
- (i) draw a clear distinction between Traditional Rulers' personal land and property and that belonging to the Institution which is held in trust for their subjects;
 - (ii) ensure the observance of a fiduciary relationship as trustees in respect of properties returned to Traditional Rulers for the common good of their subjects;
 - (iii) ensure that occupiers of restored lands are protected from illegal evictions;
 - (iv) prepare an inventory showing the location of such land restored and the nature of any beneficial interest held by persons in occupation thereby.
80. For all properties yet to be returned to Traditional Rulers, Government will take legislative and administrative measures to:
- (i) develop principles on which negotiation for the conclusive return of properties of Traditional Rulers will be based;
 - (ii) negotiate conclusively with all Traditional Rulers for the return of assets and properties confiscated in 1967; and
 - (iii) expedite the negotiation process for the return of 160 square miles of official estates, 1500 square miles of forests and "9,000 square miles" to the Kingdom of Buganda;
 - (iv) expedite the negotiate process for all other Kingdoms, that have articulated their claims for the return of their properties.

3.14 THE KIBAALE LAND QUESTION

81. The 1964 Referendum on the counties of *Buyaga* and *Bugangaizi* in Kibaale district, returned territorial affiliation and administrative responsibility to Bunyoro, but never addressed land ownership rights held by absentee *Baganda* landlords in *mailo* tenure that the counties lost. Currently, incessant immigration and settlement by non-indigenous *Banyoro* and the Government resettlement schemes of 1973 and 1992 complicated this land question, turning it into a political question, as immigrants gain political control. The indigenous *Banyoro* are worried that they may never be able to regain their ancestral land, which is now increasingly being taken over by immigrants. In addition, public lands especially forest reserves have been massively encroached on by immigrants, this has bred resentment, political tensions and sometimes, violent ethnic clashes. Basing on the Land Act (Cap 227), Government began buying out absentee landlords. However, due to limited budget allocations the bigger part of *mailo* is yet to be bought. Lastly, it is not clear how the re-possessed land will be distributed or shared between the immigrants and the lawful occupants who are *Banyoro*.

Policy Statement

- 82. Government shall take conclusive measures to redress historical land injustices in a manner that promotes harmony for peaceful co-existence of indigenous persons and immigrants in *Kibaale* District.**

Strategies

83. To resolve the *Kibaale* land question, Government shall take measures to:
- (i) commit sufficient resources under the Land Fund to purchase *mailo* interests of all absentee land owners at market prices and restitute the land to the indigenous persons in freehold;
 - (ii) develop criteria for land adjudication and re-distribution of the purchased land by Uganda Land Commission as stipulated by the Land Act and ensure equity in the re-distribution;
 - (iii) restore land ownership rights to indigenous persons and lawful immigrants to guarantee their rights of all immigrants who accessed land legally since the 1995 Constitution of Uganda guarantees every citizen to settle anywhere in the country;
 - (iv) evict all people illegally and / or irregularly settled in gazetted protected areas in accordance with the relevant laws;
 - (v) formulate a resettlement policy to guide voluntary immigration and government-led re-settlement initiatives in Uganda;
 - (vi) design a fair and equitable criteria for redistributing public land and land purchased from absentee landlords in freehold;
 - (vii) specify or designate or create an agency for the conclusive resolution of the *Kibaale* land question.

3.15 LAND MARKETS

84. The operations of a land market hinge on an efficient land registry system that guarantees titles, provides accurate information, and is open to public scrutiny. Land markets by nature, are subject to imperfections and distortions caused by lack of effective regulation, poor land use planning, and under-capitalization. Land markets can lead to loss of rights for vulnerable groups through distress sales, the consequences of which is landlessness, as land flows into the hands of the rich. There is need for infrastructure for efficient and equitable land market operations in support of the socio-economic and cultural needs of land users. It is the duty of the Government to regulate the operations in the land market under all tenure regimes.

Policy Statement

- 85. The Government shall promote efficient, effective and equitable land markets in all land tenure regimes.**

Strategies

86. To create an enabling environment for land market functions, Government will:
- (i) facilitate the exchange and transmission of land rights and interests without compromising tenure security for individuals and communities;
 - (ii) identify a statutory agency or department to facilitate and regulate the land market in Uganda;

- (iii) design and implement measures to mitigate against the negative impacts of land markets through fiscal, land-use planning and other appropriate measures;
- (iv) establish a well-functioning land information system and provide good quality land-related information and infrastructure to access this information;
- (v) introduce and create a computerized land registration and cadastral system, that is periodically updated to guarantee transactional accuracy and reduce costs of registration and disputes;
- (vi) make progressive improvement in the quality and completeness of cadastral and land information databases and systems to facilitate the land market;
- (vii) promote public-private partnerships to provide sufficient capacity and finance while retaining ultimate control by the state;
- (viii) promote and institutionalize the land rental market to promote access to land; for production;
- (ix) regulate the operations of non-state actors in the land market, in particular real estate agents and other professionals.

3.16 ACCESS TO LAND FOR INVESTMENT

87. Growth in Foreign Direct Investment (FDI) can lead to alienation of land from peasant's rights holders and result into tenure insecurity, food insecurity, land conflicts and poverty. Mechanisms to deliver the right balance between improving livelihoods, protecting vulnerable groups, and raising opportunities for investments and development are needed. Determining the sectors which should be open to foreign direct investments (FDI) and the amount of land to be allocated for such investments based on the use to which the land is to be put is imperative. Government or public land available to issue for carefully-selected private investment, deemed of importance for socio-economic growth is limited. In the past, Government proposed to harness the power of compulsory acquisition to deliver land to investors; this was roundly rejected by the Citizens of Uganda because. In some instances it was, not based on any criteria.

Policy Statements

88. (a) **Government shall create an enabling environment to attract investment on both domestic and foreign in key sectors in the economy:**
- (i) **in accordance with established laws and procedures**
 - (ii) **on the basis of appropriate evaluation, due process and due diligence.**
- (b) **Government shall put in place measures to mitigate the negative impacts of investment so as to deliver equitable and sustainable development.**

Strategies

89. Government will put in place measures to:
- (i) formulate a strategy to guide the State and its agencies in the provision of land for investment, including measures to:
 - (a) regulate the amount of land investors can access in consideration of the use that the land will be put to,

- (b) follow due process (evaluation, due diligence and approval of land use change),
 - (c) determine sectors open to foreign direct investment,
 - (d) carry out cost-benefit analysis on public facilities before allocating the land to private investors,
 - (e) assemble land and allocate it through a land bank;
 - (ii) provide reliable and easily accessible land-based information to guide potential investors;
 - (iii) remove bureaucratic inefficiency and corruption in the land institutions to facilitate delivery of land for investment;
 - (iv) promote long-term benefit-sharing arrangements rather than one-off compensation for loss of land rights, such as contract farming schemes for small holder farmers, out growers schemes, equity-sharing schemes, use of leaseholds and joint-ventures.
90. Protect the land rights, including rights of citizens in the face of investments, with measures for, but not limited to;
- (i) clear procedures and standards for local consultation;
 - (ii) mechanisms for appeal and arbitration;
 - (iii) facilitate access to land by vulnerable groups, smaller-scale land owners and land users in the face of large scale farming interests;
 - (iv) protect and avoid degradation of natural resources and sensitive eco-systems.

3.17 MEASURES FOR PROTECTION OF LAND RIGHTS

91. The vast majority of Ugandans may not be able to afford the cost of formally securing land rights under any of the tenure regimes recognized by law. Land rights delivery mechanisms and agents alone, cannot be entrusted to guarantee tenure security to land users, especially the vulnerable. It is, therefore, necessary to put in place a framework that would ensure that land rights held by all Ugandans are fully and effectively enjoyed.
92. In addition, it is necessary for this national land policy to set minimum land sizes to avoid excessive sub- division of land, in rural and urban areas, for orderly development.
93. The Land Act (Cap 227) allows for non-citizens to acquire interest in land not greater than leasehold for a maximum term of 99 years. This principle needs to be re-affirmed in this policy for effective implementation, as it is routinely disregarded in the Land Registry and market transactions. Research as well as consultations for development of the National Land Policy, showed that the period is considered to be too long PA shorter lease period of 49 years was suggested as this is sufficient for any form of investment to bear returns.

Policy Statements

94. (a) **Government shall develop and implement measures for effective assurance of enjoyment of all land rights by all citizens;**
- (b) **Government shall set minimum land sizes for rural and urban land to promote orderly development;**

- (c) **Non-Citizens shall not be granted interest in land greater than leasehold for 49 years in respect of any land in Uganda.**

Strategies

95. To support land rights, measures will be put in place to;
- (i) ensure land rights and land administration are integrated in the national school curriculum;
 - (ii) regulate the cost of land services delivery to a minimum with regard to demarcation and registration to make it affordable;
 - (iii) ensure land delivery services are further decentralized to the local authority level;
 - (iv) ensure community management structures relating to land under customary tenure are strengthened;
 - (v) ensure civil society participation in the protection of land rights and tenure security of communities and vulnerable groups
 - (vi) regulate land ownership by non-citizens by converting all rights and interests in land granted to non-citizens to leaseholds of not more than 49 years, with the option to renew; and
 - (vii) regulate land sizes, in rural and urban areas, by setting minimum sizes as a measure for controlling sub-divisions.

CHAPTER 4: LAND RIGHTS ADMINISTRATION FRAMEWORK

4.1 INTRODUCTION

96. To ensure that the land needs of the public and individuals are processed, satisfied and secured, this policy addresses a number of malfunctions, prominent among which is a high degree of out-datedness, technical complexity, unclear managerial hierarchy, inadequate resourcing, corruption tendencies and operational inefficiency that have beset the land administration leading to poor performance in service delivery for the land sector and other productive sectors, with which it has intimate linkages.

4.2 LAND RIGHTS ADMINISTRATION SYSTEM

97. Land rights administration operates within two parallel systems comprising of: the informal customary / traditional systems governed by customs and norms of given communities and the centralized statutory (or state) system governed by written law. The two are not in harmony, thus institutional and systemic conflicts, parallel practice leading to confusion as distinct roles of the various institutions under customary / traditional and statutory institutions are not spelt out. In addition, inconsistencies in the customary/traditional system with regard to standards, rules and procedures are common. Land rights administration operations have contributed to severe land rights insecurity, as a result of lack of proper record keeping, persistent inaccuracies in land registry information, corruption and fraud leading to general mistrust of the land rights administration system. Land rights administration needs to be treated as a professional function, removed from the realm of politics and insulated from political pressures often bent on appropriation of land resources.

Policy Statements

98. (a) **Government shall fundamentally restructure the lands rights administration system to enhance efficiency, ease of access, and cost-effectiveness;**
- (b) **Government shall recognize and harmonize the traditional customary system with the formal statutory system in land administration.**

Strategies

99. To restructure and re-engineer the land administration system, Government will take measures to:
- (i) further decentralize land rights administration functions to traditional customary land governance levels;
 - (ii) consolidate and rationalize decentralized land rights administration structures set up by the Land Act (Cap 227), in terms of cost, simplicity, efficiency, accessibility and affordability;
 - (iii) re-design the hierarchy of the land rights administration to enable traditional customary institutions to operate as the tiers of first instance in respect of land held under customary tenure;
 - (iv) develop mechanisms for full and effective participation by land owners and users, and especially women, in all land rights administration functions;

- (v) maintain clear separation between the land rights administration system and public or political administration, and insulate the land administration structures from demands exerted by political elites;
- (vi) recognize and grant legality to operations of customary land administration institutions under the Registration of Titles Act;
- (vii) provide the land rights administration institutions with resources at all levels of operation.

4.3 LAND RIGHTS DELIVERY

100. Land rights delivery under customary tenure is based largely on memory and folklore, which though not less authoritative lacks an institutional framework. The statutory system is still manually organized and yet to benefit from automation and computerization. Neither of the systems (statutory and traditional) serve the land sector well, making registration of interests slow, expensive, and corruption-prone, often leading to forged titles. The systems therefore, require urgent modernization and simplification. It is now generally agreed that some of the land rights administration services should either be privatized or divested as their concentration in government institutions and agencies is the primary cause of inefficiency and wastage. Land is a national function for which Government is responsible as per the Sixth Schedule of the 1995 Constitution. However, the Local Governments Act has decentralized the land administration and management function to local governments which appears to be contrary to the Constitutional mandate given to the Government.

Policy Statements

101. (a) **Government shall be responsible for land administration and management functions in accordance with the Constitution;**
- (b) **Government shall overhaul the existing institutional framework for Land administration and land management to restore efficiency, cost-effective and equity in the delivery of land services;**
- (c) **Government shall ensure that at all level, land administration structures and processes are transparent, accountable, efficient, cost-effective and accessible to the public.**

Strategies

102. To meet the needs of users, Government will redesign the land services systems and procedures to:
- (i) establish and operationalize the regular maintenance of a land registry for the recording and certification of land rights under customary law;
 - (ii) introduce modern technology in land rights management, including computerization of all land registries commencing with those established in urban areas;
 - (iii) Simplify all land registry practices through the use of model transaction documents;
 - (iv) design a system for the systematic tracking of changes in proprietorship through transmissions, sub-divisions, mutations and boundary adjustments, to prevent distortions in land registry information;

- (v) through subsidiary legislation, regularize the fees and charges in the Land Registry, for verification and transaction costs, including charges by local council for effective control by local governments;
103. To reform the delivery of land services, Government will:
- (i) review the Local Governments Act to delegate some of the land administration and management functions to local governments;
 - (ii) in an Act of Parliament, create a semi-autonomous state agency responsible for land administration and management at the national level and:
 - (a) specify the land administration and management functions for which the State Land Agency is responsible;
 - (b) accord the designated State Land Agency sufficient autonomy and independence to perform its functions effectively and fairly but accountable to the tax payers;
 - (c) ensure the State Land Agency is responsive to the needs of its customers, is service oriented and is adequately staffed with skilled and competent personnel;
 - (d) Encourage private sector institutions to continuously monitor and evaluate the performance of the Land State Agency;
 - (e) Ensure that all land offices throughout the country are under the technical direction of the State Land Agency.
 - (iii) establish regional land offices appropriately located to deliver land services until such a time when each district can have a fully fledged district land office;
 - (iv) privatize a limited number of land rights delivery services under guidelines established by the semi-autonomous State Land Agency;
 - (v) retain, at the centre, the power of standards setting and supervision in respect of the performance of all land delivery services;
 - (vi) retain dispute processing functions in communities and decentralized state institutions established under the Land Act.

4.4 LAND RIGHTS DEMARCATION, SURVEY AND MAPPING

104. In Uganda, performance of land rights demarcation, survey, and mapping functions has been impeded by a variety of factors, chief amongst which is shortage of qualified personnel, administrative bottlenecks in the preparation and approval of deed plans. There is a public outcry on the exorbitant cost of privatized survey services, despite efforts by academic institutions to increase the number of qualified professionals at the Entebbe School of Survey and Land Management and Makerere University. The deployment and regulation of the profession of surveying through the Surveyors Registration Board, is currently non-effective due to proliferation by un-qualified practitioners. The absence of survey equipment limits the infrastructure for effectively supporting surveying functions within government and amongst private services providers. The destruction of survey points and loss of coordinates often fuelled land conflicts and disputes. Under customary tenure, it is necessary to recognize traditional boundary-marking systems and to sensitize communities on the advantages of land rights adjudication, systematic demarcation and surveying.

Policy Statement

105. **Government shall enhance and update the capacity for land rights adjudication, demarcation, survey, and mapping services.**

Strategies

106. To review and update the legal and regulatory framework on demarcation, surveying and mapping, Government will take measures to;
- (i) amend and reform the Survey Act for improved regulation of surveys;
 - (ii) amend existing laws to allow for the use of modern technology
 - (iii) review the Surveyors Registration Act to harmonize it with the Survey Act and to allow the legal registration and operation of surveyors holding diplomas;
 - (iv) review and re-focus the Surveyors Registration Board to effectively regulate the profession of land surveying, mapping and registration;
 - (v) recognize and confer official status to community- based boundary-marking systems in all tenure systems;
 - (vi) regulate the cost of surveys and mapping to facilitate registration of land under all tenure systems.
107. To enhance training, deployment and regulation of demarcation, surveys and mapping, Government will take measures to:
- (i) provide facilities for the training of land rights adjudication, demarcation, survey, and mapping personnel by public or private sector agencies;
 - (ii) privatize cadastral surveys, engineering and topographical surveying subject to strict standard-setting and public regulation;
 - (iii) put in place mechanisms for maintenance of survey points and subsidize the costs of block surveys;
 - (iv) retain as the basic framework for surveys and mapping, geodetic surveys, hydrographic surveys and base mapping as public functions;
 - (v) sensitize the communities and incorporate traditional institutions on the functions of surveys and mapping.

4.5 LAND INFORMATION SYSTEM

108. An important function of the land rights administration systems is to ensure that accurate land information is available on land sizes, location and proprietary characteristics, substantive and anticipated values, and land use quality. It is also important that information should be available on utilities, infrastructure, topographic details, geodetic controls, socio-economic and demographic parameters and environmental media. This is important for land use planning and the design of a fiscal cadastre. Absence of technological infrastructure (including equipment) to guarantee access to accurate land information is one of the problems haunting land information management in Uganda. Land information is mostly held in paper form, manually managed, and not optimally utilized. Additionally, such information system needs to be operated with due regard to social, cultural, and intellectual property considerations.

Policy Statement

109. **The Government shall establish and maintain a reliable and user-friendly Land Information System (LIS) as a public good for planning and national development.**

Strategies

110. To establish and maintain a functional Land Information System, Government will take measures to:
- (i) develop data standards for geo-information comprising among others, feature definitions, data content, spatial referencing, and accuracy;
 - (ii) prepare and implement national guidelines, to improve the quality and quantity of land information;
 - (iii) enact and amend all relevant laws to enable application of modern technology;
 - (iv) procure technological infrastructure needed for the establishment of a decentralized system;
 - (v) establish, rehabilitate, re-organize, upgrade, authenticate, and digitize existing land records in readiness for the establishment of a computerized land information system;
 - (vi) computerize and update existing land records to support the Land information System; and
 - (vii) decentralize and present the proposed land information system in a language understood by community-level land managers and users.

4.6 LAND DISPUTES RESOLUTION

111. The land dispute management system does not recognize the inherent differences between disputes over land held under customary tenure and those held under other tenure regimes. There is no specific recognition given to indigenous mechanisms for dispute processing or customary law as a normative framework for the processing of disputes under customary tenure. The Land Act (Cap 227) established an elaborate structure of land tribunals, whose operations have since been suspended by the Judiciary, citing limited resources and duplication of services with Magistrates Courts. Overlaps in dispute resolution institutions have resulted into fora shopping by aggrieved parties, without a clear hierarchy. Access to timely, efficient and affordable dispute resolution mechanisms for efficient land markets, tenure security and investment stability in the land sector is imperative to realizing the vision and objectives of this policy.

Policy Statements

112. (a) **Land Tribunals will be reinstated, properly resourced and facilitated to enable them carry out their constitutional mandate;**
- (b) **The State shall establish a special division in the High Court and Magistrates Court to handle land disputes for the development of a consistent property jurisprudence for Uganda;**
- (c) **Land disputes resolution mechanisms will be reformed to facilitate speedy and affordable resolution of land disputes.**

Strategies:

113. Legislative and other measures will be taken to:

- (i) ensure the operations of Land Tribunals are devoid of complex jurisdiction and litigation procedures usually associated with ordinary courts of law;
- (ii) Land Tribunals, shall in their judicial functions, be supervised by the Chief Justice or the Judicial Service Commission;
- (iii) provide clear choice rules for application of law by land tribunals to permit the simultaneous application of state and customary law depending on the circumstances, facts and characteristics of the dispute in question;
- (iv) accord precedence to indigenous principles and practice in dispute management institutions in respect of disputes over land held under customary land tenure;
- (v) empower customary/traditional institutions keep proper written records of all cases of dispute decided under their jurisdiction;
- (vi) define a clear hierarchy for dispute resolution structures to guarantee the finality and authoritativeness of decisions, subject to appeal to higher levels of jurisdiction;
- (vii) provide free legal aid to the vulnerable sections of society through a system of partnerships and incentives to private and civil society organizations to deal with the ever increasing land litigation;
- (viii) encourage and build capacity for alternative dispute resolution on land matters and application of principles of natural justice.

4.7 REVENUE GENERATION AND FISCAL FUNCTIONS

114. Decentralization of the land rights administration system under the Land Act (Cap 227) and Local Governments Act (Cap 300) (Amended 2003) has created opportunities for revenue generation and fiscal management through land taxes, land rates, stamp duty, rental income, and through delivery of land services. It is important that the full potential to generate revenue from the land rights administration system is actualized and enhanced.

Policy Statement

115. **The Government shall develop the capacity of land sector institutions for effective revenue generation and fiscal management.**

Strategies

116. Government will take measures to:

- (i) review land taxation laws and create other avenues for revenue generation in the land sector;
- (ii) monitor performance of institutions charged with the collection of revenue generated from land sector operations to avoid pilferage and wastage;
- (iii) enhance the capacity of local and community governance institutions to raise and utilize revenue from land sector operations,
- (iv) control levies on land transactions in urban and rural areas through guidelines administered by local governments;
- (v) Streamline fiscal transfers between national, local and community land rights delivery institutions so as to ensure equity in the sharing and use of land services revenue.

CHAPTER 5: LAND USE AND LAND MANAGEMENT FRAMEWORK

5.1 INTRODUCTION

117. Uganda is faced with challenges in the land use and land management institutional framework, that lie in many and different bureaucracies, resulting in inadequate land use planning and non-enforcement of land use regulations. Being cognizant of the recently approved National Land Use Policy, it is necessary to have as a feature of national land policy, land development in addition to legislating over land ownership. This will serve as a way of enhancing the role of the land sector and improving its leverage in efforts aimed at poverty reduction, the promotion of governance and social justice, political accountability and democratic governance. Sustainable Land use and management will also reduce conflict and ecological stress and help to facilitate modernization of Uganda's economy as a whole.

5.2 THE LAND SECTOR IN NATIONAL DEVELOPMENT

5.2.1 Land Ownership and Land Development

118. Since 1900 to-date, almost all legislation on land in Uganda has focused on ownership-cum-property rights. It is necessary to have land development aligned with property rights as a springboard for optimal land use and sustainable land development. This implies the integration of land ownership with land use regulation, supporting efforts aimed at transformation of land users with greater emphasis on urbanization, attaining food security using land and orientation to commercial agriculture for an estimated 31% of peasants, who live on less than one dollar per day.

Policy Statement

119. **Government shall facilitate land use regulation and land development, to enhance economic productivity and commercial competitiveness, for wealth creation and overall socio-economic development.**

Strategies

120. To ensure simultaneous land development and land ownership, Government will be put in place measures to:

- (i) fully integrate the land sector into the overall national development planning framework.
- (ii) reform the land ownership rights and interests as the starting point before proceeding to land development aspects;
- (iii) Facilitate central government agencies and local governments to adopt and enforce standardized land use planning and land development practices for orderly development;
- (iv) Strengthen community level institutions for effective management of land development and land use regulation;
- (v) apply land use planning and fiscal instruments to ensure land use and land development.

121. Government will take additional measures to:

- (i) design appropriate public policies and incentives to improve the efficiency of small-holder farming, through the use of production intensive technologies that do not jeopardize the environment;
- (ii) design appropriate public policies and incentives to deal with labour and credit for agricultural productivity;
- (iii) have periodic audit of land needs every 10 years to ensure that the livelihoods of the citizens of Uganda are not compromised;
- (iv) enhance access to land for large-scale commercial investments without prejudicing security of tenure for the Citizens of Uganda;
- (v) manage rapid population growth to relieve pressure off land resources;
- (vi) ensure that poor communities are protected from activities which deny them access to land resources and the infrastructure necessary for productive use’.

5.2.2 Integration of the land sector with other productive sectors

122. Land is an important determinant of the health and vitality of sectors and sub-sectors which depend on it for productivity. Among these are agriculture, livestock, energy, minerals, water, wildlife, forestry, and human settlements. As a basic cross-sectoral resource, it plays a vital role by providing leverage for other sectors’ efforts. However, it lacks efficient and effective cross-sectoral institutionalization as well as integration into the overall macro level planning. Furthermore, there is a need to identify and articulate effective linkages with other productive sectors in order to ensure increase contribution to economic growth, commercial competitiveness and development.

Policy Statements

123. (a) **Government will undertake policy reforms to ensure that the land sector facilitates growth in other productive sectors and makes an effective contribution to national development;**
- (b) **Land in Uganda will be managed as a basic resource, through effective cross-sectoral institutional arrangements.**

Strategies

124. To address the integration of the land sector with other productive sectors, Government will put in place measures to ensure that:
- (i) detailed sectoral and sub-sectoral policies and management systems operationalized are consistent with the provisions of the national land policy;
 - (ii) central Government and local governments provide the land resources required for development in all productive sectors of the economy;
 - (iii) developments in productive sectors do not lead to the deterioration of the quality of land resources;
 - (iv) continued review of performance of land and other related productive sectors monitors the mutual contribution to and impact on each other; and taking into consideration local, regional and global changes with regard to natural resource management;
 - (v) sufficient resources for the development and management of the land sector and all related productive sub-sectors are constantly available;
 - (vi) civic education, motivation of stakeholders and professionalism in land management and administration are undertaken for successful integration of the land sector with other sectors.

5.2.3 Optimal and Sustainable Use and Management of Land resources

125. An important strategic objective of the land sector is that land resources must be put to optimal, productive and sustainable management and use. Currently, land use and land management, lies in many and different bureaucracies managing isolated portions and aspects, which are often uncoordinated and in competition with one another for recognition and resources. These critical overlaps in institutional responsibilities, symbolize a framework that does not promote sustainable land development and insufficient collaboration among public sector institutions and agencies thus an obstacle to rational, effective and efficient management of land resources.

Policy Statement

126. (a) **Government shall ensure that land resources are used and managed in an integrated and sustainable manner;**
(b) **Government shall design and implement a comprehensive framework for proper stewardship of land resources.**

Strategies

127. To address the challenges of optimal and sustainable use and management of land resources, Government will take measures to:
- (i) develop and enforce adequate land use standards
 - (ii) provide capacity, through training, to enable land management agents to function efficiently;
 - (iii) deploy professional land auditors at local and community government levels to monitor and enforce the implementation of land use standards;
 - (iv) set up and operationalize an effective forum for inter-sectoral consultation and co-ordination of land sector activities;
 - (v) Strengthen and reform institutions for effective and efficient land use and land management; and
 - (vi) review policies related to all land-use sub-sectors to ensure complementarity with the national land policy.

5.3 LAND USE PLANNING AND REGULATION

128. Physical planning is an important tool in the management of land under any tenure that enables the State, local governments, communities and individuals to determine, in advance, the direction and rate of progression of land sector activities by region and area. Primary instruments for physical planning in Uganda have failed to provide adequate guidelines for planning at the national or regional levels and implementation plans in urban and rural areas. Besides, local planning authorities, i.e. local councils, do not always have the resources and technical capacity to plan and / or implement approved plans. An enormous gap exists between land use plan preparations, implementation and enforcement of land use regulations. In addition, there is lack of a framework to handle land use conflicts.

Policy Statement

129. (a) **Government shall ensure that land is planned, used and managed sustainably for the benefit of the present and future generations;**

- (b) **Government shall review and re-establish the framework for land use planning and regulation.**

Strategies

130. Through legislation and other regulatory measures, Government will:
- (i) declare the entire country a Physical Planning Area for effective land use management;
 - (ii) enforce compliance with land use regulations, standards and guidelines in urban and rural areas;
 - (iii) integrate physical infrastructure planning (i.e. roads, transportation, and service lines) into overall national and regional physical development planning schemes;
 - (iv) provide guidelines on zoning, subdivision, housing design and standards, provision of socio-economic and physical infrastructure services;
 - (v) review all relevant legislation on land use planning and regulation to ensure that they are in tandem with the National Land Policy.
131. Government will take additional measures to:
- (i) review and strengthen the framework for land use planning and development control;
 - (ii) prepare a medium to long-term national land use framework for Uganda, setting out broad land use expectations and strategies for land use management and land development;
 - (iii) prepare regional physical development plans;
 - (iv) design a framework and provide capacity for land use audits in rural and urban areas to support national, regional and local land use planning;
 - (v) maintain an inventory of land availability and suitability for specific users, as part of the national land information system;
 - (vi) monitor growth of rural settlements with a view to providing infrastructure and services;
 - (vii) continuously monitor and evaluate the effects of public regulation on land sector development;
 - (viii) integrate all urban economic activities, including urban agriculture and forestry, into overall urban development planning;
 - (ix) educate the public on the overall goals and advantages of public regulation of land use;
 - (x) Enact a law to provide a framework for metropolitan planning.

5.4 LAND QUALITY AND PRODUCTIVITY ASSURANCE

132. Reversing the trend of deterioration and degradation of land and its resources through measures and strategies for land quality assurance is one of the major needs of the land sector. Inefficient technologies of production, inappropriate land use and management practices have led to severe soil degradation, wastage and pollution of land and water resources. Desertification due to climate change effects and the lack of adequate support services for agriculture has affected productivity management for food security or surplus production for income generation and export earnings. Besides, population growth and the demand for land have resulted in excessive fragmentation of land into uneconomic sub-units.

Policy Statement

133. **The Government shall institutionalize mechanisms to restore, maintain and monitor the quality and productivity of land resources.**

Strategies

134. To enhance the land quality and productivity assurance, Government will put in place measures to:
- (i) restore and maintain the quality of land resources to enhance the proprietary value of land resources;
 - (ii) ensure sound land use practices and appropriate conservation measures for land quality and land-based resources;
 - (iii) Initiate programs for rehabilitation of degraded lands through design and implementation of prevention and management measures;
 - (iv) develop and implement programs for the delivery of community-based land management extension services
 - (v) promote individual and community participation in environmental action by providing socio-economic and other incentives to induce sustainable land use and management practices;
 - (vi) introduce appropriate and affordable technologies of production, including the possibility of irrigation development in arid and semi-arid areas;
 - (vii) develop guidelines to:
 - (a) control land fragmentation by setting minimum acreage to be subdivided,
 - (b) control of soil degradation and industrial waste disposal,
 - (c) encourage settlement in urban areas to ensure that population growth is commensurate with available resources;
 - (d) regulate sub-division of land in urban and rural areas for optimality in use, taking account of ecological and specific use factors;
 - (e) facilitate consolidation and re-adjustment of land parcels for optimal use.

5.5 NATURAL RESOURCES AND ENVIRONMENTAL MANAGEMENT

135. Uganda faces a number of environmental problems, including the degradation of natural resources such as forests, wildlife habitats, wetlands, fragile eco-systems (hilltops and savannah woodlands), water catchment areas, river banks and water bodies as well as soil degradation and pollution of land, air and water. These are depleted or degraded through indiscriminate excisions, unregulated harvesting, and encroachment for promotions of politically-motivated investment. Users of land on which natural resources are situated, are not aware of the sustainable use practices, existing legal frameworks and mechanisms for restoration of degraded environments. Implementation of existing policies and legislation that do exist is made difficult by bureaucratic bottlenecks that impede efficient decision-making in the land sector._
136. Management of protected areas is largely in the hands of Government, whose policies have resulted in land use changes in protected areas, especially forests, wetlands and wildlife reserves. Conflicting land uses and inadequate enforcement of natural resource management regulations has continued to receive little

attention. Policy and legal mechanisms for wildlife conservation outside protected areas are absent just as mechanisms for resolving human/wildlife conflicts. Criteria for setting aside land for conservation are not well-known or established. Furthermore, there is increasing political interference with the implementation of environmental laws, particularly the National Environment Act (Cap. 153), the National Forestry and Tree Planting Act, 2003 and regulations.

Policy Statements

137. (a) **Government shall ensure that natural resources are used and managed sustainably for the benefit of the present and future generations;**
- (b) **Government shall take measures to restore, maintain and enhance the integrity of natural resources;**
- (c) **Government shall enhance the effectiveness of the framework for environmental management;**
- (d) **Government shall ensure that all land use practices conform to land use plans and the principles of sound environmental management, including biodiversity preservation, soil and water protection, conservation, and sustainable land management.**

Strategies

138. Government will develop an appropriate a legal framework and institutional framework to:
- (i) develop and promote a scheme of incentives for participation of communities and other stakeholders in the devolved management of natural resources;
 - (ii) mobilize communities and assist them to develop and implement action strategies for effective enforcement of established environmental and natural resource management standards;
 - (iii) for benefit-sharing between land resource management institutions and authorities, and contiguous local communities;
 - (iv) strengthen the enforcement mechanisms of natural resource regulations;
 - (v) strengthen environmental planning, regulation, enforcement and monitoring;
 - (vi) provide incentives and rewards that encourage maintenance and protection of natural resources on privately-owned land.
139. Government will take measures to:
- (i) design appropriate environmental standards for all production sectors;
 - (ii) develop programs for the restoration of waste disposal sites, polluted watercourses, and control of land use-related green house gas emissions;
 - (iii) provide special protection for fragile ecosystem, including unique and sensitive biodiversity colonies, like hill tops, wetlands, water catchment areas, lake-shores and river banks;
 - (iv) eliminate the alienation of wetlands and compensate all land owners whose land stretches into wetlands;
 - (v) carry out public education on sustainable use and management of natural resource and the environment;

140. Government will take additional measures to:

- (i) develop a harmonized criteria for gazettement and de-gazettement of conservation areas, considering the following:
 - (a) reason for which an area was gazetted no longer exists,
 - (b) de-gazette to address historical or colonial imbalances,
 - (c) a technical evaluation recommends change of land use;
- (ii) establish and implement an effective mechanism for the management of wildlife outside protected areas;
- (iii) create incentives for community participation in conservation on privately-owned land and in co-management of conservation on public land;
- (iv) recover, demarcate and provide guidelines to regulate use of hilltops and other sensitive eco-systems;
- (v) develop mechanisms to resolve human-wildlife conflict.

5.6 HUMAN SETTLEMENTS

141. Human settlements development is inhibited by inadequate physical planning coupled with rapid and haphazard development. Rapid population growth and urbanization is taking place in the absence of an urbanization policy and human settlement policy. Urban settlements are particularly associated with informal settlements, inadequate shelter, lack of infrastructure and basic services, urban sprawl, infringement on prime agricultural land environmentally-sensitive areas such as wetlands, hilltops, and lake shores. Estate development in human settlements, specifically in urban and peri-urban areas, where the services of real estate agents are abetting urban sprawl is not regulated. Land tenure regimes that allow for multiple and conflicting rights and interests over the same piece of land impede housing investments. Planned rural settlements are necessary for cost-effective location and provision of services.

Policy Statement

142. **Government shall formulate a National Human Settlement Policy and National Urban Policy for comprehensive orderly planning and sustainable development.**

Strategies:

143. To support human settlements development, Government will take measures to:
- (i) develop a comprehensive National Human Settlement Policy
 - (ii) develop a National Urban Policy
 - (iii) ensure that land for human settlement is properly planned and social services allocated equitably;
 - (iv) facilitate consolidation and re-adjustment of land parcels for optimal use;
 - (v) strengthen urban and rural land use planning processes to prevent land wastage or sub-optimal uses;
 - (vi) regulate sub-division of land in urban and rural areas;
 - (vii) ensure strict enforcement of land use regulations especially in urban and peri-urban areas;
 - (viii) create incentives to attract people to live in urban or nucleated settlements to free land for development;
 - (ix) put in place appropriate legal framework to facilitate and regulate urban agriculture;
 - (x) Harmonise relevant subsector policies.

5.7 AGRICULTURE

144. Uganda does not have an agriculture policy. Agricultural production is mainly by small-holder producers. Poor agricultural practices have resulted into increased land degradation due to soil erosion and soil nutrition depletion, de-forestation, over-grazing and water contamination. Land productivity potential, land capability, and land sustainability for agriculture is not well known. This makes it nearly impossible to allocate agricultural land to its most optimal and sustainable use. Agricultural zones of production excellence based on production potential and existing comparative advantages, is self-evident are not demarcated. Over-population in some areas has resulted into land fragmentation, and over use, affecting land quality, agricultural production and economic development. Land tenure security as it relates to access and ownership remains a major menace for women farmers.

Policy Statement

145. **Government shall regulate the use of land and water resources for agricultural production aligned with a National Agriculture Policy.**

Strategies

146. Measures will be taken to:
- (i) develop a comprehensive National Agriculture Policy;
 - (ii) promote and ensure viable zonal agricultural production to enhance production, productivity, marketing and agro-processing;
 - (iii) make available an updated soil and arable land resource inventory at an appropriate scale
 - (iv) promote farming practices that reduce land degradation and enhance soil quality and productivity;
 - (v) encourage voluntary consolidation of agricultural land holdings to sizes suitable for optimum, productive and sustainable use;
 - (vi) plan, use and regulate agricultural activities and other practices that degrade the quality of agricultural land;
 - (vii) discourage land fragmentation through education, incentives, laws and by-laws;
 - (viii) promote sustainable use and management of water, soil and land resources;
 - (ix) develop a National Soils Policy.

5.8 CLIMATE CHANGE

147. Uganda is a signatory to the United Nations Framework Convention on Climate Change (1992) and the Kyoto Protocol (1997) both of which require collective domestic, regional and international action to stabilize greenhouse gas emissions to levels which would allow ecosystems to adapt naturally to climate change. The issues of greatest concern include deforestation, wetland degradation, land degradation and poor settlements planning. Uganda is already suffering from the impacts of climate change and variability, which hampers the realization of development goals. Increasingly adaptation to the impact of climate change is a challenge, as environmental degradation and disasters cause their victims to migrate in search of better conditions. The country's social and economic

development and people's livelihoods for now and in the foreseeable future, depends almost entirely on sound management and sustainable utilization of the natural resource base.

Policy Statements:

148. (a) **Government shall, in its plans and programs to mitigate and adapt to the impacts of climate change, mainstream sustainable management of the environment and natural resources;**
- (b) **Government shall put in place strategies to reduce and mitigate climate change and variability;**
- (c) **Government shall put in place climatic change adaptation strategies to reduce impact on climate change on the people and the economy;**
- (d) **Government will develop a framework for compliance with all international commitments on management of climate change.**

Strategies

149. To address the challenges of climate change, Government will take measures to:
- (i) regulate anthropogenic activities which generate greenhouse gas emissions such as the burning of forest fires, and destructive agricultural practices;
 - (ii) enhance participation in initiatives for mitigating greenhouse gas emissions worldwide;
 - (iii) mitigate the destruction of forests, water bodies, and other phenomena which act as sinks for green house gasses;
 - (iv) strengthen the adaptive capacity to climate change and promote climate change adaptation mechanisms;
 - (v) promote efficient use of new and renewable resources and, in particular, the exploitation and regeneration of renewable sources of energy;
 - (vi) build capacity for rapid response to and management of extreme events arising from variability in climate parameters;
 - (vii) encourage and facilitate of the operations of civil society networks concerned with ecosystem protection and preservation;
 - (viii) provide for re-settlement of environmental refugees and initiate co-operation responses with neighboring countries on issues to do with Kyoto Protocol and related issues, including adaptation to climate change;
 - (ix) strengthen environmental governance and ensure sound management of natural resources.

5.9 INSTITUTIONAL FRAMEWORK FOR MANAGEMENT OF LAND-BASED RESOURCES

150. Management of land-based natural resources lies within many and different bureaucracies, uncoordinated and often in competition with one another for recognition and resources for implementation. Thus, a multiplicity of institutions, with varying responsibilities on land management, overlapping in mandates without clear policy principles and guidelines, is self-manifest. Without comprehensive reform of the institutional and administrative framework, currently in force, which has grown in response to various political and economic concerns, the management of land resources will remain internally-fragmented, conflictual and highly centralized.

Policy Statement

151. Government shall establish a harmonized and integrated institutional framework for efficient use, appropriate stewardship and effective management of land based natural resources.

Strategies

152. To guarantee an institutional framework for efficient management of land-based resources, Government will take measures to:

- (i) refine and clarify the mandates of different agencies charged with management of land-based resources to remove overlaps, gaps and conflicts;
- (ii) develop and enforce adequate land use standards for the management and development of land based resources;
- (iii) review policies in all land-related sectors (and sub-sectors) to ensure complementarity as well as compliance with the national land policy;
- (iv) deploy professional land auditors at local and community government levels, to monitor and enforce the implementation of land use standards;
- (v) install and operationalize an effective forum for inter-sectoral consultation and co-ordination of land use activities;
- (vi) create land management structures that are efficient, cost-effective and democratically-operated in a decentralization policy framework;
- (vii) design and enforce precautionary but achievable performance standards for land management;
- (viii) develop capacity and an enabling infrastructure for evolution and implementation of sustainable land use practices and land management.

CHAPTER 6: REGIONAL AND INTERNATIONAL FRAMEWORK

6.1 INTRODUCTION

153. Uganda is a party to a large body of international and regional conventions, treaties and declarations dealing, with human rights issues, environmental and land governance, shared aquatic, terrestrial and other trans-boundary resources. These instruments establish the international framework for governance of land-based resources and provide principles for partner States to implement. As Uganda develops closer political linkages with the East African Community, a number of domestic law principles will be revisited for re-alignment, especially access to land, which is not merely linked to territorial sovereignty, but specifically to citizenship.
154. Internationally and regionally, various instruments direct attention to the need to:
- (i) guarantee national food security,
 - (ii) reduce extreme poverty and hunger;
 - (iii) manage global climate change through domestic economic policies and strategies;
 - (iv) conserve biodiversity and the environment;
 - (v) resolve resource conflicts arising from trans-boundary movements of population and animal species;
 - (vi) ensure gender equality and equity;
 - (vii) protect the human right to adequate housing and other related human rights;
 - (viii) prevent forced evictions and guarantee security of tenure.

6.2 REGIONAL AND INTERNATIONAL INSTRUMENTS AND OBLIGATIONS

155. Compliance with or implementation of regional and international instruments and/or obligations, within domestic policy and law, requires the consideration of a number principles and standards, which are part of international law. Foremost, free assent to instruments creating such obligations, should neither be oppressive nor burdensome, but confer benefits in excess of the costs of compliance. In addition, compliance is considered a prudent investment for economic growth and the expansion of opportunities for Ugandan Citizens. Lastly, compliance is attained at a pace matching the on-going social, economic and political processes and does not introduce radical changes in domestic institutions and structures, that are disruptive to long- term development policies and plans.

Policy Statement

- 156. Government will, in the implementation of obligations in international and regional instruments, comply with areas of convergence in land policy and strive to re-align on divergent areas in land policy.**

Strategies

157. Government will take measures to:
- (i) define areas of convergence in land policy, for compliance and implementation, excluding those that are repugnant to Uganda's legislation;

- (ii) acknowledge the areas of divergence in land policy, for possible policy and legislative re-alignment;
- (iii) domesticate regional and international instruments relevant to the land policy to comply with international principles and standards;
- (iv) monitor the level of implementation of all conventions to which Uganda is signatory.

6.3 CONVERGENCE ON LAND POLICY AND LEGISLATION

158. Regional and international co-operation on land and land-based resources requires Uganda to achieve convergence with its neighbors on important land sector issues. These include policy and legislative development, governance of trans-boundary and shared resources, management of population movements, and climate change prevention, mitigation and adaptation strategies. Although the statutory legal systems of East African countries derive from a common heritage, significant variations exist in discrete areas. The most obvious of these relate to access to land by non-citizens, the extent of regulation of the land sector, and the extent of decentralization or devolution of land rights administration and management functions.

Policy Statement

159. (a) **Government shall take steps towards regional harmonization of land to align policy and legislation on land with the East Africa region, the Great Lakes Region and the African Union;**
- (b) **In pursuit of the goal of a common market within the East African Community, Government shall take steps to harmonise policies, laws, regulations and practices on land and land-based resources.**

Strategies

160. In order to achieve the above commitments, the Government of Uganda will:
- (i) carry out a comprehensive inventory of areas of convergence to establish a baseline for regional co-operation.
 - (ii) draw on the enormous literature that has been built up through research on the shared resources of the region;
 - (iii) draw on efforts by the African Union to formulate common land policy guidelines for its members countries;
 - (iv) initiate debate on the design and content of land policy guidelines for the East African region;
 - (v) promote negotiations for the re-establishment of institutions for the management of common services and resources for the East African region;
 - (vi) explore the possibility of joint exploitation of and investments in trans-boundary resources.
161. Preliminary steps will be taken to:
- (i) progressively achieve compliance on areas of legislative divergence relevant to Uganda's situation;
 - (ii) remove all legislative barriers inhibiting access to land by citizens of the Partner States;
 - (iii) standardize regulatory mechanisms in the land sector, taking account of the environmental implications of such regulation;

- (iv) support regional and continental initiatives for the harmonization of land policies and laws.

6.4 MANAGEMENT OF TRANS-BOUNDARY RESOURCES

162. Uganda shares many aquatic, terrestrial and other trans-boundary resources, and eco-systems with neighboring countries, including grazing lands, water catchment areas, lake basins and river basins. In addition, several districts in Uganda share eco-systems of social and economic importance without structured systems for harmonious of utilization and overall management. Although treaties, conventions and customary practices exist in relation to the management of these resources, some of these are of doubtful efficacy.

Policy Statement

163. **Government shall develop a framework for participation in development of policies and protocols for management of trans-boundary and shared natural resources in consultation with Partner States.**

Strategies

164. Government will take measures to:
- (i) design and implement a system for the monitoring of the effects of trans-boundary movement of migratory species on the environment;
 - (ii) negotiate and implement protocols for integrated management and protection of migratory species and related ecosystems such as water bodies, mountains, forests and wetland;
 - (iii) undertake voluntary abatement measures in respect of anthropogenic activities which would upset the ecology of Lake Victoria and the Nile Basin;
 - (iv) negotiate mechanisms for coordination and benefit-sharing of the resources of Lake Victoria and Nile Basin;
 - (v) design mechanisms for monitoring all trans-boundary resources with Partner States.

6.5 CROSS-BORDER POPULATION MOVEMENTS

165. Cross-border population movements are frequent as a result of conflict, ecological or environmental stress or interactive accommodation among cross-border communities sharing common heritage and culture. A significant proportion of these populations sometimes end up being classified as either refugees or internally- displaced persons. Settlement or resettlement of such populations often leads to severe strains on resources and/or serious environmental damage.

Policy Statement

166. **Government will develop a framework to regulate, manage and mitigate the negative consequences and maximize the positive impacts of cross-border population movements.**

Strategies

167. To regulate, manage and mitigate cross-border movements, Government will:

- (i) respect regional and international conventions governing the settlement and treatment of refugees and internally displaced persons;
- (ii) negotiate protocols for the reciprocal treatment and settlement of mass cross-border movements;
- (iii) jointly implement with neighboring countries, measures for effective border management, control and supervision.

6.6 INTER-STATE BORDER DISPUTES AND CONFLICTS

168. Currently, territorial–border conflicts, manifest as land conflicts between communities in Uganda and its neighbors. Overtime, almost all international border markers and identifiers, including control pillars for the entire Ugandan territory, have been vandalized. No demarcation exercise has been undertaken to affirm the status of some border points and markers of Uganda territory, since the colonial period. At present, it is an international requirement for neighboring countries to demarcate and sign border agreements to avert future disagreements on the true positions of their borders. African countries are expected to deposit up-to-date border agreements with the UN, African Union and East African Community by 2012, as part of a broader framework to ensure harmony, territorial integrity, and completeness.

Policy Statement

169. **Government shall re-establish and demarcate as appropriate, the entire national borders of the State of Uganda, in agreement with neighboring States.**

Strategies

170. For the protection of nationals and completeness of Uganda as a sovereign State, Government will take urgent measures to:

- (i) carry out joint international border demarcation surveys with all neighboring countries;
- (ii) sign border agreements with all its neighbors and deposit them with the East Africa Community and Africa Union by 2012, the deadline for the demarcation.
- (iii) regularly inspect and maintain border demarcation points, including pillars and other identification marks;
- (iv) sensitize border communities on the importance of international border demarcations;
- (v) amend the Survey Act to incorporate penalties for those involved in vandalism of all survey marks, pillars and other identification marks.

CHAPTER 7: FRAMEWORK FOR IMPLEMENTATION OF THE NATIONAL LAND POLICY

7.1 INTRODUCTION

171. It is important to emphasize that once formulated and approved as the framework for development and use of land and land-based resources in Uganda, the National Land Policy must be implemented. Implementation involves the conversion of the policy principles, statements and strategies into a comprehensive program of land reform. Lessons from elsewhere in Africa show that policy must be internalized and its values consolidated, otherwise, the transition of land policy documents to guidelines or legislation often fails. The cost both in socio-economic and political terms of inaction and delay in implementation is the greatest of all challenges.

7.2 COSTING IMPLEMENTATION OF THE LAND POLICY

172. An important step in the implementation of any policy is to cost it, i.e. assess its financial, institutional, personnel, and infrastructure requirements. This will determine the pace and sequencing of policy implementation. Such costing must be seen not merely as expenditure, but more importantly as investment in a program expected to re-vitalize the land sector for immeasurable economic and social benefits.

Policy Statement

- 173. Government shall cost and fund the land reform process in Uganda, pursuant to approval by Cabinet of this National Land Policy.**

Strategies

174. To cost and fund the land reform process in Uganda, Government shall:
- (i) develop cost estimates for all activities or programs anticipated by the policy; prioritize and sequence them;
 - (ii) make inventory of existing resource capacity in the land sector to determine usability and level of short-fall in the implementation of the policy;
 - (iii) assess the capacity of existing systems and structures in place, to kick-start land policy implementation, as new structures are being set up;
 - (iv) assess the relevancy, appropriateness, efficiency and cost-effectiveness of the proposed institutional structures; including audit of existing and proposed new structures to eliminate wastage due to duplication, overlaps and unproductive competition among various decision-making centers;
 - (v) identify institutional and governance structures needed to implement the reforms;
 - (vi) ensure that the cost of implementation of the policy is fully-budgeted and funded, as part of the national development framework and land sector reform;

7.3 IMPLEMENTATION PLAN FOR THE NATIONAL LAND POLICY

175. A critical challenge in land policy implementation involves the programming of its various components. This entails the design of appropriate legislation, set up of the institutional requirements and preparation of a program of activities based on the

strategies, sequencing and prioritization of program components for implementation, and indicators for measuring program implementation effects. Programming must be preceded by the widest possible consultation within government, the legislature, local authorities and community structures. Close co-operation with key ministries and agencies in sectors involved in land use and natural resources/environment management, civil society operating on the basis of their own independent calendars is imperative.

Policy Statement

176. Government shall undertake the preparation of a detailed Action Plan for Implementation of the National Land Policy upon approval by the Cabinet.

Strategies

177. To ensure implementation of the National Land Policy, Government shall:
- (i) put in place a multi-sectoral and multi-disciplinary committee to lead the implementation process;
 - (ii) establish a Land Policy Implementation Unit, to spearhead the implementation with specialized staff/personnel and a set budget;
 - (iii) propose a time-table for review of existing legislation and institutional arrangements in accordance with the provisions of the national land policy;
 - (iv) design and strengthen structures for co-ordination of implementation between land related sectors and other socio-economic sectors;
 - (v) accord priority to the implementation of program components that are key to the revitalization of the land sector;
 - (vi) define the roles of the ministry responsible for lands and other actors, including development partners and non-state actors such as private sector and civil society;
 - (vii) recruit personnel to the Policy Implementation Unit under suitable terms that are attractive to result –oriented performance and management.
178. Specific tasks of the National Land Policy Implementation Unit will include, among others:
- (i) facilitating the drafting of all legislation necessary to implement this national policy;
 - (ii) establishment and reform of relevant institutions for the implementation of the National Land Policy;
 - (iii) mobilizing financial and other resources for effective and efficient funding of the land policy implementation process;
 - (iv) recruitment and training of required professionals and personnel in the implementation of this National Land Policy;
 - (v) organizing of civic education and public awareness creation for stakeholder participation and understanding.

7.4 PUBLIC EDUCATION AND DISSEMINATION OF THE LAND POLICY

179. The process of developing the National Land Policy has involved a broad spectrum of land sector stakeholders. However, there will be need to undertake a broad program of education and awareness on the content of the approved policy in order to be fully- understood by all stakeholders.

Policy Statement

180. Government shall disseminate the National Land Policy after Cabinet approval.

Strategies

181. To achieve an operational level of awareness for the National Land Policy, Government will take action to:
- (i) translate the final version of the policy into major languages;
 - (ii) prepare materials for civic and public education;
 - (iii) train and build capacity of local and community leaders' understanding of the policy;
 - (iv) disseminate the National Land Policy to all stakeholders;
 - (v) ensure continued public debate and discourse on land issues, self-assessment and feed-back on the land policy framework

7.5 STAKEHOLDER PARTICIPATION

182. Successful implementation of the national land policy will depend on continuing buy-in, support and confidence of stakeholders. Stakeholders must participate and be constructively engaged at all levels of policy implementation. These include different government departments, development partners, private sector, civil society organizations, professional bodies, cultural institution, faith-based organizations and other non-state actors.

Policy Statement

- 183. Government shall involve all stakeholders, as partners in implementation of the National Land Policy for continuous legitimacy.**

Strategies

184. In order to ensure that stakeholders are fully involved in land policy implementation, Government will put in place measures to ensure:
- (i) participation in the preparation and application of the monitoring and evaluation framework;
 - (ii) technical and financial support to non-state actors;
 - (iii) additional contribution of resources from development partners, the private sector, cultural institutions and civil society;
 - (iv) a formalized approach towards co-operation and co-ordination with non-state actors, by signing joint statements of intent, partnership principles or a code of conduct.
 - (v) awareness in stakeholder groups and role acceptance;
 - (vi) alliances and partnerships are built with all stakeholder groups

7.6 REVIEW, MONITORING AND EVALUATION

185. Successful land policy implementation will enable a faster rate of social and economic transformation. It is important, therefore, that visible mechanisms are put place to monitor progress and evaluate the effectiveness of the policy statements and strategies in attaining of the vision and objectives of policy, where necessary leading in some instances to selective revision of elements of the land policy. This needs to be based on appropriate and integrated national indicators, established for the economy in general and the land sector in particular.

Policy Statement

186. The Government shall institutionalize a monitoring, review and evaluation framework for the implementation of the National Land Policy.

Strategies

187. To institutionalize a monitoring and evaluation system, Government shall:
- (i) develop and apply indicators for monitoring and evaluation system;
 - (ii) develop appropriate tools for policy refinement and review
 - (iii) integrate land policy values and principles into the political discourse of Uganda;
 - (iv) link the Monitoring and Evaluation System to other national level monitoring processes for the National Development Plan;
 - (v) define roles and responsibilities of all key stakeholders and players in monitoring and evaluation.
188. In order to maintain consistency of the National Land Policy with all emerging land issues in the country, Government will;
- (i) undertake periodic reviews of the land sector performance and the policy by identifying persistent and/or new issues requiring further policy interventions at least every 5 years;
 - (ii) review of the National Land Policy at least every ten years;
 - (iii) review the National Land Policy Implementation Action Plan and strategies every 3 years or as necessary;
 - (iv) create awareness on policy prescriptions for all stakeholders of in respect of issues reviewed.